FEDERAL REGISTER

Vol. 86 Monday,

No. 38 March 1, 2021

Pages 11847–12078

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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Presidential Documents

Title 3—

The President

Proclamation 10149 of February 24, 2021

Revoking Proclamation 10014

By the President of the United States of America

A Proclamation

The suspension of entry imposed in Proclamation 10014 of April 22, 2020 (Suspension of Entry of Immigrants Who Present a Risk to the United States Labor Market During the Economic Recovery Following the 2019 Novel Coronavirus Outbreak), as extended by section 1 of Proclamation 10052 of June 22, 2020 (Suspension of Entry of Immigrants and Nonimmigrants Who Present a Risk to the United States Labor Market During the Economic Recovery Following the 2019 Novel Coronavirus Outbreak), and section 1 of Proclamation 10131 of December 31, 2020 (Suspension of Entry of Immigrants and Nonimmigrants Who Continue To Present a Risk to the United States Labor Market During the Economic Recovery Following the 2019 Novel Coronavirus Outbreak), does not advance the interests of the United States. To the contrary, it harms the United States, including by preventing certain family members of United States citizens and lawful permanent residents from joining their families here. It also harms industries in the United States that utilize talent from around the world. And it harms individuals who were selected to receive the opportunity to apply for, and those who have likewise received, immigrant visas through the Fiscal Year 2020 Diversity Visa Lottery. Proclamation 10014 has prevented these individuals from entering the United States, resulting, in some cases, in the delay and possible forfeiture of their opportunity to receive Fiscal Year 2020 diversity visas and to realize their dreams in the United States.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(f) and 1185(a), hereby find that the unrestricted entry into the United States of persons described in section 1 of Proclamation 10014 is not detrimental to the interests of the United States. I therefore hereby proclaim the following:

Section 1. *Revocation.* Proclamation 10014, section 1 of Proclamation 10052, and section 1 of Proclamation 10131 are revoked.

Sec. 2. *Review of Agency Guidance.* The Secretary of State, the Secretary of Labor, and the Secretary of Homeland Security shall review any regulations, orders, guidance documents, policies, and any other similar agency actions developed pursuant to Proclamation 10014 and, as appropriate, issue revised guidance consistent with the policy set forth in this proclamation.

Sec. 3. *General Provisions.* (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

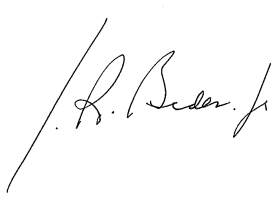
(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by

any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

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



[FR Doc. 2021–04279
Filed 2–26–21; 8:45 am]
Billing code 3295–F1–P

Presidential Documents

Executive Order 14017 of February 24, 2021

America's Supply Chains

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Policy.* The United States needs resilient, diverse, and secure supply chains to ensure our economic prosperity and national security. Pandemics and other biological threats, cyber-attacks, climate shocks and extreme weather events, terrorist attacks, geopolitical and economic competition, and other conditions can reduce critical manufacturing capacity and the availability and integrity of critical goods, products, and services. Resilient American supply chains will revitalize and rebuild domestic manufacturing capacity, maintain America's competitive edge in research and development, and create well-paying jobs. They will also support small businesses, promote prosperity, advance the fight against climate change, and encourage economic growth in communities of color and economically distressed areas.

More resilient supply chains are secure and diverse—facilitating greater domestic production, a range of supply, built-in redundancies, adequate stockpiles, safe and secure digital networks, and a world-class American manufacturing base and workforce. Moreover, close cooperation on resilient supply chains with allies and partners who share our values will foster collective economic and national security and strengthen the capacity to respond to international disasters and emergencies.

Therefore, it is the policy of my Administration to strengthen the resilience of America's supply chains.

Sec. 2. *Coordination.* The Assistant to the President for National Security Affairs (APNSA) and the Assistant to the President for Economic Policy (APEP) shall coordinate the executive branch actions necessary to implement this order through the interagency process identified in National Security Memorandum 2 of February 4, 2021 (Renewing the National Security Council System). In implementing this order, the heads of agencies should, as appropriate, consult outside stakeholders—such as those in industry, academia, non-governmental organizations, communities, labor unions, and State, local, and Tribal governments—in order to fulfill the policy identified in section 1 of this order.

Sec. 3. *100-Day Supply Chain Review.* (a) To advance the policy described in section 1 of this order, the APNSA and the APEP, in coordination with the heads of appropriate agencies, as defined in section 6(a) of this order, shall complete a review of supply chain risks, as outlined in subsection (b) of this section, within 100 days of the date of this order.

(b) Within 100 days of the date of this order, the specified heads of agencies shall submit the following reports to the President, through the APNSA and the APEP:

(i) The Secretary of Commerce, in consultation with the heads of appropriate agencies, shall submit a report identifying risks in the semiconductor manufacturing and advanced packaging supply chains and policy recommendations to address these risks. The report shall include the items described in section 4(c) of this order.

(ii) The Secretary of Energy, in consultation with the heads of appropriate agencies, shall submit a report identifying risks in the supply chain for

high-capacity batteries, including electric-vehicle batteries, and policy recommendations to address these risks. The report shall include the items described in section 4(c) of this order.

(iii) The Secretary of Defense (as the National Defense Stockpile Manager), in consultation with the heads of appropriate agencies, shall submit a report identifying risks in the supply chain for critical minerals and other identified strategic materials, including rare earth elements (as determined by the Secretary of Defense), and policy recommendations to address these risks. The report shall also describe and update work done pursuant to Executive Order 13953 of September 30, 2020 (Addressing the Threat to the Domestic Supply Chain From Reliance on Critical Minerals From Foreign Adversaries and Supporting the Domestic Mining and Processing Industries). The report shall include the items described in section 4(c) of this order.

(iv) The Secretary of Health and Human Services, in consultation with the heads of appropriate agencies, shall submit a report identifying risks in the supply chain for pharmaceuticals and active pharmaceutical ingredients and policy recommendations to address these risks. The report shall complement the ongoing work to secure the supply chains of critical items needed to combat the COVID–19 pandemic, including personal protective equipment, conducted pursuant to Executive Order 14001 of January 21, 2021 (A Sustainable Public Health Supply Chain). The report shall include the items described in section 4(c) of this order.

(c) The APNSA and the APEP shall review the reports required under subsection (b) of this section and shall submit the reports to the President in an unclassified form, but may include a classified annex.

(d) The APNSA and the APEP shall include a cover memorandum to the set of reports submitted pursuant to this section, summarizing the reports' findings and making any additional overall recommendations for addressing the risks to America's supply chains, including the supply chains for the products identified in subsection (b) of this section.

Sec. 4. *Sectoral Supply Chain Assessments.* (a) Within 1 year of the date of this order, the specified heads of agencies shall submit the following reports to the President, through the APNSA and the APEP:

(i) The Secretary of Defense, in consultation with the heads of appropriate agencies, shall submit a report on supply chains for the defense industrial base that updates the report provided pursuant to Executive Order 13806 of July 21, 2017 (Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States), and builds on the Annual Industrial Capabilities Report mandated by the Congress pursuant to section 2504 of title 10, United States Code. The report shall identify areas where civilian supply chains are dependent upon competitor nations, as determined by the Secretary of Defense.

(ii) The Secretary of Health and Human Services, in consultation with the heads of appropriate agencies, shall submit a report on supply chains for the public health and biological preparedness industrial base (as determined by the Secretary of Health and Human Services). The report shall complement the work conducted pursuant to section 4 of Executive Order 14001.

(iii) The Secretary of Commerce and the Secretary of Homeland Security, in consultation with the heads of appropriate agencies, shall submit a report on supply chains for critical sectors and subsectors of the information and communications technology (ICT) industrial base (as determined by the Secretary of Commerce and the Secretary of Homeland Security), including the industrial base for the development of ICT software, data, and associated services.

(iv) The Secretary of Energy, in consultation with the heads of appropriate agencies, shall submit a report on supply chains for the energy sector industrial base (as determined by the Secretary of Energy).

(v) The Secretary of Transportation, in consultation with the heads of appropriate agencies, shall submit a report on supply chains for the transportation industrial base (as determined by the Secretary of Transportation).

(vi) The Secretary of Agriculture, in consultation with the heads of appropriate agencies, shall submit a report on supply chains for the production of agricultural commodities and food products.

(b) The APNSA and the APEP shall, as appropriate and in consultation with the heads of appropriate agencies, recommend adjustments to the scope for each industrial base assessment, including digital networks, services, assets, and data (''digital products''), goods, services, and materials that are relevant within more than one defined industrial base, and add new assessments, as appropriate, for goods and materials not included in the above industrial base assessments.

(c) Each report submitted under subsection (a) of this section shall include a review of:

(i) the critical goods and materials, as defined in section 6(b) of this order, underlying the supply chain in question;

(ii) other essential goods and materials, as defined in section 6(d) of this order, underlying the supply chain in question, including digital products;

(iii) the manufacturing or other capabilities necessary to produce the materials identified in subsections (c)(i) and (c)(ii) of this section, including emerging capabilities;

(iv) the defense, intelligence, cyber, homeland security, health, climate, environmental, natural, market, economic, geopolitical, human-rights or forced-labor risks or other contingencies that may disrupt, strain, compromise, or eliminate the supply chain—including risks posed by supply chains' reliance on digital products that may be vulnerable to failures or exploitation, and risks resulting from the elimination of, or failure to develop domestically, the capabilities identified in subsection (c)(iii) of this section—and that are sufficiently likely to arise so as to require reasonable preparation for their occurrence;

(v) the resilience and capacity of American manufacturing supply chains and the industrial and agricultural base—whether civilian or defense—of the United States to support national and economic security, emergency preparedness, and the policy identified in section 1 of this order, in the event any of the contingencies identified in subsection (c)(iv) of this section occurs, including an assessment of:

(A) the manufacturing or other needed capacities of the United States, including the ability to modernize to meet future needs;

(B) gaps in domestic manufacturing capabilities, including nonexistent, extinct, threatened, or single-point-of-failure capabilities;

(C) supply chains with a single point of failure, single or dual suppliers, or limited resilience, especially for subcontractors, as defined by section 44.101 of title 48, Code of Federal Regulations (Federal Acquisition Regulation);

(D) the location of key manufacturing and production assets, with any significant risks identified in subsection (c)(iv) of this section posed by the assets' physical location;

(E) exclusive or dominant supply of critical goods and materials and other essential goods and materials, as identified in subsections (c)(i) and (c)(ii) of this section, by or through nations that are, or are likely to become, unfriendly or unstable;

(F) the availability of substitutes or alternative sources for critical goods and materials and other essential goods and materials, as identified in subsections (c)(i) and (c)(ii) of this section;

(G) current domestic education and manufacturing workforce skills for the relevant sector and identified gaps, opportunities, and potential best practices in meeting the future workforce needs for the relevant sector;

(H) the need for research and development capacity to sustain leadership in the development of critical goods and materials and other essential goods and materials, as identified in subsections (c)(i) and (c)(ii) of this section;

(I) the role of transportation systems in supporting existing supply chains and risks associated with those transportation systems; and

(J) the risks posed by climate change to the availability, production, or transportation of critical goods and materials and other essential goods and materials, as identified in subsections (c)(i) and (c)(ii) of this section.

(vi) allied and partner actions, including whether United States allies and partners have also identified and prioritized the critical goods and materials and other essential goods and materials identified in subsections (c)(i) and (c)(ii) of this section, and possible avenues for international engagement. In assessing these allied and partner actions, the heads of agencies shall consult with the Secretary of State;

(vii) the primary causes of risks for any aspect of the relevant industrial base and supply chains assessed as vulnerable pursuant to subsection (c)(v) of this section;

(viii) a prioritization of the critical goods and materials and other essential goods and materials, including digital products, identified in subsections (c)(i) and (c)(ii) of this section for the purpose of identifying options and policy recommendations. The prioritization shall be based on statutory or regulatory requirements; importance to national security, emergency preparedness, and the policy set forth in section 1 of this order; and the review conducted pursuant to subsection (c)(v) of this section;

(ix) specific policy recommendations for ensuring a resilient supply chain for the sector. Such recommendations may include sustainably reshoring supply chains and developing domestic supplies, cooperating with allies and partners to identify alternative supply chains, building redundancy into domestic supply chains, ensuring and enlarging stockpiles, developing workforce capabilities, enhancing access to financing, expanding research and development to broaden supply chains, addressing risks due to vulnerabilities in digital products relied on by supply chains, addressing risks posed by climate change, and any other recommendations;

(x) any executive, legislative, regulatory, and policy changes and any other actions to strengthen the capabilities identified in subsection (c)(iii) of this section, and to prevent, avoid, or prepare for any of the contingencies identified in subsection (c)(iv) of this section; and

(xi) proposals for improving the Government-wide effort to strengthen supply chains, including proposals for coordinating actions required under this order with ongoing efforts that could be considered duplicative of the work of this order or with existing Government mechanisms that could be used to implement this order in a more effective manner.

(d) The APNSA and the APEP shall review the reports required under subsection (a) of this section and shall submit the reports to the President in an unclassified form, but may include a classified annex.

Sec. 5. *General Review and Recommendations.* As soon as practicable following the submission of the reports required under section 4 of this order, the APNSA and the APEP, in coordination with the heads of appropriate agencies, shall provide to the President one or more reports reviewing the actions taken over the previous year and making recommendations concerning:

(a) steps to strengthen the resilience of America's supply chains;

(b) reforms needed to make supply chain analyses and actions more effective, including statutory, regulatory, procedural, and institutional design

changes. The report shall include recommendations on whether additional offices, personnel, resources, statistical data, or authorities are needed;

(c) establishment of a quadrennial supply chain review, including processes and timelines regarding ongoing data gathering and supply chain monitoring;

(d) diplomatic, economic, security, trade policy, informational, and other actions that can successfully engage allies and partners to strengthen supply chains jointly or in coordination;

(e) insulating supply chain analyses and actions from conflicts of interest, corruption, or the appearance of impropriety, to ensure integrity and public confidence in supply chain analyses;

(f) reforms to domestic and international trade rules and agreements needed to support supply chain resilience, security, diversity, and strength;

(g) education and workforce reforms needed to strengthen the domestic industrial base;

(h) steps to ensure that the Government's supply chain policy supports small businesses, prevents monopolization, considers climate and other environmental impacts, encourages economic growth in communities of color and economically distressed areas, and ensures geographic dispersal of economic activity across all regions of the United States; and

(i) Federal incentives and any amendments to Federal procurement regulations that may be necessary to attract and retain investments in critical goods and materials and other essential goods and materials, as defined in sections 6(b) and 6(d) of this order, including any new programs that could encourage both domestic and foreign investment in critical goods and materials.

Sec. 6. *Definitions.* For purposes of this order:

(a) ''Agency'' means any authority of the United States that is an ''agency'' under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5). ''Agency'' also means any component of the Executive Office of the President.

(b) ''Critical goods and materials'' means goods and raw materials currently defined under statute or regulation as ''critical'' materials, technologies, or infrastructure.

(c) ''Critical minerals'' has the meaning given to that term in Executive Order 13953 of September 30, 2020 (Addressing the Threat to the Domestic Supply Chain From Reliance on Critical Minerals From Foreign Adversaries and Supporting the Domestic Mining and Processing Industries).

(d) ''Other essential goods and materials'' means goods and materials that are essential to national and economic security, emergency preparedness, or to advance the policy set forth in section 1 of this order, but not included within the definition of ''critical goods and materials.''

(e) ''Supply chain,'' when used with reference to minerals, includes the exploration, mining, concentration, separation, alloying, recycling, and reprocessing of minerals.

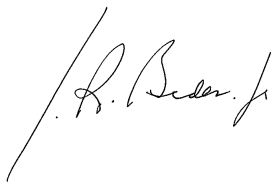
Sec. 7. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
February 24, 2021.

[FR Doc. 2021–04280
Filed 2–26–21; 8:45 am]
Billing code 3295–F1–P

Presidential Documents

Executive Order 14018 of February 24, 2021

Revocation of Certain Presidential Actions

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Revocation of Presidential Actions.* The following Presidential actions are revoked: Executive Order 13772 of February 3, 2017 (Core Principles for Regulating the United States Financial System), Executive Order 13828 of April 10, 2018 (Reducing Poverty in America by Promoting Opportunity and Economic Mobility), Memorandum of January 29, 2020 (Delegation of Certain Authority Under the Federal Service Labor-Management Relations Statute), Executive Order 13924 of May 19, 2020 (Regulatory Relief To Support Economic Recovery), Memorandum of September 2, 2020 (Reviewing Funding to State and Local Government Recipients of Federal Funds That Are Permitting Anarchy, Violence, and Destruction in American Cities), Executive Order 13967 of December 18, 2020 (Promoting Beautiful Federal Civic Architecture), and Executive Order 13979 of January 18, 2021 (Ensuring Democratic Accountability in Agency Rulemaking).

Sec. 2. *Implementation.* The Director of the Office of Management and Budget and the heads of executive departments and agencies shall promptly consider taking steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing the Presidential actions identified in section 1 of this order, as appropriate and consistent with applicable law, including the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* In addition, any personnel positions, committees, task forces, or other entities established pursuant to the Presidential actions identified in section 1 of this order shall be abolished, as appropriate and consistent with applicable law.

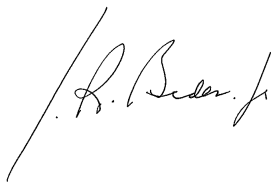
Sec. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
February 24, 2021.

[FR Doc. 2021–04281
Filed 2–26–21; 8:45 am]
Billing code 3295–F1–P

Rules and Regulations

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Monday, March 1, 2021

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AO15

Prevailing Rate Systems; Conduct of Local Wage Surveys

AGENCY: Office of Personnel Management.

ACTION: Interim final rule; request for comments.

SUMMARY: The Office of Personnel Management is issuing an interim final rule to amend regulations to allow for additional options to collect wage data during Federal Wage System full-scale and wage change surveys, namely, by personal visit, telephone, mail, or electronic means. This change is based on a majority recommendation of the Federal Prevailing Rate Advisory Committee and was initiated by a Department of Defense request for greater flexibility to obtain accurate and timely prevailing wage data in local labor markets during and after the national emergency caused by the COVID–19 health crisis.

DATES: The interim final rule is effective on March 31, 2021. Comments must be received on or before March 31, 2021.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

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

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mark Allen, by telephone at (202) 606–2858 or by email at *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) received a request from the Department of Defense (DOD) to amend the regulatory provisions in part 532 of title 5, Code of Federal Regulations (CFR), which require in-person visits by data collectors to private industrial establishments for Federal Wage System (FWS) full-scale wage surveys. This interim final rule amends sections 5 CFR 532.201, 532.207, 532.235, and 532.247.

Under sections 5343(a)(2) and (3) of title 5, United States Code, OPM designates a lead agency for each wage area to conduct wage surveys, analyze wage survey data, and develop and establish appropriate wage schedules and rates for prevailing rate employees. DOD is the designated lead agency for all FWS wage areas.

Wage surveys are conducted every year. A full-scale wage survey is conducted one year, with data collectors required to make in-person visits to local private sector employers to collect wage data. The next year a wage change survey is conducted, with data collectors contacting participants from the prior full-scale wage survey to collect wage data on previously collected jobs.

The overall objective of FWS wage surveys is to obtain the most accurate information possible to measure prevailing wage levels in each wage area and establish wage schedules in accordance with prevailing rate systems law. The preferred method for collecting wage data from private sector establishments during full-scale wage surveys is by personal visit to such establishments. Even though the preferred method continues to be personal visits, technological advances now provide new tools for data collection that were not available when the FWS pay system was established. There are now electronic tools, systems, devices, and resources that assist in gathering information in cost effective and reliable ways. Use of these new tools would provide DOD staff with opportunities to innovate and improve data collection methods.

Labor participation at all levels is a requirement within the FWS, including for the collection and the analysis of the survey data. In all wage areas, local labor-management teams participate in the collection of data from private sector establishments. This will not change. As the lead agency for all wage areas, DOD will continue to work together with labor organizations during the data collection process even when in-person visits cannot be conducted. Labor participation will be facilitated through alternative data collection processes to include telephone, mail, and electronic means.

The Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended this change by majority vote.

Waiver of Notice of Proposed Rule Making

OPM is issuing this rulemaking as an interim final rule and has determined that, under the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), it would be impracticable and contrary to the public interest to delay a final regulation until a public notice and comment process has been completed. OPM also is waiving general notice of proposed rulemaking under the Civil Service Reform Act's parallel rulemaking provision, 5 U.S.C. 1103(b)(3), because the interim final rule is temporary in nature and necessary to be implemented expeditiously as a result of an emergency.

The United States is experiencing a national emergency caused by the spread of the novel coronavirus SARS–CoV–2 and the respiratory disease it causes (COVID–19). OPM has established in regulation a timetable for when a local wage survey must begin in each FWS wage area. Due to this national emergency, DOD staff responsible for local wage survey activities have not been able to travel and collect local wage survey data. In addition, many private sector establishments where DOD wage survey staff normally collect wage data are not operating with human resources staff on site to meet in person. The current pandemic was not envisioned when the wage survey timetable was originally established and OPM does not have the ability under the law or regulation to

waive the annual wage survey requirements.

This regulation will provide new tools for data collection that will assist DOD to gather information in cost effective and reliable ways even during a national or local emergency. The conclusion of a public notice and comment period before the rule is finalized would be impracticable because it would impede DOD from obtaining timely and accurate information to measure prevailing wage levels and establish wage schedules in accordance with prevailing rate systems law in those wage areas where a full-scale wage survey is required.

President Trump declared a national emergency in response to the COVID–19 public health crisis on March 13, 2020. In efforts to limit spread of the disease and to protect employees' safety, DOD immediately implemented a travel ban, which made it impossible for data collectors to obtain survey data by personal visits to private sector establishments. The management members of FPRAC introduced a proposal at the Committee's July 16, 2020, meeting to amend the regulations in 5 CFR part 532 to allow for the collection of data by alternate means. A final recommendation was adopted at FPRAC's September 17, 2020, meeting. Because of the need to issue timely wage schedules for FWS employees in accordance with current law and the regulatory timetable for conducting local wage surveys, there is insufficient time for OPM to complete a notice and comment rulemaking without negatively impacting the accuracy and timeliness of local prevailing wage determinations. The conclusion of a public notice and comment period before the rule is finalized would also be contrary to the public interest because it would result in wage schedules being based only on the minimum pay increase applicable under separate appropriations law and not on current local wage survey data.

For these reasons, OPM has determined that the public notice and participation that the law ordinarily requires would, in this case, be impracticable and contrary to the public interest and that good cause exists to waive the general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b)(B) and delay its solicitation of comments from the public until after it issues an interim final rule. The interim final rule is temporary in nature, and expeditious timing is required because of the circumstances facing DOD during the COVID–19 emergency. OPM will promulgate a final rule as soon as practical after receiving public comments on the interim final rule.

Regulatory Impact Analysis

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of $100 million or more in any 1 year. This rule has not been designated as a ''significant regulatory action,'' under Executive Order 12866.

Regulatory Flexibility Act

OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

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

Civil Justice Reform

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

Unfunded Mandates Act of 1995

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

Congressional Review Act

The Congressional Review Act (5 U.S.C. 801 *et seq.*) requires rules (as defined in 5 U.S.C. 804) to be submitted to Congress before taking effect. OPM will submit to Congress and the Comptroller General of the United States a report regarding the issuance of this action before its effective date, as required by 5 U.S.C. 801. This action is not major as defined by the Congressional Review Act (CRA) (5 U.S.C. 804).

Paperwork Reduction Act

While this rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, the following collections will be affected: Establishment Information Form (DD 1918), Wage Data Collection Form (DD 1919), and Wage Data Collection Continuation Form (DD 1919C)—OMB Control Number: 3206–0036.

The wage survey methodology required of DOD when using these forms is not being updated. The survey and burden times associated with this survey remain the same and, therefore, the forms do not need to be resubmitted for OMB review. We do not expect the respondent burden to increase or decrease through this change in procedure. In the long term, DOD may be able to save on some travel costs but given that the decision to use alternative data collection methods than in-person visits will reside with the local wage survey committee any cost savings are currently unknowable.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

PART 532—PREVAILING RATE SYSTEMS

■ 2. Amend § 532.201 by revising the definitions of ''Full-scale survey'' and ''Wage change survey ''to read as follows:

§ 532.201 Definitions.

* * * * *

Full-scale survey means a survey conducted at least every 2 years in which data are collected from a current sampling of establishments in the private sector by personal visit of data collectors. With the unanimous consent of the members of a Local Wage Survey Committee, data may also be obtained from a private sector establishment or establishments during a full-scale wage survey by telephone, mail, or electronic means.

* * * * *

Wage change survey means a survey in which rate change data are collected

from the same establishments and for the same establishment occupations represented in the full-scale survey. These data may be collected by telephone, mail, electronic means, or personal visit.

■ 3. Amend § 532.207 by revising paragraphs (a) through (c) to read as follows:

§ 532.207 Time schedule for wage surveys.

(a) Wage surveys shall be conducted on a 2-year cycle at annual intervals.

(b) A full-scale survey shall be made in the first year of the 2-year cycle and shall include development of a current sample of establishments and the collection of wage data by visits to establishments. With the unanimous consent of the members of a Local Wage Survey Committee, data may also be obtained from a private sector establishment or establishments during a full-scale wage survey by telephone, mail, or electronic means.

(c) A wage-change survey shall be made every other year using only the same employers, occupations, survey jobs, and establishment weights used in the preceding full-scale survey. Data may be collected by telephone, mail, electronic means, or personal contact.

* * * * *

■ 4. Amend § 532.235 by revising paragraph (a) and paragraph (b) introductory text to read as follows:

§ 532.235 Conduct of full-scale wage survey.

(a) Wage survey data shall not be collected before the date the survey is ordered by the lead agency.

(b) Data collection for a full-scale wage survey shall be accomplished by personal visit to private sector establishments. With the unanimous consent of the members of a Local Wage Survey Committee, data may also be obtained from a private sector establishment or establishments during a full-scale wage survey by telephone, mail, or electronic means. The following required data shall be collected:

* * * * *

■ 5. Amend § 532.247 by revising paragraphs (a) through (c) to read as follows:

§ 532.247 Wage change surveys.

(a) Wage change surveys shall be conducted in each wage area in years during which full-scale wage surveys are not conducted.

(b) Data shall be collected in wage change surveys only from establishments which participated in the preceding full-scale survey. Information concerning pay adjustments of general application in effect for jobs matched in each establishment which participated in the preceding full-scale survey shall be obtained.

(c) Data may be obtained in wage change surveys by telephone, mail, electronic means, or personal visit. The chairperson of the local wage survey committee shall determine the manner in which establishments will be contacted for collection of data. Data may be collected by the local wage survey committee members or by data collectors appointed and assigned to two member teams in accordance with § 532.233(e) of this subpart.

* * * * *

[FR Doc. 2021–03958 Filed 2–26–21; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0003; Airspace Docket No. 19–ACE–11]

RIN 2120–AA66

Amendment of VOR Federal Airways V–12, V–74, and V–516 in the Vicinity of Anthony, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airways V–12, V–74, and V–516, in the vicinity of Anthony, KS. The modifications are necessary due to the planned decommissioning of the VOR portion of the Anthony, KS, VOR/Tactical Air Navigation (VORTAC) navigation aid (NAVAID), which provides navigation guidance for portions of the affected VOR Federal airways. The Anthony VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, April 22, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email: *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2020–0003 in the **Federal Register** (85 FR 3290; January 21, 2020), amending VOR Federal airways V–12, V–74, and V–516 in the vicinity of Anthony, KS, due to the planned decommissioning of the VOR portion of the Anthony, KS, VORTAC. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

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

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

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 Rule

The FAA is amending 14 CFR part 71 by modifying VOR Federal airways V–12, V–74, and V–516. The planned decommissioning of the VOR portion of the Anthony, KS, VORTAC NAVAID has made this action necessary. The VOR Federal airway changes are outlined below.

V–12: V–12 extends between the Gaviota, CA, VORTAC and the Shelbyville, IN, VOR/Distance Measuring Equipment (VOR/DME); and between the Allegheny, PA, VOR/DME and the Pottstown, PA, VORTAC. The airway segment between the Mitbee, OK, VORTAC and the Wichita, KS, VORTAC is removed. Additionally, the Amarillo, TX, VOR listed in the airway description is corrected to reflect the Panhandle, TX, VORTAC. The unaffected portions of the existing airway remain as charted.

V–74: V–74 extends between the Garden City, KS, VORTAC and the Magnolia, MS, VORTAC. The airway segment between the Dodge City, KS, VORTAC and the Pioneer, OK, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V–516: V–516 extends between the Liberal, KS, VORTAC and the Oswego, KS, VOR/DME. The airway segment between the Liberal, KS, VORTAC and the Pioneer, OK, VORTAC is removed. The unaffected portion of the existing airway remains as charted. All radials listed in the VOR Federal airway descriptions below are unchanged and stated in True degrees.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of modifying VOR Federal airways V–12, V–74, and V–516, due to the planned decommissioning of the VOR portion of the Anthony, KS, VORTAC NAVAID, qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–12 [Amended]

From Gaviota, CA; San Marcus, CA; Palmdale, CA; 38 miles, 6 miles wide, Hector, CA; 12 miles, 38 miles, 85 MSL, 14 miles, 75 MSL, Needles, CA; 45 miles, 34 miles, 95 MSL, Drake, AZ; Winslow, AZ; 30 miles, 85 MSL, Zuni, NM; Albuquerque, NM; Otto, NM; Anton Chico, NM; Tucumcari, NM; Panhandle, TX; to Mitbee, OK. From Wichita, KS; Emporia, KS; INT Emporia 063° and Napoleon, MO, 243° radials; Napoleon; INT Napoleon 095° and Columbia, MO, 292° radials; Columbia; Foristell, MO; Troy, IL; Bible Grove, IL; to Shelbyville, IN. From Allegheny, PA; Johnstown, PA; Harrisburg, PA; INT Harrisburg 092° and Pottstown, PA, 278° radials; to Pottstown.

* * * * *

V–74 [Amended]

From Garden City, KS; to Dodge City, KS. From Pioneer, OK; Tulsa, OK; Fort Smith, AR; 6 miles, 7 miles wide (4 miles north and 3 miles south of centerline) Little Rock, AR; Pine Bluff, AR; Greenville, MS; to Magnolia, MS.

* * * * *

V–516 [Amended]

From Pioneer, OK; to Oswego, KS.

* * * * *

Issued in Washington, DC, on February 22, 2021.

George Gonzalez,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–03879 Filed 2–26–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0942; Airspace Docket No. 20–AWP–12]

RIN 2120–AA66

Amendment of Class D and Class E Airspace; Palmdale, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace, designated as an extension to a Class D or Class E surface area, at

Palmdale USAF Plant 42 Airport. This action also modifies the Class E airspace, extending upward from 700 feet above the surface. Additionally, this action removes the Class E airspace, extending upward from 1,200 feet above the surface. Further, this action removes the Palmdale VORTAC from the Class E4 and the Class E5 legal descriptions. Also, this action removes the Lancaster, Gen. William J. Fox Airfield, CA, from the Class E5 legal description. Lastly, this action implements several administrative corrections to the Class D, Class E4, and Class E5 text headers and legal descriptions.

DATES: Effective 0901 UTC, June 17, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov//air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the Class D and Class E airspace at Palmdale USAF Plant 42 Airport Palmdale, CA, to ensure the safety and management of Instrument Flight Rules (IFR) operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 72610, November 13, 2020) for Docket No. FAA–2020–0942 to modify Class D and Class E airspace, Palmdale USAF Plant 42 Airport Palmdale, CA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71 modifies the Class E airspace, designated as an extension to a Class D or Class E surface area, at Palmdale USAF Plant 42 Airport, Palmdale, CA. This airspace area is designed to contain IFR aircraft descending below 1,000 feet above the surface and is described as follows: That airspace extending upward from the surface within 1 mile each side of the 270° bearing from the airport, extending from the 4.3-mile radius to 7.5 miles west of Palmdale USAF Plant 42 Airport. This Class E airspace area is effective during the specific dates and times established, in advance, by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

This action also modifies the Class E airspace, extending upward from 700 feet above the surface. This airspace area is designed to contain IFR arrivals descending below 1,500 feet above the surface and IFR departures until reaching 1,200 feet above the surface. This airspace area is described as follows: That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of the airport, and within 6.1 miles each side of the 080° bearing from the airport, extending from the 6.8-mile radius to 12.9 miles east of the airport, and within 4 miles north and 8 miles south of the 086° bearing from the airport, extending from the airport to 14.3 miles east of the airport, and within 2 miles each side of the 274° bearing from the airport, extending from the 6.8-mile radius to 13.4 miles west of Palmdale USAF Plant 42 Airport.

Additionally, this action removes the Class E airspace, extending upward from 1,200 feet above the surface. This airspace area is wholly contained with the Los Angeles en route airspace area and duplication is not necessary.

Further, this action removes the Palmdale VORTAC from the Class E4 and the Class E5 legal descriptions. Removal of the navigational aid allows the airspace to be defined from a single reference point, simplifying how the airspace is described.

Also, this action removes the Lancaster, Gen. William J. Fox Airfield, CA, from the Class E5 legal description. Removal of the airport allows the airspace to be defined from a single reference point, simplifying how the airspace is described.

Lastly, this action implements several administrative corrections to the airspaces' legal descriptions. The airport name in the second line of the Class D, Class E4, and Class E5 text header is updated to ''Palmdale USAF Plant 42 Airport, CA.'' The last sentence in the Class D and Class E4 legal descriptions is updated to replace the term ''Airport/Facilities Directory.'' with the term ''Chart Supplement.''

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

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

AWP CA D Palmdale, CA [Amended]

Palmdale USAF Plant 42 Airport, CA
(Lat. 34°37′46″ N, long. 118°05′04″ W)

That airspace extending upward from the surface to and including 5,000 feet MSL within a 4.3-mile radius of Palmdale USAF Plant 42 Airport. This Class D airspace area is effective during the specific dates and times established, in advance, by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

AWP CA E4 Palmdale, CA [Amended]

Palmdale USAF Plant 42 Airport, CA
(Lat. 34°37′46″ N, long. 118°05′04″ W)

That airspace extending upward from the surface within 1 mile each side of the 270° bearing from the airport, extending from the 4.3-mile radius to 7.5 miles west of Palmdale USAF Plant 42 Airport. This Class E airspace area is effective during the specific dates and times established, in advance, by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

AWP CA E5 Palmdale, CA [Amended]

Palmdale USAF Plant 42 Airport, CA
(Lat. 34°37′46″ N, long. 118°05′04″ W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of the airport, and within 6.1 miles each side of the 080° bearing from the airport, extending from the 6.8-mile radius to 12.9 miles east of the airport, and within 4 miles north and 8 miles south of the 086° bearing from the airport, extending from the airport to 14.3 miles east of the airport, and within 2 miles each side of the 274° bearing from the airport, extending from the 6.8-mile radius to 13.4 miles west of Palmdale USAF Plant 42 Airport.

Issued in Seattle, Washington, on February 16, 2021.

B.G. Chew,

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

[FR Doc. 2021–03904 Filed 2–26–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–716]

Schedules of Controlled Substances: Temporary Placement of Brorphine in Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Temporary amendment; temporary scheduling order.

SUMMARY: The Acting Administrator of the Drug Enforcement Administration is issuing this temporary order to schedule 1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-1,3-dihydro-2*H*-benzo[*d*]imidazol-2-one (commonly known as brorphine), including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible, in schedule I of the Controlled Substances Act . This action is based on a finding by the Acting Administrator that the placement of brorphine in schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances will be imposed on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis with, or possess), or propose to handle brorphine.

DATES: This temporary scheduling order is effective March 1, 2021, until March 1, 2023. If this order is extended or made permanent, DEA will publish a document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION:

Legal Authority

The Controlled Substances Act (CSA) provides the Attorney General (as delegated to the Administrator of Drug Enforcement Administrator (DEA) pursuant to 28 CFR 0.100) with the authority to temporarily place a substance in schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b), if he finds that such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1) while the substance is temporarily controlled [1] under section 811(h), the Administrator may extend the temporary scheduling for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355. 21 U.S.C. 811(h)(1); 21 CFR part 1308.

Background

The CSA requires the Administrator to notify the Secretary of the

[1] Though DEA has used the term ''final order'' with respect to temporary scheduling orders in the past, this document adheres to the statutory language of 21 U.S.C. 811(h), which refers to a ''temporary scheduling order.'' No substantive change is intended.

Department of Health and Human Services (HHS) of his intention to temporarily place a substance in schedule I.[2] 21 U.S.C. 811(h)(4). The Acting Administrator transmitted such notice regarding brorphine to the Assistant Secretary for Health of HHS (Assistant Secretary) by letter dated September 22, 2020. The Assistant Secretary responded to this notice by letter dated October 27, 2020, and advised that based on a review by the Food and Drug Administration (FDA), there are currently no investigational new drug applications (INDs) or approved new drug applications (NDAs) for brorphine. The Assistant Secretary also stated that HHS had no objection to the temporary placement of brorphine in schedule I of the CSA.

DEA has taken into consideration the Assistant Secretary's comments as required by subsection 811(h)(4). Brorphine is not currently listed in any schedule under the CSA, and no exemptions or approvals are in effect for brorphine under 21 U.S.C. 355. DEA has found that the control of brorphine in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety.

As required by 21 U.S.C. 811(h)(1)(A), DEA published a notice of intent to temporarily schedule brorphine on December 3, 2020. 85 FR 78047. That notice of intent discussed findings from DEA's three-factor analysis dated August 2020, which DEA made available on *www.regulations.gov.*

To find that placing a substance temporarily in schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider three of the eight factors set forth in 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any, risk there is to the public health. 21 U.S.C. 811(h)(3). Consideration of these factors includes actual abuse diversion from legitimate channels; and clandestine importation, manufacture, or distribution. 21 U.S.C. 811(h)(3).

A substance meeting the statutory requirements for temporary scheduling may only be placed in schedule I. 21 U.S.C. 811(h)(1). Substances in schedule I have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1).

[2] The Secretary of HHS has delegated to the Assistant Secretary for Health of HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

Available data and information for brorphine summarized below indicate that it has high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. DEA's August 2020 three-factor analysis and the Assistant Secretary's October 27, 2020, letter are available in their entirety under the tab ''Supporting Documents'' of the public docket of this action at *www.regulations.gov.*

Brorphine

The availability of synthetic opioids on the illicit drug market continues to pose an imminent hazard to the public safety. Adverse health effects associated with the abuse of synthetic opioids and the increased popularity of these substances have posed serious health concerns in recent years. The presence of new synthetic opioids with no approved medical use exacerbates the unprecedented opioid epidemic in the United States continues to experience. The trafficking and abuse of new synthetic opioids are deadly new trends.

The identification of brorphine on the illicit drug market has been reported in the United States, Canada, Belgium, and Sweden. Data obtained from preclinical pharmacology studies show that brorphine has a pharmacological profile similar to that of other potent opioids such as morphine and fentanyl, schedule II controlled substances. Because of the pharmacological similarities between brorphine and other potent opioids, the use of brorphine presents a high risk of abuse and may negatively affect users and their communities. The positive identification of this substance in law enforcement seizures and post-mortem toxicology reports is a serious concern to the public safety. The abuse of brorphine has been associated with at least seven fatalities between June and July 2020 in the United States. Thus, brorphine poses an imminent hazard to public safety.

Available data and information for brorphine, as summarized below, indicates that this substance has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. DEA's three-factor analysis is available in its entirety under ''Supporting and Related Material'' of the public docket for this action at *www.regulations.gov* under Docket Number DEA–716.

Factor 4. History and Current Pattern of Abuse

Brorphine is part of a structural class of compounds known as substituted piperidine benzimidazolones. The general synthesis of brorphine was first reported in the literature in 2018. Brorphine is not an approved pharmaceutical product and is not approved for medical use anywhere in the world. The Assistant Secretary, by a letter to DEA dated October 27, 2020, stated that there are no FDA-approved NDAs or INDs for brorphine in the United States. Hence, DEA notes there is no legitimate channel for brorphine as a marketed drug product. The appearance of brorphine on the illicit drug market is similar to other designer drugs trafficked for their psychoactive effects.

Since 2014, numerous synthetic opioids structurally related to fentanyl and several synthetic opioids from other structural classes have begun to emerge on the illicit drug market as evidenced by the identification of these drugs in forensic drug exhibits and toxicology samples. Beginning in June 2019, brorphine emerged in the United States illicit, synthetic drug market as evidenced by brorphine's identification in drug seizures. Authorities Between July and September 2019, brorphine was first reported in drug casework in Canada and was first reported in police seizures in Sweden in March 2020.[3]

Brorphine has been encountered by United States law enforcement in powder form. In the United States, brorphine has been identified as a single substance and in combination with other substances. Between June 2019 and August 2020, there are twenty reports of brorphine in the National Forensic Laboratory Information System (NFLIS) from three different states (see Factor 5).[4] In several NFLIS encounters, brorphine was found in combination

[3] Health Canada Drug Analysis Service (2019); Analyzed Drug Report Canada 2019—Q3 (July to September); European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) (2020); EU Early Warning System Situation Report, Situation report 1—June 2020.

[4] NFLIS represents an important resource in monitoring illicit drug trafficking, including the diversion of legally manufactured pharmaceuticals into illegal markets. NFLIS-Drug is a comprehensive information system that includes data from forensic laboratories that handle the nation's drug analysis cases. NFLIS-Drug participation rate, defined as the percentage of the national drug caseload represented by laboratories that have joined NFLIS, is currently 98.5 percent. NFLIS includes drug chemistry results from completed analyses only. While NFLIS data is not direct evidence of abuse, it can lead to an inference that a drug has been diverted and abused. *See* 76 FR 77330, 77332, December 12, 2011. NFLIS data was queried on August 18, 2020.

with heroin (a schedule I substance) and fentanyl (a schedule II substance). In reports from the Northeastern Illinois Regional Crime Laboratory, suspected heroin/fentanyl powders were analyzed and found to be brorphine in combination with flualprazolam, a non-scheduled benzodiazepine, and diphenhydramine, an over-the-counter antihistamine.[5]

Post-mortem toxicology samples collected and submitted to National Medical Services (NMS) Laboratory[6] in June and July 2020 verified the identification of brorphine. Brorphine was first reported by the Center for Forensic Science Research and Education (CFSRE)—Novel Psychoactive Substance (NPS) Discovery Program (under the novel psychoactive substances discovery program, in collaboration with NMS Labs) in July 2020. In seven post-mortem toxicology reports in June and July 2020, brorphine was found in combination with fentanyl, flualprazolam, and heroin. Evidence suggests that individuals are using brorphine as a replacement to heroin or other opioids, either knowingly or unknowingly.

Factor 5. Scope, Duration, and Significance of Abuse

Brorphine has been described as a potent synthetic opioid, and evidence suggests it is being abused for its opioidergic effects (see Factor 6). According to a recent publication by CFSRE—NPS Discovery Program, brorphine has been positively identified in seven death investigation cases spanning between June and July 2020. These cases occurred in three states—Illinois (3), Minnesota (3), and Arizona (1). Most (n=6) of the decedents were male. The decedents' ages ranged between 40's and 60's with an average age of 52 years. Other substances identified in postmortem blood specimens obtained from these decedents include flualprazolam, a nonscheduled benzodiazepine (n=5), fentanyl, a schedule II substance (n=7), and heroin, a schedule I substance (n=4). The appearance of benzodiazepines and other opioids is common with polysubstance abuse.

NFLIS registered 20 reports of brorphine from Ohio (4), Pennsylvania (1), and Wisconsin (15) in 2019 and 2020. NFLIS was queried on August 18, 2020, for brorphine. Due to the rapid appearance of the drug, brorphine is most likely under reported as forensic laboratories secure reference standards for the confirmative identification and reporting of this substance.

The population likely to abuse brorphine appears to be the same as those abusing prescription opioid analgesics, heroin, tramadol, fentanyl, and other synthetic opioid substances. This is evidenced by the types of other drugs co-identified in samples obtained from brorphine seizures and post-mortem toxicology reports. Because abusers of brorphine are likely to obtain it through unregulated sources, the identity, purity, and quantity of brorphine are uncertain and inconsistent, thus posing significant adverse health risks to the end user. The misuse and abuse of opioids have been demonstrated and are well-characterized. According to the most recent data from the National Survey on Drug Use and Health (NSDUH),[7] as of 2019, an estimated 10.1 million people aged 12 years or older misused opioids in the past year, including 9.7 million prescription pain reliever misusers and 745,000 heroin users. In 2019, an estimated 1.6 million people had an opioid use disorder, which included 1.4 million people with a prescription pain reliever use disorder and 438,000 people with heroin use disorder. In 2018, an estimated 10.3 million people aged 12 years or older misused opioids in the past year, including 9.9 million prescription pain reliever misusers and 808,000 heroin users. In 2018, an estimated 2 million people had an opioid use disorder, which included 1.7 million people with a prescription pain reliever use disorder and 500,000 people with heroin use disorder. This population abusing opioids is likely to be at risk of abusing brorphine. Individuals who initiate use (*i.e.,* use a drug for the first time) of brorphine are likely to be at risk of developing substance use disorder, overdose, and death similar to that of other opioid analgesics (*e.g.,* fentanyl, morphine, etc.). Law enforcement reports demonstrate that brorphine is being illicitly distributed and abused.

Factor 6. What, if Any, Risk There Is to the Public Health

The increase in opioid overdose deaths in the United States has been exacerbated recently by the availability of potent synthetic opioids on the illicit drug market. Data obtained from pre-clinical studies demonstrate that brorphine exhibits a pharmacological profile similar to that of other mu-opioid receptor agonists. Data from *in vitro* studies showed that brorphine binds to and activates the mu-opioid receptors. In the [^{35}S]GTPγS cell-based receptor assay, brorphine, similar to fentanyl, acted as a mu-opioid receptor agonist. Brorphine's activation of the mu-opioid receptor was also shown to involve recruitment of beta-arrestin-2, a regulatory protein whose interaction with the mu-opioid receptor has been implicated in the adverse effects of mu-opioid receptor activation. Brorphine binds to and activates the mu-opioid receptor and has efficacy on scale with fentanyl in *in vitro* studies. It is well established that substances that act as mu-opioid receptor agonists have a high potential for addiction and can induce dose-dependent respiratory depression.

As with any mu-opioid receptor agonist, the potential health and safety risks for users of brorphine are high. The public health risks associated to the abuse of heroin and other μ-opioid receptor agonists are well established and have resulted in large numbers of drug treatment admissions, emergency department visits, and fatal overdoses. According to the Centers for Disease Control and Prevention (CDC), opioids, mainly synthetic opioids other than methadone, are predominantly responsible for drug overdose deaths in recent years. A CDC report shows that, from 2013 to 2018, opioid-related overdose deaths in the United States increased from 25,052 to 46,802. Of the drug overdose deaths for 2018, opioids were involved in about 69.5 percent of all drug-involved overdose deaths.

In the United States, the abuse of opioid analgesics has resulted in large numbers of treatment admissions, emergency department visits, and fatal overdoses. The introduction of potent synthetic opioids such as brorphine into

[5] Email communications with Northeastern Illinois Regional Crime Laboratory, dated 7/1/2020 and 6/11/2020.

[6] NMS Labs, in collaboration with the Center for Forensic Science Research and Education at the Fredric Rieders Family Foundation and the Organized Crime Drug Enforcement Task Force at the United States Department of Justice, has received funding from the Centers for Disease Control and Prevention to develop systems for the early identification and notification of novel psychoactive substances in the drug supply within the United States.

[7] NSDUH, formerly known as the National Household Survey on Drug Abuse (NHSDA), is conducted annually by the Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA). It is the primary source of estimates of the prevalence and incidence of nonmedical use of pharmaceutical drugs, illicit drugs, alcohol, and tobacco use in the United States. The survey is based on a nationally representative sample of the civilian, non-institutionalized population 12 years of age and older. The survey excludes homeless people who do not use shelters, active military personnel, and residents of institutional group quarters such as jails and hospitals. The NSDUH provides yearly national and state level estimates of drug abuse, and includes prevalence estimates by lifetime (*i.e.,* ever used), past year, and past month abuse or dependence.

the illicit market may serve as a portal to problematic opioid use for those seeking these powerful opioids.

Brorphine has been co-identified with other substances in seven post-mortem toxicology cases in June and July 2020. These substances include other opioids such as fentanyl and heroin, and other substance classes such as benzodiazepines. These deaths occurred in three states: Illinois, Arizona, and Minnesota. Information gathered from case history findings shows that brorphine use is similar to that of classic opioid agonists. As documented by toxicology reports, poly-substance abuse remains common in fatalities associated with the abuse of brorphine.

Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information summarized above, the uncontrolled manufacture, distribution, reverse distribution, importation, exportation, conduct of research and chemical analysis, possession, and abuse of brorphine pose an imminent hazard to the public safety. DEA is not aware of any currently accepted medical uses for brorphine in the United States.[8] A substance meeting the statutory requirements for temporary scheduling, found in 21 U.S.C. 811(h)(1), may only be placed in schedule I. Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for brorphine indicate that this substance has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. As required by 21 U.S.C. 811(h)(4), the Acting Administrator, through a letter dated September 22, 2020, notified the Assistant Secretary of DEA's intention to temporarily place brorphine in schedule I. DEA subsequently published a notice of intent on December 3, 2020. 85 FR 78047.

Conclusion

In accordance with 21 U.S.C. 811(h)(1) and (3), the Acting Administrator considered available data and information, herein set forth the grounds for his determination that it is necessary to temporarily schedule brorphine in schedule I of the CSA and finds that placement of this substance in schedule I of the CSA is necessary in order to avoid an imminent hazard to the public safety.

This temporary order scheduling this substance will be effective on the date the order is published in the **Federal Register** and will be in effect for a period of two years, with a possible extension of one additional year, pending completion of the regular (permanent) scheduling process. 21 U.S.C. 811(h)(1) and (2).

The CSA sets forth specific criteria for scheduling a drug or other substance. Regular scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures done ''on the record after opportunity for a hearing'' conducted pursuant to the provisions of 5 U.S.C. 556 and 557. 21 U.S.C. 811. The regular scheduling process of formal rulemaking affords interested parties with appropriate process and the government with any additional relevant information needed to make a determination. Final decisions that conclude the regular scheduling process of formal rulemaking are subject to judicial review. 21 U.S.C. 877. Temporary scheduling orders are not subject to judicial review. 21 U.S.C. 811(h)(6).

Requirements for Handling

Upon the effective date of this temporary order, brorphine will be subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, engagement in research, and conduct of instructional activities or chemical analysis with, and possession of schedule I controlled substances, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, brorphine must be registered with DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312, as of March 1, 2021. Any person who currently handles brorphine, and is not registered with DEA, must submit an application for registration and may not continue to handle brorphine as of March 1, 2021, unless DEA has approved that application for registration pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312. Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of this substance in a manner not authorized by the CSA on or after March 1, 2021 is unlawful and those in possession of any quantity of these substances may be subject to prosecution pursuant to the CSA.

2. *Disposal of stocks.* Any person who does not desire or is not able to obtain a schedule I registration to handle brorphine must surrender all currently held quantities of brorphine.

3. *Security.* Brorphine is subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, 871(b) and in accordance with 21 CFR 1301.71–1301.93, as of March 1, 2021. Non-practitioners handling brorphine must also comply with the employee screening requirements of 21 CFR 1301.90–1301.93.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of brorphine must be in compliance with 21 U.S.C. 825, 958(e) and be in accordance with 21 CFR part 1302. Current DEA registrants will have 30 calendar days from March 1, 2021 to comply with all labeling and packaging requirements.

5. *Inventory.* Every DEA registrant who possesses any quantity of brorphine on the effective date of this order must take an inventory of all stocks of these substances on hand, pursuant to 21 U.S.C. 827 and 958 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Current DEA registrants will have 30 calendar days from the effective date of this order to be in compliance with all inventory requirements. After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including brorphine) on hand on a biennial basis, pursuant to 21 U.S.C. 827 and 958 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records.* All DEA registrants must maintain records with respect to brorphine, pursuant to 21 U.S.C. 827

[8] Although there is no evidence suggesting that brorphine has a currently accepted medical use in treatment in the United States, it bears noting that a drug cannot be found to have such medical use unless DEA concludes that it satisfies a five-part test. Specifically, with respect to a drug that has not been approved by FDA, to have a currently accepted medical use in treatment in the United States, all of the following must be demonstrated:

i. The drug's chemistry must be known and reproducible;

ii. there must be adequate safety studies;

iii. there must be adequate and well-controlled studies proving efficacy;

iv. the drug must be accepted by qualified experts; and

v. the scientific evidence must be widely available.

57 FR 10499 (1992), *pet. for rev. denied, Alliance for Cannabis Therapeutics* v. *DEA,* 15 F.3d 1131, 1135 (D.C. Cir. 1994).

and 958 and in accordance with 21 CFR parts 1304, 1312, and 1317, and section 1307.11. Current DEA registrants authorized to handle brorphine shall have 30 calendar days from the effective date of this order to be in compliance with all recordkeeping requirements.

7. *Reports.* All DEA registrants who manufacture or distribute brorphine must submit reports pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312 as of March 1, 2021.

8. *Order Forms.* All DEA registrants who distribute brorphine must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of March 1, 2021.

9. *Importation and Exportation.* All importation and exportation of brorphine must be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312 as of March 1, 2021.

10. *Quota.* Only DEA registered manufacturers may manufacture brorphine in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303 as of March 1, 2021.

11. *Liability.* Any activity involving brorphine not authorized by, or in violation of the CSA, occurring as of March 1, 2021, is unlawful and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Matters

The CSA provides for a temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h)(1). As provided in this subsection, the Administrator (as delegated by the Attorney General) by order may schedule a substance in schedule I on a temporary basis. Such an order may not be issued before the expiration of 30 days from: (1) The publication of a notice in the **Federal Register** of the intention to issue such order and the grounds upon which such order is to be issued, and (2) the date that comment requirements of section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this temporary scheduling order. The APA expressly differentiates between an order and a rule, as it defines an ''order'' to mean a ''final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency *in a matter other than rule making.*'' 5 U.S.C. 551(6) (emphasis added). The specific language chosen by Congress indicates an intention for DEA to proceed through the issuance of an *order* instead of proceeding by rulemaking. Given that Congress specifically requires the Administrator to follow rulemaking procedures for *other* kinds of scheduling actions, *see* 21 U.S.C. 811(a), note that in 21 U.S.C. 811(h)(1), Congress authorized the issuance of temporary scheduling actions by order rather than by rule.

Alternatively, even if this action was subject to section 553 of the APA, the Acting Administrator finds that there is good cause to forgo the notice-and-comment requirements of section 553, as any further delays in the process for issuance of temporary scheduling orders would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety.

Although DEA believes this temporary scheduling order is not subject to the notice-and-comment requirements of section 553 of the APA, DEA notes that in accordance with 21 U.S.C. 811(h)(4), the Acting Administrator took into consideration comments submitted by the Assistant Secretary in response to the notice that DEA transmitted to the Assistant Secretary pursuant to such subsection.

Further, DEA believes that this temporary scheduling action is not a ''rule'' as defined by 5 U.S.C. 601(2), and accordingly, is not subject to the requirements of the Regulatory Flexibility Act. The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable here, as DEA is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

In accordance with the principles of Executive Orders (E.O.) 12866 and 13563, this action is not a significant regulatory action. E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). E.O. 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in E.O. 12866. E.O. 12866 classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O. Because this is not a rulemaking action, this is not a significant regulatory action as defined in Section 3(f) of E.O. 12866.

This action will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132 (Federalism), it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. In § 1308.11, add paragraph (h)(49) to read as follows:

§ 1308.11 Schedule I

* * * * *

(h) * * *

(49) 1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-1,3-dihydro-2*H*-benzo[*d*]imidazol-2-one, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other names: brorphine; 1-[1-[1-(4-bromophenyl)ethyl]-4-piperidinyl]-1,3-dihydro-2*H*-benzimidazol-2-one) 9098

* * * * *

D. Christopher Evans,

Acting Administrator.

[FR Doc. 2021–04242 Filed 2–26–21; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0613; FRL–10019–20–Region 4]

Air Plan Approval; North Carolina: Revisions to Annual Emissions Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of North Carolina, through the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), on July 10, 2019. The SIP revision modifies the State's annual emissions reporting regulation by removing the annual emissions reporting requirement for certain non-Title V facilities in geographic areas that have been redesignated to attainment for the 1979 1-hour ozone national ambient air quality standards (''NAAQS'' or ''standards'') and in the areas listed in the rule that have been redesignated to attainment for the 1997 8-hour ozone NAAQS, with the exception of the geographic areas that have been redesignated to attainment for the 2008 8-hour ozone NAAQS. The SIP revision also makes minor changes that do not significantly alter the meaning of the regulation. EPA is approving this revision pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective March 31, 2021.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2019–0613. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials can either be retrieved electronically via *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9088. Ms. Bell can also be reached via electronic mail at *bell.tiereny@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In 1979, EPA promulgated a NAAQS for ozone, setting the standard at 0.12 parts per million (ppm) averaged over a 1-hour time frame. *See* 44 FR 8202 (February 8, 1979). In 1997, EPA promulgated a revised NAAQS for ozone, setting the standard at 0.08 ppm averaged over an 8-hour time frame. *See* 62 FR 38856 (July 18, 1997).[1] In 2008, EPA revised the level of the 8-hour ozone standard to 0.075 ppm. *See* 73 FR 16436 (March 27, 2008).[2] The promulgation of a new or revised NAAQS triggers a CAA requirement for EPA to designate as nonattainment any area that violates the NAAQS or contributes to a violation in a nearby area. On November 6, 1991, EPA published designations and classifications for the 1979 1-hour ozone NAAQS.[3] *See* 56 FR 56694. EPA initially published designations and classifications for the revised 1997 8-hour and revised 2008 8-hour ozone standards on April 30, 2004 (69 FR 23858) and May 21, 2012 (77 FR 30088), respectively. The geographic areas designated as nonattainment in North Carolina for the 1997 8-hour ozone standard included the Charlotte-Gastonia-Rock Hill, NC-SC Area (the North Carolina portion is hereinafter the ''1997 Charlotte Area'').[4] The geographic areas designated as nonattainment in North Carolina for the 2008 ozone standard are part of an area known as the Charlotte-Rock Hill, NC-SC Area (the North Carolina portion is hereinafter the ''2008 Charlotte Area'').[5] EPA redesignated North Carolina's 1979 ozone nonattainment areas to attainment in a series of actions from 1993 to 1995,[6] redesignated the 1997 Charlotte Area to attainment on December 2, 2013 (78 FR 72036), and redesignated the 2008 Charlotte Area to attainment on July 28, 2015 (80 FR 44873).

North Carolina was required to develop nonattainment SIP revisions addressing the CAA requirements for its ozone nonattainment areas. Among other things, North Carolina was required to address the annual emissions reporting requirement in CAA section 182(a)(3)(B), which requires each state with an ozone nonattainment area to submit a SIP revision requiring stationary sources that emit 25 tons per year (tpy) or more of nitrogen oxides (NO_X) or volatile organic compounds (VOC) within the nonattainment area to provide certified annual emissions statements to the state showing actual annual NO_X and VOC emissions from the sources.

[1] EPA has revoked the 1979 and 1997 ozone standards. *See* 69 FR 23951 (April 30, 2004) and 80 FR 12264 (March 6, 2015), respectively.

[2] EPA revised the level of the 8-hour ozone standard to 0.070 ppm in 2015 and designated the entire state as attainment/unclassifiable for that NAAQS in 2017. *See* 80 FR 65296 (October 22, 2015) and 82 FR 54232 (November 16, 2017).

[3] EPA designated the following geographic areas in North Carolina as nonattainment for the 1979 ozone standard: Davidson, Durham, Forsyth, Gaston, Guilford, Mecklenburg, and Wake Counties, the Dutchville Township in Granville County, and that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to the Yadkin River.

[4] The geographic areas designated as nonattainment in North Carolina for the 1997 ozone standard included all geographic areas designated as nonattainment for the 1979 ozone standard as well as additional areas. The 1997 Charlotte Area consists of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, and Union Counties and Davidson Township and Coddle Creek Township in Iredell County.

[5] The 2008 Charlotte Area is a subset of the 1997 Charlotte Area and consists of Central Cabarrus Township, Concord Township, Georgeville Township, Harrisburg Township, Kannapolis Township, Midland Township, Mount Pleasant Township, New Gilead Township, Odell Township, Poplar Tent Township, and Rimertown Township in Cabarrus County; Crowders Mountain Township, Dallas Township, Gastonia Township, Riverbend Township, and South Point Township in Gaston County; Davidson Township and Coddle Creek Township in Iredell County; Catawba Springs Township, Ironton Township, and Lincolnton Township in Lincoln County; Atwell Township, China Grove Township, Franklin Township, Gold Hill Township, Litaker Township, Locke Township, Providence Township, Salisbury Township, Steele Township, and Unity Township in Rowan County; and Goose Creek Township, Marshville Township, Monroe Township, Sandy Ridge Township, and Vance Township in Union County.

[6] *See* 58 FR 47391 (November 9, 1993), 59 FR 18300 (April 18, 1994), and 60 FR 34859 (July 5, 1995).

On August 1, 1997 (62 FR 41277), EPA approved the State's annual emissions reporting requirement at 15A NCAC Subchapter 02Q Section .0207,[7] *Annual Emissions Reporting,* into the North Carolina SIP for the geographic areas designated as nonattainment for the 1979 ozone NAAQS.[8] On January 31, 2008, North Carolina submitted a SIP revision adding the 1997 Charlotte Area to its annual emissions reporting requirement as a result of EPA's nonattainment designations for the 1997 8-hour ozone standard.[9] On April 24, 2012 (77 FR 24382), EPA approved that SIP revision and added the 1997 Charlotte Area to the annual emissions reporting requirement in the North Carolina SIP to meet the requirements of CAA section 182(a)(3)(B).

Paragraph (c) of Section .0207 lists the geographic areas in North Carolina where owners or operators of certain non-title V facilities with actual emissions of 25 tpy or more of NO_X or VOC are required to report by June 30th of each year the actual emissions of NO_X and VOC during the previous year. Paragraph (d) identifies the date that the annual reporting requirement in paragraph (c) shall begin.

II. Analysis of State's Submission

EPA is approving North Carolina's July 10, 2019 SIP revision which amends the emissions reporting requirement at 15A NCAC Subchapter 02Q Section .0207, *Annual Emissions Reporting.* Specifically, the revision removes the annual emissions reporting requirement for certain non-Title V facilities in geographic areas that have been redesignated to attainment for the 1979 1-hour ozone NAAQS and in the redesignated 1997 Charlotte Area, while retaining the requirement for the redesignated 2008 Charlotte Area. Additionally, the revision updates the calendar year that the emissions reporting requirement begins from 2007 to 2017 in paragraph (d) and makes several minor editorial changes to the rule.

In a notice of proposed rulemaking (NPRM) published on October 27, 2020 (85 FR 68026), EPA proposed to approve North Carolina's SIP revision. The October 27, 2020, NPRM provides additional detail regarding the SIP revision and rationale for EPA's action. Comments on the October 27, 2020, NPRM were due on or before November 27, 2020.

III. Response to Comments

EPA received one comment on the October 27, 2020, NPRM. A summary of the comment and EPA's response is provided below. The full comment is in the docket for this rulemaking.

Comment: The Commenter recommends that EPA freeze its actions until the Biden administration has the authority to promulgate rules and regulations. The Commenter then states that ''Leaving clean air and water to the states can be a mistake unless it is California which leads in regulatory emissions.''

Response: The majority of the comment is beyond the scope of EPA's action on North Carolina's July 10, 2019 SIP submittal. With respect to this action, Section 110(k) of the CAA requires EPA to approve SIP submittals that meet all applicable CAA requirements and to do so within specific timeframes. EPA is approving the State's submittal because the Agency has concluded that the submittal meets CAA requirements and the Commenter did not provide any information indicating otherwise. Furthermore, the statutory deadline to act on this submittal is January 10, 2021, prior to the change in presidential administration. EPA's statutory obligation to act on SIP submittals is not tolled due to a pending change in administration.

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of 15A NCAC Subchapter 02Q Section .0207, *Annual Emissions Reporting,* state effective April 1, 2018, which removes the annual emissions reporting requirement for certain non-Title V facilities; updates the calendar year when the annual emissions reporting requirement begins; and makes several minor editorial changes. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[10]

V. Final Action

EPA is approving North Carolina's July 10, 2019, SIP submission, which revises 15A NCAC Subchapter 02Q Section .0207, *Annual Emissions Reporting,* state effective April 1, 2018, which removes annual emissions reporting requirement for certain non-Title V facilities; updates the calendar year when the annual emissions reporting requirement begins; and makes several minor editorial changes. EPA is approving this revision pursuant to the CAA.

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 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);

[7] In the table of North Carolina regulations federally approved into the SIP at 40 CFR 52.1770(c), 15A NCAC Subchapter 02Q is referred to as ''Subchapter 2Q Air Quality Permits.''

[8] Section .0207 also contains an annual reporting requirement at paragraph (a) for owners and operators of title V facilities in the State.

[9] The SIP revision added Cabarrus, Lincoln, Rowan, and Union Counties and Davidson Township and Coddle Creek Township in Iredell County to the emissions reporting requirement.

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *April 30, 2021.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Signing Statement

This document of the Environmental Protection Agency was signed on December 22, 2020, by Mary Walker, Regional Administrator, pursuant to the Statutory Deadline of the Clean Air Act. That document with the original signature and date is maintained by EPA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned EPA Official re-signs the document for publication, as an official document of the Environmental Protection Agency. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Dated: February 23, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart II—North Carolina

■ 2. In 52.1770 amend Table 1 in paragraph (c) under Subchapter 2Q Air Quality Permits under Section .0200 Permit Fees by revising the entry for ''Section .0207'' to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(1) EPA Approved North Carolina Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Subchapter 2Q Air Quality Permits				
*	*	*	*	*
Section .0200 Permit Fees				
Section .0207	Annual Emissions Reporting	4/1/2018	[Insert citation of publication], 3/1/2021.	
*	*	*	*	*

* * * * *

[FR Doc. 2021–04065 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2020–0370; FRL–10019–18–Region 4]

Air Plan Approval; KY; Updates to Attainment Status Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky, through the Kentucky Division for Air Quality (KDAQ), on December 9, 2019. The SIP revision updates the description and attainment status designations of geographic areas within the Commonwealth for several National Ambient Air Quality Standards (NAAQS or standards). The updates are being made to conform Kentucky's attainment status tables with the federal attainment status designations for these areas. EPA is approving Kentucky's SIP revision because it is consistent with the Clean Air Act (CAA or Act) and EPA's regulations.

DATES: This rule is effective March 31, 2021.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2020–0370. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials can either be retrieved electronically via *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sarah Larocca, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9144. Ms. Larocca can also be reached via electronic mail at *larocca.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Sections 108 and 109 of the CAA require EPA to set NAAQS for criteria air pollutants (ozone (O_3), particulate matter (PM), carbon monoxide, lead, sulfur dioxide (SO_2), and nitrogen dioxide) and to undertake periodic review of these standards. After EPA sets a new NAAQS or revises an existing standard, the CAA requires EPA to determine if areas of the country meet the new standards and to designate areas as either nonattainment, attainment, or unclassifiable.[1] Such designations inform the state's planning and implementation of requirements to achieve and maintain the NAAQS for each area within that state.

Section 107(d) of the CAA governs the process for these initial area designations. Under this process, states and tribes submit recommendations to EPA as to whether or not an area is attaining the NAAQS for criteria air pollutants. EPA then considers these recommendations as part of its obligation to promulgate the area designations for the new or revised NAAQS. EPA codifies its designations for areas within each state in 40 CFR part 81.[2] Under section 107(d) of the CAA, a designation for an area remains in effect until redesignated by EPA.

In a notice of proposed rulemaking (NPRM) published on October 19, 2020 (85 FR 66295), EPA proposed to approve changes to Kentucky rule 401 Kentucky Administrative Regulation (KAR) 51:010, *Attainment status designations,* which update the description and attainment or nonattainment status of geographic areas within the Commonwealth with regard to a number of the NAAQS. The Commonwealth of Kentucky last amended Regulation 401 KAR 51:010 in 2016.[3] Since that time, EPA promulgated the 2015 8-hour ozone NAAQS and redesignated several areas within the Commonwealth. Kentucky amended 401 KAR 51:010 in 2019 by updating the attainment status designations in Sections 7 through 9 for O_3, PM less than 2.5 microns in diameter ($PM_{2.5}$), and SO_2 to conform with EPA's attainment status designations in 40 CFR 81.318. Regulation 401 KAR 51:010 has also been amended by making one minor textual modification to the NECESSITY, FUNCTION, AND CONFORMITY section. The details of Kentucky's submission and the rationale for EPA's action are explained in the proposed rulemaking. Comments on the October 19, 2020, NPRM were due on or before November 18, 2020. EPA did not receive any comments on the October 19, 2020, NPRM. EPA is now taking final action to approve the above-referenced changes.

II. Incorporation by Reference

In this notice, EPA is finalizing EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Kentucky regulation 401 KAR 51:010, *Attainment status designations,* state effective November 19, 2019, which was revised to be consistent with the federal attainment status designations for the areas within the Commonwealth. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[4]

III. Final Action

EPA is taking final action to approve portions of the Commonwealth of Kentucky's SIP revision submitted on December 9, 2019, because the changes are consistent with the CAA and EPA regulations. The submission amends

[1] An area is designated nonattainment if it is found to be an area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the NAAQS; an area is designated attainment if it is an area that meets the NAAQS and does not contribute to an area violating the NAAQS; and an area is designated unclassifiable if it cannot be classified on the basis of available information as meeting or not meeting the NAAQS. *See* CAA section 107(d)(1)(A).

[2] EPA's attainment status designations for Kentucky are found at 40 CFR 81.318.

[3] EPA approved those amendments into the SIP in 2018. *See* 83 FR 65088 (December 19, 2018).

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

and updates Kentucky regulation 401 KAR 51:010, *Attainment status designations,* to conform with EPA's attainment status designations in 40 CFR 81.318. EPA is proposing to approve these changes because they are consistent with the CAA and EPA regulations.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 30, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: February 23, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart S—Kentucky

■ 2. In 52.920, amend Table 1 in paragraph (c) under the heading Chapter 51 Attainment and Maintenance of the National Ambient Air Quality Standards by revising the entry for ''401 KAR 51:010 Attainment status designations'' to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

TABLE 1—EPA-APPROVED KENTUCKY REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Chapter 51 Attainment and Maintenance of the National Ambient Air Quality Standards				
*	*	*	*	*
401 KAR 51:010	Attainment status designations	11/19/2019	3/1/2021, [Insert citation of publication].	
*	*	*	*	*

* * * * *

[FR Doc. 2021–04057 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2020–0116; FRL–10020–52–Region 5]

Air Plan Approval; Illinois; Removal of Variance for Illinois Power Holdings and AmerenEnergy Medina Valley Cogen Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Illinois State Implementation Plan (SIP) submitted on January 23, 2020, by the Illinois Environmental Protection Agency (IEPA). The revision removes the variance from the sulfur dioxide (SO_2) requirements of the Illinois Administrative Code (IAC) Multi-Pollutant Standard Rule for coal-fired electrical generating units (EGUs) owned by the Illinois Power Holdings, LLC (IPH) and the AmerenEnergy Medina Valley Cogen, LLC (Medina Valley), and will reimpose tighter limits on all facilities currently in operation.

DATES: The final is effective March 31, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2020–0116. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886–6031 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov.*

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

I. What is being addressed in this document?

This rule approves IEPA's January 23, 2020, submission to remove the variance (PCB 14–10) from the Illinois SIP, for IPH and Medina Valley, and will reimpose tighter limits on all facilities currently in operation under 35 IAC Section 225.233. The background for this action is discussed in detail in EPA's notice of proposed rulemaking (NPRM), dated September 18, 2020 (85 FR 58320).

II. What comments did we receive on the proposed rule?

In the NPRM, EPA provided a 30-day review and comment period for the proposed rule. The comment period ended on October 19, 2020. We received no adverse comments on the proposed rule.

EPA did, however, receive one anonymous comment that did not explain or provide a legal basis for why the proposed action should differ, and therefore requires no further response.

III. What action is EPA taking?

EPA is approving IEPA's January 23, 2020, request to revise the Illinois SIP by removing PCB 14–10 from the SIP for IPH and Medina Valley.

IV. Incorporation by Reference

In this document, EPA is amending regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, EPA is removing provisions of the EPA-Approved Illinois Source-Specific Requirements from the Illinois SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make the SIP generally available through *www.regulations.gov* and at the EPA Region 5 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 Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, 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 rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 30, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Sulfur oxides.

Dated: February 22, 2021.

Cheryl Newton,

Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

§ 52.720 [Amended]

■ 2. In § 52.720, the table in paragraph (d) is amended by removing the entry for ''IPH/Ameren Energy''.

[FR Doc. 2021–03985 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0626; FRL–10017–45–Region 4]

Air Plan Approval; Tennessee; Emissions Inventory and Nonattainment New Source Review Plan for Sullivan County SO_2 Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve portions of State Implementation Plan (SIP) revisions submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on May 12, 2017. The portions that EPA is approving are the emissions inventory and nonattainment new source review (NNSR) requirements for the 2010 1-hour sulfur dioxide (SO_2) primary national ambient air quality standard (NAAQS) for the Sullivan County SO_2 nonattainment area (hereinafter referred to as the ''Sullivan County Area'' or ''Area''). The Sullivan County Area is comprised of a portion of Sullivan County in Tennessee surrounding the Eastman Chemical Company (hereinafter referred to as ''Eastman''). EPA is not taking action on the other portions of the May 12, 2017, SIP submissions. EPA has determined that Tennessee has met the applicable emissions inventory and NNSR requirements under the Clean Air Act (CAA or Act) for the 2010 1-hour primary SO_2 NAAQS in the Sullivan County Area.

DATES: This rule is effective March 31, 2021.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0626. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Steven Scofield, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Scofield can be reached via telephone at (404) 562–9034 or via electronic mail at *scofield.steve@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

On June 22, 2010, EPA published notice of a new 1-hour primary SO_2 NAAQS of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour concentrations does not exceed 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. *See* 75 FR 35520, codified at 40 CFR 50.17(a) and (b). On August 5, 2013, EPA designated a first set of 29 areas of the country as nonattainment for the 2010 SO_2 NAAQS, including the Sullivan County Area within the State of Tennessee. *See* 78 FR 47191, codified at 40 CFR part 81, subpart C. These ''Round one'' area designations were effective October 4, 2013. Section 191(a) of the CAA directs states to submit SIPs for areas designated as nonattainment for the SO_2 NAAQS to EPA within 18 months of the effective date of the designation, *i.e.,* by no later than April 4, 2015 in this case. Section 192(a) requires that such plans shall provide for NAAQS attainment as expeditiously as practicable, but no later than 5 years from the effective date of designation, which is October 4, 2018 in this case, in accordance with CAA sections 191–192.

Section 172(c) of part D of the CAA requires such SIP submittals to comply with the following: Provide for the implementation of all reasonably available control measures as expeditiously as practicable and attainment of the NAAQS; require reasonable further progress (RFP); include a comprehensive, accurate, current inventory of actual emissions from all sources in the area; identify and quantify the emissions of any pollutants from new or modified major sources in

the area and demonstrate the emissions will be consistent with the achievement of RFP and will not interfere with attainment of the applicable NAAQS; require permits for new or modified major sources anywhere in the nonattainment area; include enforceable emission limitations and such other measures as may be necessary or appropriate to provide for attainment the NAAQS; comply with CAA section 110(a)(2); and provide for the implementation of contingency measures to be undertaken if the area fails to make RFP, or to attain the NAAQS by the attainment date. In this action, the only portions of Tennessee's submissions that EPA is approving are the emissions inventory and NNSR requirements of 172(c)(3) and (5), respectively.

On April 23, 2014, EPA issued a guidance document entitled, ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions.'' This guidance provides recommendations for the development of SO_2 nonattainment SIPs to satisfy CAA requirements (*see, e.g.,* sections 172, 191, and 192). A nonattainment SIP must also meet the requirements of 40 CFR part 51, subparts F and G, and 40 CFR part 51, appendix W (the *Guideline on Air Quality Models;* ''the *Guideline*''), and include inventory data, modeling results, and emissions reduction analyses on which the state has based its projected attainment. The base year emissions inventory (section 172(c)(3)) is required to show a ''comprehensive, accurate, current inventory'' of all relevant pollutants in the nonattainment area. To meet the NNSR requirements of section 172(c)(5), the state's SIP is required to include a program to address new and modified major sources as provided in 40 CFR 51.165.

For a number of areas, including the Sullivan County Area, EPA published a document on March 18, 2016, finding that pertinent states had failed to submit the required SO_2 nonattainment plan by the submittal deadline. *See* 81 FR 14736. This finding initiated a deadline under CAA section 179(a) for the potential imposition of new source review and highway funding sanctions, and for EPA to promulgate a federal implementation plan (FIP) under section 110(c) of the CAA. In response to the requirement for SO_2 nonattainment plan submittals, Tennessee submitted a nonattainment plan for the Sullivan County Area on May 12, 2017. Pursuant to Tennessee's May 12, 2017, submittals and EPA's subsequent completeness determination letter dated October 10, 2017, sanctions under section 179(a) will not be imposed as a result of Tennessee having missed the April 4, 2015, submission deadline.

On June 29, 2018 (83 FR 30609), EPA proposed to approve Tennessee's May 12, 2017, nonattainment plan submittals and SO_2 attainment demonstration. The State's submittals and attainment demonstration included all the specific nonattainment SIP elements mentioned above. Comments on EPA's proposed rulemaking were due on or before July 30, 2018. EPA received two sets of relevant comments on the proposed approval of Tennessee's nonattainment area plan for the Sullivan County Area. These comments and others are available in the docket for this final rulemaking action. None of the comments received related to EPA's proposed approval of the emissions inventory pursuant to 172(c)(3) or the NNSR requirements pursuant to 172(c)(5), and these requirements are separate and severable from the requirements for which EPA received comments.

For a comprehensive discussion of EPA's analysis and rationale for approval of the emissions inventory and NNSR portions of the State's submittals for this Area, please refer to EPA's June 29, 2018, notice of proposed rulemaking. EPA has determined that the Tennessee SIP submittals provide a comprehensive, accurate, and current inventory of SO_2 emissions in the Sullivan County Area. In addition, Tennessee's SIP contains NNSR requirements at Tennessee Air Pollution Control Regulation 1200–03–09–.01(5) that satisfy the applicable federal NNSR requirements for permitting of new and modified major sources.

II. Final Action

EPA is taking final action to approve the emissions inventory and NNSR portions of Tennessee's SO_2 nonattainment SIP submissions, which the State submitted to EPA on May 12, 2017, to meet certain nonattainment area planning requirements. EPA has determined that these portions of Tennessee's nonattainment SIP meet the applicable requirements of sections 110 and 172 of the CAA and applicable regulatory requirements at 40 CFR part 51.

III. Statutory and Executive Order Reviews

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

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 30, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Signing Statement

This document of the Environmental Protection Agency was signed on January 4, 2021, by Mary Walker, Regional Administrator, pursuant to the Statutory Deadline of the Clean Air Act. That document with the original signature and date is maintained by EPA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned EPA Official re-signs the document for publication, as an official document of the Environmental Protection Agency. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register.**

Dated: February 23, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart RR—Tennessee

■ 2. In § 52.2220 amend the table in paragraph (e) by adding, at the end of the table, entries for ''2010 1-Hour SO_2 Emissions Inventory for the Sullivan County Area'' and ''2010 1-Hour Nonattainment New Source Review Plan for the Sullivan County Area'' to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(e) * * *

EPA-Approved Tennessee Non-Regulatory Provisions

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
*	*	*	*	*
2010 1-Hour SO_2 Emissions Inventory for the Sullivan County Area.	Sullivan County	5/10/2017	3/1/2021, [Insert citation of publication].	Addressing the base-year emissions inventory requirements of 172(c)(3).
2010 1-Hour SO_2 Nonattainment New Source Review Plan for the Sullivan County Area.	Sullivan County	5/10/2017	3/1/2021, [Insert citation of publication].	

[FR Doc. 2021–04063 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2020–0186; FRL–10019–56–Region 4]

Air Plan Approval; North Carolina; Revisions to Construction and Operation Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the North Carolina State Implementation Plan (SIP) submitted by the State of North Carolina through the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), on July 10, 2019. The SIP revision seeks to modify the State's construction and operation permitting regulations by making minor changes that do not significantly alter the meaning of the regulations. EPA is approving this revision pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective March 31, 2021.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2020–0186. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials can either be retrieved electronically via *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Pearlene Williams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Williams can also be reached via phone at (404) 562–9144 or via electronic mail at *williams.pearlene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 10, 2019, the State of North Carolina submitted changes to the North Carolina SIP for EPA approval. EPA is finalizing changes to the following regulations under 15A North Carolina Administrative Code (NCAC) Subchapter 02Q,[1] Section .0300, *Construction and Operation Permits:* Section .0301, *Applicability;* Section .0303, *Definitions;* Section .0304, *Applications;* Section .0305, *Application Submittal Content;* Section .0307, *Public Participation Procedures;* Section .0308, *Final Action on Permit Applications;* Section .0309, *Termination, Modification and Revocation of Permits;* Section .0310, *Permitting of Numerous Similar Facilities;* Section .0311, *Permitting of Facilities at Multiple Temporary Sites;* Section .0312, *Application Processing Schedule;* Section .0313, *Expedited Application Processing Schedule;* Section .0314, *General Requirements for All Permits;* Section .0315, *Synthetic Minor Facilities;* Section .0316, *Administrative Permit Amendments;* and Section .0317, *Avoidance Conditions.*[2]

II. Analysis of North Carolina's SIP Revision

The revision that is the subject of this final rulemaking makes changes to construction and operating permitting regulations under Subchapter 2Q of the North Carolina SIP. These changes revise the applicability of permit exemptions, permit application and processing procedures, and revise related definitions. Details regarding the background for these changes may be found in the proposed rulemaking that published October 19, 2020 (85 FR 66296). The comment period for this rulemaking closed on November 18, 2020. No adverse comments were received. EPA finds that the changes do not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable CAA requirement.

EPA has determined that the changes to the regulations above provide clarity to the applicability of permit exemptions, permit application and processing procedures, and definitions. The changes are minor changes that do not significantly alter the meaning of the regulations. The changes to the SIP satisfy CAA section 110(l) and do not interfere with attainment and maintenance of the national ambient air quality standards or any other applicable requirement of the Act. Therefore, EPA is approving the changes to these regulations.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the following sections of 15A NCAC Subchapter 2Q with a state-effective date of April 1, 2018: Section .0301, *Applicability;* Section .0303, *Definitions;* Section .0304, *Applications;* Section .0305, *Application Submittal Content;* Section .0307, *Public Participation Procedures;* Section .0308, *Final Action on Permit Applications;* Section .0309, *Termination, Modification and Revocation of Permits;* Section .0310, *Permitting of Numerous Similar Facilities;* Section .0311, *Permitting of Facilities at Multiple Temporary Sites;* Section .0312, *Application Processing Schedule;* Section .0313, *Expedited Application Processing Schedule;* Section .0314, *General Requirements for All Permits;* Section .0315, *Synthetic Minor Facilities;* Section .0316, *Administrative Permit Amendments;* and Section .0317, *Avoidance Conditions.* This finalization revises the applicability of permit exemptions, revises permit application and processing procedures, and amends definitions. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Final Action

EPA is approving North Carolina's July 10, 2019, SIP revision, which contains changes to the following regulations under 15A NCAC Subchapter 02Q, Section .0300, *Construction and Operation Permits:* Section .0301, *Applicability;* Section .0303, *Definitions;* Section .0304, *Applications;* Section .0305, *Application Submittal Content;* Section .0307, *Public Participation Procedures;* Section .0308, *Final Action on Permit Applications;* Section .0309, *Termination, Modification and Revocation of Permits;* Section .0310, *Permitting of Numerous Similar Facilities;* Section .0311, *Permitting of Facilities at Multiple Temporary Sites;* Section .0312, *Application Processing Schedule;* Section .0313, *Expedited Application Processing Schedule;* Section .0314, *General Requirements for All Permits;* Section .0315, *Synthetic Minor Facilities;* Section .0316, *Administrative Permit Amendments;* and Section .0317, *Avoidance Conditions.* EPA has concluded that these changes are consistent with the CAA.

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or

[1] In the table of North Carolina regulations federally approved into the SIP at 40 CFR 52.1770(c), 15A NCAC 02Q is referred to as ''Subchapter 2Q Air Quality Permits.''

[2] The State submitted the SIP revision following the readoption of several air regulations, including .0301, .0303, .0304, .0305, .0307, .0308, .0309, .0310, .0311, .0312, .0313, .0314, .0315, .0316, and .0317, pursuant to North Carolina's 10-year regulatory readoption process at North Carolina General Statute 150B–21.3A.

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).

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 30, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Signing Statement

This document of the Environmental Protection Agency was signed on January 7, 2021, by Mary Walker, Regional Administrator, pursuant to the Statutory Deadline of the Clean Air Act. That document with the original signature and date is maintained by EPA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned EPA Official re-signs the document for publication, as an official document of the Environmental Protection Agency. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register.**

Dated: February 23, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart II—North Carolina

■ 2. In 52.1770 amend table 1 in paragraph (c) under Subchapter 02Q Air Quality Permits under Section .0300, Construction and Operation Permits by revising the entries for ''Section .0301'', ''Section .0303'', ''Section .0304'', ''Section .0305'', ''Section .0307'', ''Section .0308'', ''Section .0309'', ''Section .0310'', ''Section .0311'', ''Section .0312'', ''Section .0313'', ''Section .0314'', ''Section .0315'', ''Section .0316'', and ''Section .0317'' to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(1) EPA Approved North Carolina Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Subchapter 2Q Air Quality Permits Section .0300 Construction and Operating Permits				
Section .0301	Applicability	4/1/2018	3/1/2021, [Insert citation of publication].	
Section .0303	Definitions	4/1/2018	3/1/2021, [Insert citation of publication].	
Section .0304	Applications	4/1/2018	3/1/2021, [Insert citation of publication].	
Section .0305	Application Submittal Content	4/1/2018	3/1/2021, [Insert citation of publication].	
*	*	*	*	*
Section .0307	Public Participation Procedures	4/1/2018	3/1/2021, [Insert citation of publication].	
Section .0308	Final Action on Permit Applications	4/1/2018	3/1/2021, [Insert citation of publication].	

(1) EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
Section .0309	Termination, Modification and Revocation of Permits.	4/1/2018	3/1/2021, [Insert citation of publication].	
Section .0310	Permitting of Numerous Similar Facilities.	4/1/2018	3/1/2021, [Insert citation of publication].	
Section .0311	Permitting of Facilities at Multiple Temporary Sites.	4/1/2018	3/1/2021, [Insert citation of publication].	
Section .0312	Application Processing Schedule ..	4/1/2018	3/1/2021, [Insert citation of publication].	
Section .0313	Expedited Application Processing Schedule.	4/1/2018	3/1/2021, [Insert citation of publication].	
Section .0314	General Permitting for All Requirements.	4/1/2018	3/1/2021, [Insert citation of publication].	
Section .0315	Synthetic Minor Facilities	4/1/2018	3/1/2021, [Insert citation of publication].	
Section .0316	Administrative Permit Amendments	4/1/2018	3/1/2021, [Insert citation of publication].	
Section .0317	Avoidance Conditions	4/1/2018	3/1/2021, [Insert citation of publication].	
*	*	*	*	*	*	*

* * * * *

[FR Doc. 2021–04066 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2020–0344; FRL–10018–03–Region 4]

Air Plan Approval; North Carolina: Permits Requiring Public Participation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of North Carolina, through the North Carolina Department of Environmental Quality (NCDEQ), Division of Air Quality, on July 10, 2019. This SIP revision seeks to modify the State's permitting program public participation procedures by adding two types of minor source permits to the list of permits that must undergo public participation and by making minor edits. EPA is approving this revision pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective March 31, 2021.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2020–0344. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials can either be retrieved electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Akers can be reached via electronic mail at *akers.brad@epa.gov* or via telephone at (404) 562–9089.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is approving changes to the North Carolina SIP that were provided to EPA through NCDEQ via a letter dated July 10, 2019. EPA is approving this SIP revision which makes changes to 15A North Carolina Administrative Code (NCAC) Subchapter 02Q, Section .0306, *Permits Requiring Public Participation.*[1] The July 10, 2019, SIP revision changes to Section .0306 add two types of permits subject to public participation and makes several minor edits, including the removal of obsolete regulatory references.[2] The permits listed in Section .0306 must undergo public notice for comments with the opportunity for the public to request a public hearing. Pursuant to Section .0307(d), *Public Participation Procedures,* the public comment period for these permits must last for at least 30 days.

EPA is approving the two additions to the list of permits requiring public participation pursuant to CAA section 110 as a SIP-strengthening measure and 40 CFR 51.161. EPA is approving the remaining changes to Section .0306 because they are minor edits that do not interfere with attainment and maintenance of the national ambient air

[1] The State submitted the SIP revision following the readoption of several air regulations, including .0306, pursuant to North Carolina's 10-year regulatory readoption process at North Carolina General Statute 150B–21.3A.

[2] North Carolina's April 1, 2018, rule revision also removed paragraph (b) from the state-effective version of the rule. This paragraph required a 30-day public notice period for permits that placed a physical or operational limitation on a facility to avoid title V requirements under 15 NCAC 02Q 0500. Furthermore, the revised rule renumbered paragraph (c) of the state-effective version of the rule to paragraph (b). However, these changes are not before EPA for action because (1) the version of paragraph (b) that the State removed in the April 1, 2018, rule revision is not in the SIP, and (2) the version of paragraph (b) in the SIP is identical to the version of paragraph (b) in the April 1, 2018, rule. *See* 67 FR 64990 (October 22, 2002).

quality standards or any other applicable requirement of the Act. See EPA's October 14, 2020 (85 FR 65013), notice of proposed rulemaking (NPRM) for further detail on these changes and EPA's rationale for approving them. EPA did not receive any adverse public comments on the October 14, 2020, NPRM.[3]

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of 15A NCAC Subchapter 02Q, Section .0306, *Permits Requiring Public Participation,* state effective April 1, 2018, which expands the types of permits which require public participation and makes minor edits to the rule. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[4]

III. Final Action

EPA is approving changes to the North Carolina SIP included in a July 10, 2019, submittal. Specifically, EPA is approving changes to 15A NCAC 02Q .0306, *Permits Requiring Public Participation,* that add two types of permits to the list of permits that must undergo public participation and make minor edits, including the removal of obsolete regulatory references. EPA is approving these changes for the reasons described above.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 30, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Signing Statement

This document of the Environmental Protection Agency was signed on December 14, 2020, by Mary Walker, Regional Administrator, pursuant to the Statutory Deadline of the Clean Air Act. That document with the original signature and date is maintained by EPA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned EPA Official re-signs the document for publication, as an official document of the Environmental Protection Agency. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Dated: February 23, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

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

[3] EPA received one comment in support of the proposed action, which is available in the docket for this action.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart II—North Carolina

■ 2. In 52.1770, amend the table in paragraph (c)(1) by revising the entry for ''Section .0306'' under ''Subchapter 2Q Air Quality Permits'' to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(1) EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Subchapter 2Q Air Quality Permits				
*	*	*	*	*
Section .0300 Construction and Operating Permits				
*	*	*	*	*
Section .0306	Permits Requiring Public Participation	4/1/2018	3/1/2021, [Insert citation of publication].	
*	*	*	*	*

* * * * *

[FR Doc. 2021–04064 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 18–314; FCC 20–159; FRS 17350]

Further Streamlining FCC Rules Governing Satellite Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or we) streamlines its rules governing satellite services by creating an optional framework for the authorization of blanket-licensed earth stations and space stations in a satellite system through a unified license. The Commission also aligns the build-out requirements for earth stations and space stations and eliminates unnecessary reporting rules.

DATES: Effective March 31, 2021, except instruction 6 adding 47 CFR 25.136(h) which is delayed. The Commission will publish a document in the **Federal Register** announcing the effective date of 47 CFR 25.136(h).

FOR FURTHER INFORMATION CONTACT: Clay DeCell, *Clay.DeCell@fcc.gov,* 202–418–0803, or if concerning the information collections in this document, Cathy Williams, *Cathy.Williams@fcc.gov,* 202–418–2918.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 20–159, adopted November 18, 2020, and released November 19, 2020. The full text of the Report and Order is available at *https://docs.fcc.gov/public/attachments/FCC-20-159A1.pdf.* To request materials in accessible formats for people with disabilities, send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Congressional Review Act

The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Second Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Synopsis

In this Report and Order, the Commission streamlines its rules governing satellite services by creating an optional framework for authorizing both the blanket-licensed earth stations and space stations of a satellite system through a unified license. We also align the build-out requirements for earth stations and space stations and eliminate unnecessary reporting rules. These changes will reduce regulatory burdens, simplify the Commission's licensing of satellite systems, and provide additional operational flexibility.

A. Unified License for Space Station and Blanket-Licensed Earth Station Operations

On January 31, 2019, the Commission proposed at 84 FR 638 a simple framework for an optional unified license. The unified license would authorize operations of the satellite network, *i.e.,* the space station and the earth stations operating with that space station. The unified license would be held by the satellite operator. To receive a unified license, the satellite operator would have to file an application with the normally required space station application information, plus certain certifications and information regarding earth station operations. It would not have to provide a Form 312 Schedule B or the detailed earth station information that would otherwise be required, but which is rendered duplicative or unnecessary by what was already submitted for the space station. Accordingly, the unified license would offer a more efficient means to authorize the earth stations in a satellite network, and one that better reflects the flexibility satellite operators exercise over the parameters of their satellite networks.

Scope. After review of the information submitted in the record, we conclude that the streamlining benefits of a unified authorization could apply to a variety of satellite and earth station

licensees, and that we need not limit its application initially to certain regulatory frameworks. Accordingly, we will broadly make available a unified licensing option to all types of satellite and blanket-licensed earth station operations in the frequency bands listed below, including Earth Station in Motion (ESIM) operations in these bands. We will also permit non-U.S.-licensed satellite operators to receive a single grant with U.S. market access and blanket-licensed earth station operating authority. As proposed, the unified license will be held by the satellite operator, including authority for the blanket-licensed earth stations. We make the unified licensing framework available to operators in the following frequency bands:

Non-Voice, Non-Geostationary Mobile-Satellite Service (MSS): 137–138 MHz, 148–150.05 MHz, 399.9–400.05 MHz, and 400.15–401 MHz;

1.5/1.6 GHz MSS: 1525–1559 MHz and 1626.5–1660.5 MHz;

1.6/2.4 GHz MSS: 1610–1626.5 MHz and 2483.5–2500 MHz;

2 GHz MSS: 2000–2020 MHz and 2180–2200 MHz;

GSO FSS: 10.7–12.2 GHz, 14–14.5 GHz, 18.3–18.8 GHz, 19.7–20.2 GHz, 28.35–28.6 GHz, 29.25–30 GHz, 40–42 GHz, and 48.2–50.2 GHz;

NGSO FSS: 10.7–12.7 GHz, 14–14.5 GHz, 17.8–18.6 GHz, 18.8–19.4 GHz, 19.6–20.2 GHz, 28.35–29.1 GHz, 29.5–30 GHz, 40–42 GHz, and 48.2–50.2 GHz; and

GSO and NGSO MSS: 19.7–20.2 GHz and 29.5–30 GHz.

As stated in the proposed rule, we will exclude from unified licensing any fixed-satellite service (FSS) operations under 10 GHz in light of ongoing Commission rulemakings and the unique, transitional status of some FSS operations in these bands. In addition, we will allow only blanket-licensed earth station operations to be included in a unified license. Thus, unified licensing will not be available in any frequency band shared with UMFUS. But in bands adjacent to UMFUS operations, FSS operations are authorized on a blanket-licensed basis today without any coordination with UMFUS. We reject any suggestion to revisit blanket FSS licensing in such bands. Similarly, we find no basis in the record to exclude from eligibility ESIM operations in the 28.35–28.6 GHz band adjacent to the 27.5–28.35 GHz band shared with UMFUS. The issue of out-of-band emissions from ESIMs operating in the 28.35–28.6 GHz band is currently being explored in a separate rulemaking and is not affected by the licensing posture of an ESIM in a separate earth station authorization or a unified license. In either case, ESIMs will have to comply with any revised out-of-band emissions requirement adopted in that rulemaking.

We similarly do not believe that we should increase burdens on blanket-licensed earth station deployment pursued through a unified license, as opposed to through existing blanket-licensing options, by requiring registration or notification of the ubiquitously deployed stations. Any such information-gathering for blanket-licensed earth station operations, if appropriate, would be more efficiently pursued with regard to specific rulemakings and frequency bands. Regarding the information omitted from a unified license application because it is duplicative or unnecessary, we note that the application will constitute a complete proposal for the satellite system, including the blanket-licensed earth station operations. If, after review of the complete application, a party has outstanding technical concerns, it may address them during the comment period.

In addition, we do not believe that the earth station technical showings currently required by 47 CFR 25.115(g)(1) and 25.132 are necessary for terrestrial operators to review and should not be replaced with a certification requirement. These showings are intended to confirm compliance with two-degree spacing limits for GSO FSS satellites. Given that satellite operators are currently allowed to certify compliance with two-degree spacing limits instead of providing technical showings, and the experience of satellite commenters that such technical demonstrations are unnecessary to confirm the earth station's compliance with two-degree limits, we do not believe that the burden of providing these demonstrations is justified by their purpose. In any event, adjacent-band terrestrial operators will have an opportunity to comment on any unified license application including ESIM or other blanket-licensed earth station authority, and they may request additional information regarding the earth station operations. If an UMFUS operator experienced interference due to adjacent-band operations of a unified licensee, it could address its concerns to the licensee directly or to the Commission.

The unified license will not be a separate license that a satellite operator has to obtain in addition to its existing satellite license. Rather, it will constitute a space station license that also includes authority for the operation of earth stations with that particular geostationary-satellite orbit (GSO) space station or those (non-geostationary satellite orbit) NGSO space stations. Whether a satellite operator chooses to include such earth station authority or not, the space station authority will remain as it is today. The earth station authorization may include some or all of the frequency bands authorized for the associated space station(s).

In response to a request for clarification, we affirm that requests for modification or renewal, special temporary authority, and application amendments related to space station operations, earth station operations, or both, can be made in the narrative portion of an application in the unified license file. While a unified license contains authority for both space station and earth station operations, we consider such a license to be an extension of the satellite licensing process, to be held by the satellite operator and applied for in the International Bureau Filing System (IBFS) using the general satellite licensing procedures. Accordingly, for any renewal applications, we will apply the deadlines and procedures for renewal of the space station authority to the entire unified license, and not consider any potentially conflicting requirements for renewal of the earth station authority. In addition, since there are no Commission licenses for multiple GSO-satellite systems, if a GSO satellite under a unified license became inoperable at the assigned orbital location (*e.g.,* due to an in-orbit failure or end-of-life deorbiting), the unified license would cease, including all earth station authority to communicate with that satellite. The earth stations that formerly operated with that retired satellite could operate under a separate unified license authorizing communication with a replacement satellite, under a unified license for a non-replacement satellite, or under a separate earth station license. Only the earth stations' authority to operate with the retired satellite would cease. For an NGSO system license, which is typically a type of blanket license for space stations, the loss of a single space station would not usually terminate the license.

We also direct the International Bureau to consider and release, as appropriate, further guidance regarding the implementation of a unified licensing framework in an explanatory public notice consistent with the intent of this rulemaking to simplify and streamline, to the maximum extent practicable, the authorization of space stations and earth stations through a unified license. We decline to postpone the effectiveness of the unified license framework until after an explanatory

public notice is released as we expect that the practical experience the International Bureau would gain in implementing the new framework will prove valuable and important in developing further guidance.

Non-U.S.-Licensed Satellites. We will allow non-U.S.-licensed satellite operators to obtain market access through a unified authorization. Structurally, the unified authorization will consist of an earth station license and a grant of market access for the space station. This same formal licensing structure is possible today when a satellite operator files its own earth station license application and seeks satellite market access through the earth station application. In contrast with this current option, the unified authorization may only be held by a satellite operator, will exclude individually coordinated earth stations, and will be processed in IBFS using the filing options and procedures available to space station applications rather than earth station applications.

Blanket-Licensed Earth Stations. Including blanket-licensed earth stations within a unified license would streamline the authorization of these earth stations without raising potential site-specific concerns, because the Commission has already determined that such earth stations may be deployed ubiquitously, without other operators knowing their precise locations. The unified license will merely capture this existing authority in a different type of license, without allowing any earth station operations that would be prohibited under the existing method of a blanket earth station license. Therefore, no other services will be affected by permitting such operations under a blanket license. Accordingly, we will allow any type of earth station operation eligible for blanket licensing to be included in a unified license.

Individually Coordinated Earth Stations. Although the Commission proposed to include in the unified license conditional authority for earth stations that must be individually coordinated and are not eligible for blanket licensing, we decline to adopt this proposal. *For one,* we find that many of the benefits of such a proposal (such as linking the deployment of those earth stations to the deployment of the associated satellite, and thereby allowing the satellite operator to secure its gateway earth station locations several years earlier than the current licensing process) are better addressed more directly (for example, by modifying earth station build out requirements). *For another,* we find that adding such earth stations to a unified license would create more complexity than its streamlining benefit. Whether included in a unified license or not, a separate earth station filing would be required to provide the necessary site-specific information. *Further,* under the earth station certification proposal we adopt below, an earth station license applicant could similarly take advantage of the information provided in a corresponding space station application to omit any data that is duplicative. Therefore, it could be that the filings for individually coordinated earth stations—whether as part of a unified license or separately licensed using the certification procedure—would be similar in terms of the information provided, if not identical. At the same time, creating a new category of earth station filings would impose burdens on Commission resources. Therefore, in light of the possible complication that separate earth station filings would bring to a unified license framework, and the potentially marginal reduction in application burdens, we decline to adopt the proposal for individually coordinated earth stations.

In short, unified licensing will not be available in any frequency bands in which blanket earth station licensing is not permitted. In such bands, earth stations will continue to be licensed separately from space stations.

Application Requirements. To add blanket-licensed earth station authority to a space station license or market access grant, the satellite operator would need to provide only the additional information required in an equivalent earth station application, but which is not already covered by what was filed for the space station. This includes, for example, any certification under 47 CFR 25.115(i) that the use of a contention protocol in an earth station network will be reasonable, because that certification is not covered by the information provided in a space station license application. Submission of an earth station Form 312 Schedule B would not be required. As stated in the proposed rule, in applications where the satellite operator certified compliance with the two-degree spacing power limits under 47 CFR 25.140(a)(3)(i)–(iv), for example, the applicant would not need to provide any additional information on earth station antenna performance or verified performance currently required by 47 CFR 25.115(g)(1) or 25.132 because the certification already attests to compliance with the power limits involved in those additional showings. Further instances of redundancy will necessarily be reviewed by Commission staff on a case-by-case basis initially, given that, at the urging of commenters, we are making the unified license option widely available across several different services and types of operation, each with distinct earth station and space station information requirements. The goal of this review will be to streamline, as far as possible within current rules, the earth station information required. We also note that a unified license may be granted in the absence of default power limits, based on the technical showings provided, and that nothing about the unified license would change the application of section 25.140(d) to space stations authorized in, or outside of, a unified license.

Control of Earth Stations. Terrestrial operators may address questions or concerns to the satellite operator directly, as holder of the unified license, or to the Commission. Today, many satellite licensees are already held responsible for compliance with earth station power limits for their satellite networks. Further, it is common practice in satellite service contracts for the satellite operator to specify and require third party earth station operators to adhere to technical parameters consistent with its license, coordination agreements and the efficient technical use of its network. We continue to believe that contractual provisions are sufficient to hold the unified licensee as the responsible entity. Therefore, we do not find any basis in the record to modify our rules regarding the control of earth stations.

Fees. As an initial matter, we note that there is an ongoing, comprehensive Commission rulemaking involving updates and additions to the application fee schedules. The interim fee decisions taken in this Report and Order will be considered in the larger application fee rulemaking, and may change significantly based on the analyses conducted there. In adopting a unified license framework, however, we must determine an initial treatment with respect to our application-fee requirements.

A unified license application will contain all the information necessary to assess the proposed operation of the space station(s) and blanket-licensed earth stations in the satellite system, consistent with our rules. Commission staff will review both the space and ground components of the satellite system, and commenters may raise issues regarding either component to be resolved in the licensing decision. Because we anticipate that processing a unified license application will involve similar Commission resources to the

processing of individual space station applications and earth station applications making use of the new certification option we adopt below, we will assess a fee for unified license applications that is equal to the combined fees of the relevant space station license application and earth station blanket-license application. This treatment is intended to provide a simple, clear solution until the comprehensive Commission application fee rulemaking is completed. Because there are currently no fee codes in IBFS for such combined fees, unified license applicants will need to pay the application fee manually.

In the case of a non-U.S.-licensed space station operator seeking a U.S. earth station license in combination with its petition for market access, we will—for now—assess the earth station application fee schedule to such requests. This provides equal treatment with the similar, existing procedure of market access through an earth station application. However, we note the inconsistency and potential unfairness of assessing substantially lower fees to such market access requests than to U.S. licensees, and intend to fully consider this and all application fee matters in the rulemaking dedicated to revising the Commission's application fees broadly.

In addition to application fees, the Commission also charges annual regulatory fees. These fees are based on licenses held at the end of the relevant fiscal year. The Commission recently concluded its fiscal year 2019 regulatory fee rulemaking, and sought comment on additional changes for future years. We note that the fiscal year 2019 report and order for the first time assessed the same regulatory fees against non-U.S.-licensed satellite operators granted U.S. market access as the Commission assesses to satellite operators holding a Commission space station license. We defer to a future regulatory fee proceeding the question of how to assess such fees to the new category of unified licenses.

B. Earth Station Certifications

As an alternative or addition to the unified license proposal in the proposed rule, the Commission also asked whether it should permit applicants for GSO FSS earth station licenses to submit certifications of compliance with the terms and conditions of the communicating space station network as a substitute for filing the technical information required by Form 312, Schedule B. Such certifications would allow independent earth station operators to benefit from streamlined information requirements in a similar way as earth stations authorized through a unified license held by the satellite operator, while remaining responsible for compliance with its certification.

We believe that there is no general need for GSO FSS earth station applicants to submit technical information that is duplicative (or unnecessary) due to the information already provided for the satellite with which they will communicate. Furthermore, and consistent with our decision above to expand the streamlining benefits of the unified license to additional services and types of operation, we see no general need to require such duplicative or unnecessary information for any earth station in any service when an appropriate certification of compliance with the satellite authorization is made.

With respect to the frequency bands to which this option will apply, we take an approach consistent with our decisions above regarding the unified license framework. Consistent treatment is appropriate because the same types of duplicative or unnecessary information may be omitted either through an earth station certification of compliance with the relevant satellite authorization or through a unified license application. Accordingly, we will exclude from the earth station certification option FSS operations under 10 GHz and operations subject to 47 CFR 25.136. We will include ESIM operations in the 28.35–28.6 GHz band because doing so will have no impact on the applicable out-of-band emissions limits that affect UMFUS operations in the adjacent 27.5–28.35 GHz band.

Therefore, to conserve applicant and Commission resources while ensuring the necessary information remains on file with the Commission, we conclude it will serve the public interest to adopt a general provision for earth station licensing that an earth station applicant certifying that it will comply with the applicable terms and conditions of any space station's authorization with which it communicates need not provide technical demonstrations or other information made duplicative or unnecessary by the certification, with the exceptions just noted. This necessarily applies to many frequency bands because the requirement to submit technical data in Schedule B, specifically identified as a source of potentially unnecessary information in the proposed rule, is applicable by default to all applications for transmitting earth stations.

Applicants taking advantage of the certification option need not identify the information that is duplicative or unnecessary at this time. Given that we are excluding FSS bands below 10 GHz and bands shared with UMFUS, and that the vast majority of earth station applications are non-controversial and unopposed, such a requirement would lessen the streamlining benefits of the certification option without providing a compensating benefit. As under the unified license approach above, parties may raise questions on specific applications during the comment period. Finally, we believe that guidance the International Bureau may provide on the new earth station certifications, like on the unified license applications, would benefit from practical experience implementing the rules. We therefore decline to delay the effectiveness of the new rule.

C. Earth Station Build-Out Requirements

In the proposed rule, the Commission identified a regulatory disconnect between the five-year deployment requirement for a GSO space station authorized in frequency bands subject to 47 CFR 25.136 and the one-year deployment requirement for earth stations communicating with such a satellite. The Commission proposed to align these build-out requirements. As proposed, an earth station authorized through 47 CFR 25.136 would have a build-out term defined as either the date the associated satellite becomes operational or one year, whichever is longer.

Scope. Considering the benefits of streamlining, regulatory certainty, and parity among different types of earth station licensees, we expand on the build-out term proposal in the proposed rule for earth stations licensed under 47 CFR 25.136 to include all blanket-licensed earth station operations eligible to be included in a unified license (*i.e.,* other than FSS below 10 GHz), and further to allow the same treatment for blanket earth station licenses and individual earth station licenses, which are not part of a unified license, with the same exception for FSS below 10 GHz where new earth station deployments have been significantly limited pursuant to the Commission's decisions to significantly increase development of terrestrial services in some of these bands. Although we excluded from the unified licensing option earth station operations that must be individually coordinated, these operations will benefit the most from extended build-out periods to ensure that the necessary siting locations remain available once the satellite is ultimately launched.

Bands Shared with UMFUS. Applying an extended build-out period to earth

station licenses subject to 47 CFR 25.136 will provide greater regulatory certainty to satellite operators planning newer-generation GSO or NGSO satellites with narrow spot-beams and therefore more limited earth station siting options. We do not believe that doing so will fundamentally alter the sharing regime with UMFUS or the rights of UMFUS operators. However, we believe that the earth station coordination reached with UMFUS licensees should be brought up to date once the earth station is actually constructed and operating. This will ensure that the UMFUS licensees have accurate information on the earth station operations notwithstanding the substantially longer earth station build-out period we are allowing. Providing UMFUS licensees with the certainty of an updated coordination will counterbalance the potential chilling of some UMFUS developments that might result from the extended earth station build-out periods. As such, the re-coordination requirement serves as an important check on potential warehousing. Requiring earth station operators to simply notify changes to UMFUS licensees would instead place the burden of those changes, and the risk of non-deployment of the earth station, on UMFUS operators. We decline to shift this risk onto UMFUS operators, given that the one-year build-out requirement provided underlying support for the earth station siting rules adopted in 47 CFR 25.136. We believe that a re-coordination requirement for earth station licensees deploying in UMFUS bands is a reasonable tradeoff for the added flexibility longer build-out period provide these licensees. Nonetheless, we note that earth station applicants in shared UMFUS bands will have several options. They may: (1) Construct and bring the earth station into operation within one year of licensing; (2) re-coordinate; or (3) deploy the earth station on an unprotected basis.

We find no basis for treating NGSO FSS earth stations differently than GSO FSS or other earth stations included in the scope of our proposal. Moreover, the record is not fully developed for the Commission to decide whether it would serve the public interest to establish a limit on the eligible number of NGSO FSS earth stations or rely solely on the waiver process. We will consider the need for a future rulemaking on the issue of extended build-out periods after monitoring their implementation.

Accordingly, we will require earth station operators that take advantage of the extended build-out period associated with deployment of a communicating satellite to re-coordinate with the UMFUS licensees within one year before actually operating the earth station. Such re-coordination should account for changes to the earth station equipment or configuration in the intervening years, as well as to geographic and demographic changes in the surrounding area. In order to ensure that the required re-coordination has taken place, notice of the completed re-coordination must be filed in IBFS prior to commencement of earth station operations. For earth stations that are constructed and brought into operation within one year of licensing, as currently required, such re-coordination will not be necessary.

Build-out Period. We also acknowledge that it may be difficult to complete construction of all licensed earth stations and operate them on the first day that the satellite is certified as brought into operation, as proposed in the proposed rule. In addition, the next generation of high-throughput satellites may deploy large numbers of gateway earth stations that are not all needed to operate upon the initial deployment of the satellite, given the likely period of ramp-up in traffic over the satellite system. To address the practical realities of potentially testing all earth stations in a satellite system in a single day, and to allow some flexibility during the initial period of increase in satellite traffic, we will extend the earth station construction requirement to be six months after the associated space station is certified as brought into operation.

Warehousing Concerns and a Performance Bond. We note that individually licensed earth stations will operate in frequency bands already included in a space station license. The space station license requires posting of an escalating $3 million bond for GSO networks or an escalating $5 million bond for NGSO systems. The bond is payable if the satellite system is not deployed within the required milestones included in the license. This existing bond requirement acts as a deterrent to satellite operators without a firm intent to deploy their licensed systems in the particular frequency bands. Further, each individual earth station license application carries a separate application fee. With these existing disincentives to warehousing, the scant record on a bond alternative, and the potential burdens associated with administering and enforcing a bond for many individually licensed earth stations that could communicate with a number of space stations, we decline to adopt an earth station bond at this time.

Nonetheless, we intend to closely follow this issue in the future and to pursue measures, including possible earth stations bonds, based on further experience. In particular, we do not expect many cases in which a single operator files, under 47 CFR 25.136, for more than one earth station license within a given county or PEA, or for an earth station that covers the maximum permitted aggregate population within the relevant UMFUS licensing area. Such filings may encourage further rulemaking on the issue of anti-warehousing measures. While we defer the question of addressing warehousing incentives until we develop more experience with the implementation of extended earth-station build-out periods, we will consider in addressing the need for any such measures whether to apply them to previously granted earth station licenses with extended build-out periods.

D. Annual Reporting Requirements for Satellite Operators

In the proposed rule, the Commission proposed to repeal the majority of the satellite annual reporting requirements in 47 CFR 25.170 because the reports are not regularly used by Commission staff. The Commission proposed to retain only the requirement for an annual confirmation of the accuracy of the contact information on file and to move this requirement to 47 CFR 25.171. We adopt the proposal in the proposed rule. The majority of the annual reporting requirements in 47 CFR 25.170 have proven unnecessary for the typical work of Commission staff particular to satellite licenses. In contrast, failures in internal communication or other issues can cause updates in point of contact information not to be reported to the Commission in compliance with 47 CFR 25.171. In these cases, including the up-to-date contact information has proven important to ensure such information does not remain inaccurate indefinitely. We also update the cross-reference in 47 CFR 25.172(a)(1) to reflect this change.

E. Out-of-Band Emissions

In the proposed rule, the Commission observed that the default out-of-band emissions rule in 47 CFR 25.202(f) dates from the 1970s, and that its wording has created confusion among some operators. The Commission proposed to replace this rule with a requirement to comply with an international out-of-band emissions standard, ITU–R SM.1541–6, ''Unwanted emissions in the out-of-band domain,'' August 2015. However, given concerns expressed on the record regarding this proposal and the importance of out-of-band-emission

limits for the protection of adjacent services and the implementation of Commission band segmentation decisions, we decline to modify 47 CFR 25.202(f). We recognize that replacing 47 CFR 25.202(f) with the limits contained in the ITU Recommendation would relax some out-of-band emission requirements immediately at the band edge. The current record has not considered the specific impact of this relaxation on adjacent terrestrial services. We are therefore not in a position to conclude terrestrial services would be unaffected, or that the relaxation would otherwise serve the public interest. However, we may seek in the future to develop a full record on this issue and reconsider adoption of an internationally standardized, default out-of-band emissions limit for satellite services.

F. Dismissal of Applications

The proposed rule invited comment on whether to modify the acceptability standard for applications under 47 CFR part 25 to explicitly state that an applicant may correct any errors or omissions within 60 days of a Commission request, and that applications will be accepted for filing automatically within 30 days of filing, unless the Commission determines otherwise. After review of the split record on this issue and consideration of long-standing staff practices, we are not convinced that an explicit, one-sized-fits-all acceptability approach is desirable across the variety of satellite and earth station applications presented under 47 CFR part 25. Rather, we believe that the current framework has proven flexible to enable Commission staff to address errors without undue disruptions to applicants or other operators. We therefore decline to modify the acceptability for filing rules.

G. Notification of Minor Earth Station Modifications

In the proposed rule, the Commission proposed to reduce filing burdens on some earth station licensees by repealing the requirement to notify the Commission of the types of minor changes to authorized earth stations listed in 47 CFR 25.118(a)(4)—*i.e.,* those that the Commission does not expect to worsen the interference environment for other operators.

After review of the record, we adopt the proposed streamlining measure by moving the enumerated types of modifications from 47 CFR 25.118(a)(4) to 47 CFR 25.118(b), which lists earth station modifications that do not require notification and include two additional modifications that require Commission notification. Namely, decreases in antenna height and any change that increases or decreases the earth station's power flux-density (PFD) contour. The PFD contour is an essential part of the initial application under 47 CFR 25.136 in bands shared with UMFUS and any modification such as to antenna height, power, orientation, etc. that changes the PFD contour will trigger the notification requirement. We also clarify that the addition of new transceiver and antenna combinations to an existing blanket earth station license does not require prior Commission notification when they meet the requirements currently listed in 47 CFR 25.118(a)(4).

We do not believe that a change in earth station antenna pattern under 47 CFR 25.118(a)(4)(i) will negatively impact terrestrial operators because it must not, in accordance with the rule, exceed the previously filed EIRP or EIRP density envelope. As such, we do not believe these notices are necessary for operators in other services because the ''worst case'' interference scenario will not be affected. We also do not believe that an earth station operating in a band shared with UMFUS at a power level below its maximum authorized power level should be required to notify the Commission of its lower operating power level. No such requirement currently exists—earth stations may be operated at different power levels based on varying requirements and conditions, provided they do not exceed their authorized power envelopes—and we find no basis to adopt such a new reporting requirement.

However, we do believe that the Commission should require earth station operators to provide notice of a decrease in antenna height pursuant to this provision. Although in many cases a decrease in earth station antenna height would improve, not worsen, the interference environment for terrestrial operators as ground clutter would play a larger role in suppressing emissions in unwanted directions, that is not always the case. For example, a lowered antenna may be more likely to radiate higher side lobes into an UMFUS station or may bring the antenna closer to some local metallic object, creating induced spurious effects on the resultant radiation pattern that create higher interference levels in certain directions. And a decrease in antenna height may result in decreased PFD contours which provide an UMFUS operator the opportunity to serve an area that was previously excluded, but now no longer is. Therefore, we will require notification of decreases in antenna height.

H. Additional Proposals in Comments

In addition to the proposals and questions in the proposed rule, some additional proposals were made in the comments of this proceeding to streamline other aspects of the Commission's satellite licensing rules. SES additionally reiterated one issue contained in its Petition for Reconsideration of a 2015 satellite streamlining order, which will be addressed in that rulemaking. We have reviewed these proposals and conclude that, while they are outside the scope of the proposed rule, we may revisit some of these proposals in the future.

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in Further Streamlining Part 25 Rules Governing Satellite Services, Notice of Proposed Rulemaking. The Commission sought written public comment on the proposals in the proposed rule, including comment on the IRFA. No comments were received on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Order

The Order creates a new, streamlined license for both space stations and earth stations and adopts other streamlining measures for the authorization of earth stations. It also removes the annual reporting requirements for satellite operators and makes other corrections in 47 CFR part 25.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Below, we describe and estimate the number of small entities that may be affected by adoption of the final rules.

Satellite Telecommunications

This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of $35 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, we estimate that the majority of satellite telecommunications providers are small entities.

E. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

The Order adopts several rule changes that would affect compliance requirements for space station and earth station operators. For example, the Order creates a new, optional, streamlined licensing procedure for both space stations and earth stations in a satellite system. It also eliminates some reporting requirements for space station and earth station licensees. In total, the actions in this Order are designed to achieve the Commission's mandate to regulate in the public interest while imposing the lowest necessary burden on all affected parties, including small entities.

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

In this Order, the Commission creates a new, optional, streamlined licensing procedure for both space stations and earth stations in a satellite system specifically designed to eliminate redundancies and reduce regulatory burdens. The Commission also adopts a certification option for earth station applicants to eliminate duplicative or unnecessary information filed with the Commission. In addition, the Commission repeals certain other requirements with the aim of streamlining its requirements. Overall, the actions in this document will reduce burdens on the affected licensees, including small entities.

Report to Congress: The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

Paperwork Reduction Act

This document contains new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in this Report and Order as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

In this present document, we have assessed the effects of requiring some earth station licensees to re-coordinate with Upper Microwave Flexible Use Service licensees under 47 CFR 25.136, and find that it may increase coordination costs for some businesses with fewer than 25 employees.

Congressional Review Act

The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Second Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

It is ordered, pursuant to sections 4(i), 7(a), 10, 303, 308(b), and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 160, 303, 308(b), 316, that this Report and Order *is adopted,* the policies, rules, and requirements discussed herein *are adopted,* and part 25 of the Commission's rules *is amended* as set forth below.

It is further ordered that the rule amendments in this Report and Order *will become effective* 30 days from the date of publication in the **Federal Register**, except for those amendments which contain new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act which *will become effective* after the Commission publishes a document in the **Federal Register** announcing such approval and the relevant effective date.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

It is further ordered that the Commission *shall send* a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 25

Administrative practice and procedure, Satellites.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

PART 25—SATELLITE COMMUNICATIONS

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

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

■ 2. Amend § 25.115 by revising paragraph (a)(1) to read as follows:

§ 25.115 Applications for earth station authorizations.

(a)(1)(i) *Transmitting earth stations.* Commission authorization must be obtained for authority to operate a transmitting earth station. Applications must be filed electronically on FCC Form 312, Main Form and Schedule B, and include the information specified in this section, except as set forth in paragraphs (a)(1)(ii) and (a)(2) of this section.

(ii) *Certification of compliance with space station authorization.* An earth station applicant certifying that it will comply with the applicable terms and conditions of the authorization of any space station with which it communicates need not provide technical demonstrations or other information that is duplicative or unnecessary due to the certification. This provision does not apply to FSS operation in bands below 10 GHz or in bands subject to § 25.136.

* * * * *

■ 3. Amend § 25.118 by revising paragraphs (a)(4) and (b) to read as follows:

§ 25.118 Modifications not requiring prior authorization.

(a) * * *

(4) An earth station licensee may additionally:

(i) Decrease antenna height; or

(ii) Increase or decrease the earth station's PFD contour, provided the modification does not involve a change listed in paragraph (b)(2) of this section.

(b) *Earth station modifications, notification not required.* Notwithstanding paragraph (a) of this section:

(1) Equipment in an authorized earth station may be replaced without prior authorization and without notifying the Commission if the new equipment is electrically identical to the existing equipment.

(2) Licensees may make other changes to their authorized earth stations, including the addition of new transceiver/antenna combinations, without notifying the Commission, provided the modification does not involve:

(i) An increase in EIRP or EIRP density (either main lobe or off-axis);

(ii) Additional operating frequencies;

(iii) A change in polarization;

(iv) An increase in antenna height;

(v) Antenna repointing beyond any coordinated range; or

(vi) A change from the originally authorized coordinates of more than 1 second of latitude or longitude for stations operating in frequency bands shared with terrestrial systems or more than 10 seconds of latitude or longitude for stations operating in frequency bands not shared with terrestrial systems.

* * * * *

■ 4. Add § 25.124 to read as follows:

§ 25.124 Unified space station and earth station authorization.

(a) A single authorization may be issued for the operations of a GSO space station or NGSO space station(s) and the blanket-licensed earth stations that will operate within that satellite system, excluding GSO FSS and NGSO FSS satellite systems operating in bands below 10 GHz and bands subject to § 25.136. The available frequency bands are:

(1) Non-Voice, Non-Geostationary MSS: 137–138 MHz, 148–150.05 MHz, 399.9–400.05 MHz, and 400.15–401 MHz;

(2) 1.5/1.6 GHz MSS: 1525–1559 MHz and 1626.5–1660.5 MHz;

(3) 1.6/2.4 GHz MSS: 1610–1626.5 MHz and 2483.5–2500 MHz;

(4) 2 GHz MSS: 2000–2020 MHz and 2180–2200 MHz;

(5) GSO FSS: 10.7–12.2 GHz, 14–14.5 GHz, 18.3–18.8 GHz, 19.7–20.2 GHz, 28.35–28.6 GHz, 29.25–30 GHz, 40–42 GHz, and 48.2–50.2 GHz;

(6) NGSO FSS: 10.7–12.7 GHz, 14–14.5 GHz, 17.8–18.6 GHz, 18.8–19.4 GHz, 19.6–20.2 GHz, 28.35–29.1 GHz, 29.5–30 GHz, 40–42 GHz, and 48.2–50.2 GHz; and

(7) GSO and NGSO MSS: 19.7–20.2 GHz and 29.5–30 GHz.

(b) An application for a satellite system license described in paragraph (a) must contain:

(1) The information required by § 25.114 or, for a non-U.S.-licensed space station, § 25.137;

(2) A certification that earth station operations under the satellite system license will comply with part 1, subpart I and part 17 of this chapter; and

(3) Any additional information required under this part, including under § 25.115, for operation of the blanket-licensed earth stations that is not duplicative or unnecessary due to the information provided for the space station operation.

■ 5. Amend § 25.133 by revising paragraph (a) to read as follows:

§ 25.133 Period of construction; certification of commencement of operation.

(a) An earth station, or network of blanket-licensed earth stations, must be brought into operation within the longest of the time periods below, unless the Commission determines otherwise:

(1) For an earth station authorized to communicate with a GSO FSS space station in the 3600–4200 MHz band (space-to-Earth) operating outside of CONUS, or in the 5850–6725 MHz band (Earth-to-space), within one year from the date of the license grant;

(2) For any other earth station or network of earth stations, within one year from the date of the license grant or six months after the bringing into operation of a GSO space station, or NGSO system under § 25.164(b)(1), with which the earth station or earth station network was authorized to communicate when it was licensed, as notified under § 25.173(b).

* * * * *

■ 6. Delayed indefinitely, amend § 25.136 by adding paragraph (h) to read as follows:

§ 25.136 Earth Stations in the 24.75–25.25 GHz, 27.5–28.35 GHz, 37.5–40 GHz, 47.2–48.2, GHz and 50.4–51.4 GHz bands.

* * * * *

(h) *Re-coordination.* An earth station licensed under this section that is brought into operation later than one year after the date of the license grant must be re-coordinated with UMFUS stations using the applicable processes in § 101.103(d) of this chapter. The earth station licensee must complete re-coordination within one year before its commencement of operation. The re-coordination should account for any demographic or geographic changes as well as changes to the earth station equipment or configuration. A re-coordination notice must be filed in IBFS before commencement of earth station operations.

§ 25.170 [Removed]

■ 7. Remove § 25.170.

■ 8. Revise § 25.171 to read as follows:

§ 25.171 Space station point of contact reporting requirements.

(a) *Annual report.* On June 30 of each year, a space station licensee or market access recipient must provide a current listing of the names, titles, addresses, email addresses, and telephone numbers of the points of contact for resolution of interference problems and for emergency response. Contact personnel should include those responsible for resolution of short-term, immediate interference problems at the system control center, and those responsible for long-term engineering and technical design issues.

(b) *Updated information.* If a space station licensee or market access recipient point of contact information changes, the space station licensee or market access recipient must file the updated information within 10 days of the change.

(c) *Electronic filing.* Filings under paragraphs (a) or (b) of this section must be made electronically in the Commission's International Bureau Filing System (IBFS) in the ''Other Filings'' tab of the station's current authorization file.

■ 9. Amend § 25.172 by revising paragraph (a)(1) to read as follows:

§ 25.172 Requirements for reporting space station control arrangements.

(a) * * *

(1) The information required by § 25.171(a).

* * * * *

Editorial Note: The Office of the Federal Register received this document on December 23, 2020.

[FR Doc. 2020–28907 Filed 2–26–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 209 and 211

[Emergency Order No. 32, Notice No. 1]

Emergency Order Requiring Face Mask Use in Railroad Operations

SUMMARY: To help prevent the spread of coronavirus disease 2019 (COVID–19), the Federal Railroad Administration (FRA) is issuing this emergency order (E.O.) to require compliance with the mask requirements of the Order of the Centers for Disease Control and Prevention (CDC), *Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs.* This E.O. also implements *Promoting COVID–19 Safety in Domestic and International Travel,* issued on January 21, 2021, requiring masks to be worn in or on airports, commercial aircraft, and various modes of surface transportation, including trains. Specifically, this E.O. addresses requirements for face mask use with respect to all freight rail operations and portions of each passenger rail operation under FRA's safety jurisdiction.

DATES: This emergency order is effective March 1, 2021.

FOR FURTHER INFORMATION CONTACT: Mark Patterson, Director, Office of Data Analysis and Program Support, at (202) 493–6282 or *mark.patterson@dot.gov;* Elizabeth Gross, Attorney Adviser, Office of the Chief Counsel, at (202) 493–1342 or *elizabeth.gross@dot.gov;* or Veronica Chittim, Attorney Adviser, Office of the Chief Counsel, at (202) 493–0273 or *veronica.chittim@dot.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

FRA is issuing this E.O. to implement Executive Order 13998,[1] which directs the Secretary of Transportation to take action to require masks to be worn in compliance with CDC guidelines in or on trains.[2]

On January 31, 2021, the Transportation Security Administration (TSA) issued Security Directive (SD) 1582/84–21–01, *Security Measures—Face Mask Requirements* (TSA SD), to implement Executive Order 13998 and to enforce the CDC Order with respect to conveyances and transportation facilities used in various modes of surface transportation, including passenger rail.

On February 12, 2021, the Secretary of Transportation issued an Action Memorandum to further USDOT's efforts to implement the President's Executive Order 13998. Finding that COVID–19 and its variants continue to present unprecedented challenges to the health of the traveling public in all modes of transportation, and that the wearing of masks on all modes of transportation can mitigate the risk of travelers spreading COVID–19 and can instill safety and confidence in transportation systems, the Secretary directed FRA to take action to support and carry out enforcement of the CDC Order with respect to transportation entities subject to its jurisdiction.

In issuing this E.O., FRA is exercising its emergency railroad safety authority to the extent necessary to require mask wearing in accordance with the CDC Order and implement Executive Order 13998 with respect to freight rail operations and those portions of passenger rail operations [3] not already covered by the TSA SD. FRA is not exercising its authority over any other aspect of the COVID–19 pandemic and does not otherwise intend by this E.O. to affect working conditions for employees and contractors engaged in railroad operations.[4]

Authority

Authority to enforce Federal railroad safety laws has been delegated by the U.S. Secretary of Transportation to the Administrator of FRA. 49 U.S.C. 103; 49 CFR 1.89(e) and internal delegations. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws. 49 U.S.C. 20101, 20103. FRA is authorized to issue emergency orders where an unsafe condition or practice ''causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment.'' 49 U.S.C. 20104. Emergency orders may immediately impose ''restrictions and prohibitions . . . that may be necessary to abate the situation.'' *Id.*

COVID–19 Pandemic

Due to the ongoing COVID–19 pandemic, and to reduce the spread of COVID–19, President Biden issued Executive Order 13998, *Promoting COVID–19 Safety in Domestic and International Travel,* on January 21, 2021, requiring masks to be worn in airports, on commercial aircraft, and in various modes of surface transportation,

[1] 86 FR 7205 (Jan. 26, 2021).

[2] For example, this E.O. applies to all persons in or on a freight train, locomotive, high-rail vehicle, crew transportation vehicle, or in a railroad transportation facility, terminal, yard, storage facility, yard office, crew room, maintenance shop, and other areas regularly occupied by personnel engaged in railroad operations.

[3] For an explanation of how FRA exercises its safety jurisdiction over passenger rail operations, see ''FRA's Policy on Jurisdiction Over Passenger Operations'' in 49 CFR part 209, appendix A—Statement of Agency Policy Concerning Enforcement of the Federal Railroad Safety Laws.

[4] Nothing in this E.O. is intended to interfere with any applicable jurisdiction over COVID–19 issues in the workplace by the Occupational Safety and Health Administration. Additionally, FRA is not exercising its railroad safety authority over any COVID–19 issue other than requiring compliance with mask mandates in accordance with the CDC Order, nor is it exercising its jurisdiction over how a railroad decides to comply with the CDC Order and this E.O. For example, a railroad may not include any type of COVID–19 risk-based hazard analysis as part of its railroad system safety program under either 49 CFR part 270 (System Safety Program) or part 271 (Risk Reduction Program) in order to protect that analysis from discovery or use in litigation under either 49 CFR 270.105 or 49 CFR 271.11.

including rail. To implement Executive Order 13998, to require compliance with the public health standards set forth in the CDC Order,[5] and due to the immediate need to ensure masks are worn appropriately in the railroad industry to prevent the spread of COVID–19, FRA has determined that an emergency situation involving a hazard of death and personal injury exists, and is issuing this E.O. pursuant to the authority of 49 U.S.C. 20101, 20104. FRA is authorized to promote safety in every area of railroad operations. 49 U.S.C. 20101, 20103.[6] The failure to wear masks as required by the CDC Order during railroad operations could impact railroad employees' safety with respect to the risks of COVID–19. Consistent with these mandates and FRA's authority, and after consultation with CDC and TSA, FRA is issuing this E.O. to require freight and passenger railroad carriers to comply with the mask [7] requirements of the CDC Order [8] during railroad operations subject to FRA's railroad safety jurisdiction, except to the extent portions of the passenger railroad carrier's operations are already covered by the TSA SD. For example, this E.O. applies to all persons in or on a freight train, locomotive, high-rail vehicle, crew transportation vehicle, or in a railroad transportation facility, terminal, yard, storage facility, yard office, crew room, maintenance shop, and other areas regularly occupied by railroad personnel. While the CDC Order applies to all persons awaiting, boarding, or alighting a conveyance and while in a transportation hub,[9] this E.O. does not apply to passengers or persons (including railroad carrier personnel) in or on a passenger train or in public areas of passenger railroad transportation hubs or facilities. The mask requirements in TSA SD 1582/84–21–01, *Security Measures—Face Mask Requirements,* apply to passengers and such persons.

There is currently a pandemic of respiratory disease, COVID–19, caused by a novel coronavirus (SARS–CoV–2). As of February 16, 2021, there have been over 108,000,000 confirmed cases of COVID–19 globally, resulting in nearly 2,400,000 deaths.[10] As of February 14, 2021, there have been over 27,000,000 cases identified in the United States, and over 482,000 deaths due to the disease.[11]

According to the CDC, multiple new SARS–CoV–2 variants have emerged in recent weeks, including at least one with evidence of increased transmissibility.[12] These variants seem to spread more easily and quickly than other variants, which may lead to more cases of COVID–19.[13] An increase in the number of cases will put more strain on health care resources, lead to more hospitalizations, and potentially lead to more deaths.[14] While the CDC is closely monitoring these new variants to learn more about them, rigorous and increased compliance with public health mitigation strategies, such as the use of masks, is essential to limit the spread of the virus including any new variants.[15] Additionally, controlling the spread of the virus by implementing public health measures such as mask wearing will help prevent new mutations, as viruses will not mutate well if they do not have the opportunity to replicate freely.[16] In short, given these developments, it is more critical than ever that persons wear masks whenever possible to help prevent the spread of the virus that causes COVID–19 and the further emergence of new variants. The CDC has also recently published research documenting a decline in COVID–19 hospitalization growth rates associated with statewide mask mandates.[17] For a detailed discussion on how appropriate mask wearing helps reduce COVID–19 transmission, FRA refers readers to the CDC Order.[18]

Lack of Uniformity in Mask Wearing in Railroad Operations

As of February 1, 2021, field observations [19] from FRA's railroad safety inspectors regarding mask use on railroad property indicate that the critical practice of wearing a face mask is not consistent or uniform among railroad personnel. While some railroad carriers require their personnel to wear masks when working in an occupied locomotive cab and in rail facilities and shops, FRA has found this is not a universal requirement. FRA has observed railroad personnel often not wearing a face mask on railroad property, both in situations where social distancing is possible, and situations involving close proximity to others. FRA inspectors have also observed railroad personnel who did not put on a face mask when approached by the

[5] *See* order under section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2, 71.31(b), 71.32(b); *Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs* (January 29, 2021). 86 FR 8025 (Feb. 3, 2021).

[6] FRA's exercise of its authority is consistent with prior, targeted regulatory action taken under 49 U.S.C. ch. 201 to protect employee exposure to health risks in the workplace. *See, e.g.,* rules on occupational noise exposure (49 CFR part 227), camp cars as sleeping quarters (49 CFR part 228), locomotive cab sanitation and cab temperature (*e.g.,* 49 CFR part 229).

[7] *Mask* means a material covering the nose and mouth of the wearer, excluding face shields. The CDC has stated that a properly worn mask completely covers the nose and mouth of the wearer. A mask should be secured to the head, including with ties or ear loops. A mask should fit snugly but comfortably against the side of the face. Masks do not include face shields. Masks can be either manufactured or homemade and should be a solid piece of material without slits, exhalation valves, or punctures. Medical masks and N–95 respirators fulfill the requirements of this E.O. CDC guidance for attributes of acceptable masks in the context of this E.O. is available at *https://www.cdc.gov/quarantine/masks/mask-travel-guidance.html.*

[8] The CDC Order states, ''While this [CDC] Order may be enforced and CDC reserves the right to enforce through criminal penalties, CDC does not intend to rely primarily on these criminal penalties but instead strongly encourages and anticipates widespread voluntary compliance as well as support from other federal agencies in implementing additional civil measures enforcing the provisions of this Order, to the extent permitted by law and consistent with President Biden's Executive Order of January 21, 2021 (Promoting COVID–19 Safety in Domestic and International Travel).'' 86 FR 8030.

[9] 86 FR 8025 (Feb. 3, 2021) (requiring face masks to be worn by all travelers while on public transportation). *Your Guide to Masks, https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html* (''CDC recommends that people wear masks in public settings, at events and gatherings, and anywhere they will be around other people. Effective February 2, 2021, masks are required on planes, buses, trains, and other forms of public transportation traveling into, within, or out of the United States and in U.S. transportation hubs such as airports and stations.''); *Requirement for Face Masks on Public Transportation Conveyances and at Transportation Hubs, https://www.cdc.gov/coronavirus/2019-ncov/travelers/face-masks-public-transportation.html* (''CDC has issued an order that requires face masks to be worn by all travelers while on public transportation (which includes all passengers and all personnel operating conveyances). People must wear masks that completely cover both the mouth and nose while awaiting, boarding, disembarking, or traveling on airplanes, ships, ferries, trains, subways, buses, taxis, and ride-shares as they are traveling into, within, or out of the United States and U.S. territories. People must also wear masks while at transportation hubs (*e.g.,* airports, bus or ferry terminals, train and subway stations, seaports) and other locations where people board public transportation in the United States and U.S. territories.'').

[10] *See https://covid19.who.int.*

[11] *See https://covid.cdc.gov/covid-data-tracker/#datatracker-home.*

[12] *See https://www.cdc.gov/coronavirus/2019-ncov/more/science-and-research/scientific-brief-emerging-variants.html; https://www.cdc.gov/coronavirus/2019-ncov/transmission/variant.html.*

[13] *Id.*

[14] *Id.*

[15] *https://www.cdc.gov/coronavirus/2019-ncov/transmission/variant.html.*

[16] *https://www.whitehouse.gov/briefing-room/press-briefings/2021/02/03/press-briefing-white-house-covid-19-response-team-and-public-health-officials/.*

[17] Joo H, Miller GF, Sunshine G, et al. *Decline in COVID–19 Hospitalization Growth Rates Associated with Statewide Mask Mandates—10 States, March–October 2020,* MMWR Morb Mortal Wkly Rep. ePub: 5 Feb. 2021. DOI: *https://www.cdc.gov/mmwr/volumes/70/wr/mm7006e2.htm.*

[18] 86 FR 8025–8030.

[19] These FRA field observations constitute ''inspection'' and ''investigation'' under 49 U.S.C. 20104(a)(1).

inspectors to discuss matters of railroad safety.

Necessity of Issuing This E.O.

Taking into consideration the unique and exigent circumstances presented by the COVID–19 pandemic (particularly the recent emergence of variants with increased transmissibility), as well as the inconsistent use of masks observed by FRA inspectors through FRA inspection and investigation during railroad operations, FRA has determined that the COVID–19 pandemic has created an unsafe condition or practice involving a hazard of death or personal injury—not only to railroad personnel, but also to FRA and participating State [20] rail safety inspectors who interact with railroad personnel during the performance of their essential railroad safety duties. This E.O. is necessary to abate this emergency situation, by FRA requiring face mask use in accordance with the CDC Order, to ensure a minimum level of nationwide compliance,[21] together with the TSA SD. Railroad carriers [22] and their personnel must comply with the mask-wearing requirements set forth in the CDC Order while engaged in railroad operations,[23] including whenever they are in a transportation hub/facility [24] under the railroad carrier's control (regardless of duty status).

America's railroad transportation system is essential—not only for public health, but also for America's economy and other bedrocks of American life. Railroads carry life-saving medical supplies and medical providers into and across the nation to our hospitals, nursing homes, and physicians' offices. Trains bring food and other essentials to our communities and bring America's workforce to their jobs. Requiring mask use on our railroads will protect railroad employees and contractors, as well as FRA and participating State rail safety inspectors who enforce Federal railroad safety laws. Requiring mask use will also help control the spread of the virus causing the COVID–19 pandemic, slow the rate of international spread from trains moving across U.S. borders, prevent the emergence of new variants, and more quickly re-open America's economy.

For reasons described in the CDC Order, this E.O. applies to railroad personnel who have received a COVID–19 vaccine and/or who have recovered from COVID–19.[25]

Finding and Order

Based on the foregoing, FRA has determined that the spread of the virus that causes COVID–19 creates an emergency situation involving a hazard of death or personal injury. Accordingly, under the authority of 49 U.S.C. 20104, delegated to the Administrator of FRA by the Secretary of Transportation, 49 CFR 1.89, it is hereby ordered that freight railroads, passenger railroads, and any other person whose actions are necessary to effectuate the directives in this E.O., take the following actions, as required:

I. *Railroad carriers.* (A) Railroad carriers must require their personnel to wear a mask in compliance with the CDC Order while engaged in railroad operations, including whenever in a transportation hub/facility under the railroad carrier's control (regardless of duty status), except as described in Section III (Exceptions and exemptions), below. For the purpose of this E.O., the term ''personnel'' includes employees, contractors, probationary employees, and volunteers. Railroad carriers must provide their personnel with prominent and adequate notice of the mask requirements to facilitate awareness and compliance.[26] At a minimum, this notice must inform railroad carrier personnel of the following:

1. Federal law requires every individual to wear a mask while engaged in railroad operations unless otherwise exempted and failure to comply may result in removal from service.

2. Refusing to wear a mask is a violation of Federal law and railroad carrier personnel may be subject to FRA enforcement action against them individually.

(B) Railroad carriers must establish written procedures to manage situations with their personnel who refuse to comply with the requirement to wear a mask. At a minimum, for any person who is not exempted from the requirement to wear a mask and who refuses to comply with an instruction given by the railroad carrier with respect to wearing a mask, the railroad carrier must:

1. Remove the person from performing duties in support of railroad operations; and

2. Make best efforts to remove the person from the railroad transportation hub/facility as soon as practicable.

II. *Railroad carrier personnel.* Railroad carrier personnel must comply with the mask wearing requirements of the CDC Order while engaged in railroad operations, including whenever in a transportation hub/facility under the railroad carrier's control (regardless of duty status), except as described in Section III.D., below. For the purpose of this E.O., the term ''personnel'' includes employees, contractors, probationary employees, and volunteers.

III. *Exceptions and exemptions.* (A) While the CDC Order applies to all persons awaiting, boarding, or alighting a conveyance and while in a transportation hub, this E.O. does not apply to passengers or persons (including railroad carrier personnel) in or on a passenger train or in public areas of passenger railroad transportation hubs or facilities. *Note:* The mask requirements in TSA SD 1582/84–21–01, *Security Measures—Face Mask Requirements,* apply to passengers and such persons.

(B) The requirement to wear a mask does not apply under the following circumstances:

1. When necessary to temporarily remove the mask for identity verification purposes.

2. For brief periods, while eating, drinking, or taking oral

[20] 49 U.S.C. 20105.

[21] 49 U.S.C. 20106(a)(1).

[22] *Railroad* means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including (i) commuter or other short-haul passenger service in a metropolitan or suburban area and commuter service that was operated by the Consolidated Rail Corporation on January 1, 1979; and (ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation. *Railroad carrier* means a person providing railroad transportation. *General railroad system of transportation* has the same meaning as under 49 CFR part 209, appendix A—Statement of Agency Policy Concerning Enforcement of the Federal Railroad Safety Laws.

[23] *Railroad operation* means any activity which affects the movement of a train, locomotive, or other on-track equipment, singly or in combination with other equipment, on the track of a railroad.

[24] *Transportation hub/facility* means any airport, bus terminal, marina, seaport or other port, subway stations, terminal (including any fixed facility at which passengers are picked-up or discharged), train station, U.S. point of entry, or any other location that provides transportation subject to the jurisdiction of the United States. The meaning of the term ''transportation hub,'' as applied to railroad facilities, includes railroad terminals, yards, storage facilities, yard offices, crew rooms, maintenance shops, and other areas regularly occupied by railroad personnel. The CDC Order broadly requires persons to wear masks in such settings and applies in both passenger and freight rail facilities. *See* CDC FAQs explaining that employees at transportation hubs must wear a mask while on the premises of a transportation hub unless they are the only person in the work area, such as in private offices, private hangars at airports, or in railroad yards (available at: *https://www.cdc.gov/coronavirus/2019-ncov/travelers/face-masks-public-transportation.html*).

[25] 86 FR 8029.

[26] Notice may include, if feasible, notifications on digital platforms, such as on apps, websites, or email; posted signage with illustrations; or other methods as appropriate.

medications.[27] *Note:* Prolonged periods of mask removal are not permitted for eating or drinking; the mask must be worn between bites and sips.

3. While communicating with a person who is deaf or hard of hearing, when the ability to see the mouth is essential for communication.

4. If unconscious (for reasons other than sleeping), incapacitated, unable to be awakened, or otherwise unable to remove the mask without assistance.[28]

5. When necessary to temporarily remove the mask to provide a breath or saliva specimen for required alcohol testing under U.S. Department of Transportation drug and alcohol testing regulations or an employer-mandated substance abuse testing program.

(C) The following persons are exempted from wearing masks:

1. Persons in private conveyances operated solely for personal, non-commercial use.

2. A driver, when operating a commercial motor vehicle, such as a crew transportation van, limo, or taxi, as this term is defined in 49 CFR 390.5, if the driver is the sole occupant of the vehicle.

3. A person who is the sole occupant of an enclosed cab of a locomotive, hi-rail vehicle, roadway maintenance machine, or any other on-track equipment that has an enclosed cab.

(D) This E.O. exempts the following categories of persons from wearing masks: [29]

1. People with disabilities who cannot wear a mask, or cannot safely wear a mask, because of the disability as defined by the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*).[30]

2. People for whom wearing a mask would create a risk to workplace health, safety, or job duty as determined by the relevant workplace safety guidelines or Federal regulations.[31]

Preemption

The requirements in this E.O. do not preempt any State, local, Tribal, or territorial rule, regulation, order, or standard necessary to eliminate or reduce a local safety hazard, which includes public health measures that are the same or more protective of public health than those required in this E.O., if that provision is not incompatible with this E.O.

Relief

Any railroad carrier affected by this E.O. may petition for special approval to take actions not in accordance with this E.O. Petitions must be submitted to the Associate Administrator for Railroad Safety, who is authorized to act on those requests without amending this E.O. In reviewing any petition for special approval, the Associate Administrator will grant petitions only if the petitioner has clearly articulated an alternative action that will provide, in the Associate Administrator's judgment, at least a level of safety equivalent to that provided by compliance with this E.O.

Civil Penalties

Any violation of this E.O. may subject the person (a railroad carrier) committing the violation to a civil penalty of up to $118,826 for each day the violation continues. 49 U.S.C. 21301 and 86 FR 1751 (Jan. 11, 2021). Any individual (railroad personnel) who willfully violates a provision stated in this order is subject to civil penalties under 49 U.S.C. 21301. In addition, any individual (railroad personnel) whose violation of this order demonstrates the individual's unfitness for safety-sensitive service may be removed from safety-sensitive service on the railroad under 49 U.S.C. 20111. FRA may, through the Attorney General, also seek injunctive relief to enforce this Order. 49 U.S.C. 20112.

Effective Date and Notice to Affected Persons

This E.O. is effective upon issuance and railroad carriers subject to this E.O. must immediately initiate steps to implement this E.O. This E.O. remains in effect until the CDC Order is modified or rescinded based on specific public health or other considerations, until the U.S. Secretary of Health and Human Services rescinds the determination under section 319 of the Public Health Service Act (42 U.S.C. 247d) that a public health emergency exists, or until rescinded by FRA, unless FRA extends its terms by subsequent notice published in the **Federal Register**.

Review

Opportunity for formal review of this E.O. will be provided under 49 U.S.C. 20104(b) and 5 U.S.C. 554. Administrative procedures governing such review are at 49 CFR part 211.

Issued in Washington, DC, on February 24, 2021.

Amitabha Bose,

Acting Administrator, Federal Railroad Administration.

[FR Doc. 2021–04233 Filed 2–25–21; 4:15 pm]

BILLING CODE 4910–06–P

[27] The CDC has stated that brief periods of close contact without a mask should not exceed 15 minutes. *https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html.*

[28] Persons who are experiencing difficulty breathing or shortness of breath or are feeling winded may remove the mask temporarily until able to resume normal breathing with the mask. Persons who are vomiting should remove the mask until vomiting ceases. Persons with acute illness may remove the mask if it interferes with necessary medical care such as supplemental oxygen administered via an oxygen mask. 86 FR 8027, FN 7.

[29] Railroad carriers may impose requirements on employees requesting an exemption from the requirement to wear a mask, including medical consultation by a third party, medical documentation by a licensed medical provider, and/or other information as determined by the railroad carrier, as well as require evidence that the person does not have COVID–19, such as a negative result from a SARS–CoV–2 viral test or documentation of recovery from COVID–19. CDC definitions for SARS–CoV–2 viral test and documentation of recovery are available in Frequently Asked Questions at: *https://www.cdc.gov/coronavirus/2019-ncov/travelers/testing-international-air-travelers.html.* Railroad carriers may also impose additional protective measures that improve the ability of an employee eligible for exemption to maintain social distance (separation from others by 6 feet). Railroad carriers may further require that employees seeking exemption from the requirement to wear a mask request an exemption in advance.

[30] This is a narrow exception that includes a person with a disability who cannot wear a mask for reasons related to the disability. CDC states it will issue additional guidance regarding persons who cannot wear a mask under this exemption. *https://www.cdc.gov/quarantine/masks/mask-travel-guidance.html.* 86 FR at 8027–28.

[31] For example, a maintenance shop employee performing welding operations may be exempt from this E.O., due to potential mask flammability concerns.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 389

[FMCSA–2016–0341]

RIN 2126–AB96

Rulemaking Procedures Update

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), U.S. Department of Transportation.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2021, from the Assistant to the President and Chief of Staff, titled ''Regulatory Freeze Pending Review,'' the Department delays the effective date of the final rule, ''Rulemaking Procedures Update,'' until March 21, 2021.

DATES: As of March 1, 2021, the effective date of the final rule published on December 31, 2020, at 85 FR 86843, is delayed until March 21, 2021.

FOR FURTHER INFORMATION CONTACT: Mr. Steven J. LaFreniere, Regulatory

Ombudsman, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE, Washington, DC 20590–0001, (202) 366–0596, *steven.lafreniere@dot.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of the notice of proposed rulemaking (82 FR 36719, August 7, 2017), all comments received, the final rule, and all background material may be viewed online at *http://www.regulations.gov* using the docket number listed above. A copy of this document will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *http://www.ofr.gov* and the Government Publishing Office's website at *http://www.gpo.gov.*

Background

On January 20, 2021, the Assistant to the President and Chief of Staff issued a memorandum titled, ''Regulatory Freeze Pending Review.'' The memorandum requested that the heads of executive departments and agencies (agencies) take steps to ensure that the President's appointees or designees have the opportunity to review any new or pending rules. With respect to rules published in the **Federal Register**, but not yet effective, the memorandum asked that agencies consider postponing the rules' effective dates for 60 days from the date of the memorandum (*i.e.,* March 21, 2021) for the purpose of reviewing any questions of fact, law, and policy the rules may raise.

In accordance with this direction, FMCSA has decided to delay the effective date of the final rule, ''Rulemaking Procedures Update'' (RIN 2126–AB96), until March 21, 2021. The final rule amends FMCSA's rulemaking procedures by revising the process for preparing and adopting rules and petitions. Also, the Agency adds new definitions, and makes general administrative corrections throughout its rulemaking procedures. The delay in the rule's effective date will afford the President's appointees or designees an opportunity to review the rule and will allow for consideration of any questions of fact, law, or policy that the rule may raise before it becomes effective.

Waiver of Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), FMCSA generally offer interested parties the opportunity to comment on proposed regulations and publish rules not less than 30 days before their effective dates. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking or delay effective dates when the agency, for good cause, finds that the requirement is impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B) and (d)(3)). There is good cause to waive both of these requirements here as they are impracticable. A delay in the effective date of the final rule, ''Rulemaking Procedures Update,'' is necessary for the President's appointees and designees to have adequate time to review the rule before it takes effect, and neither the notice and comment process nor the delayed effective date could be implemented in time to allow for this review.

List of Subjects in 49 CFR Part 389

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

Issued under authority delegated in 49 CFR 1.87.

John W. Van Steenburg,

Assistant Administrator.

[FR Doc. 2021–04110 Filed 2–26–21; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2020–0050; FF09E21000 FXES11110900000 212]

RIN 1018–BF01

Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Northern Spotted Owl; Delay of Effective Date

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; delay of effective date and request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, are delaying the effective date of a final rule we published on January 15, 2021, revising the designation of critical habitat for the northern spotted owl (*Strix occidentalis caurina*) under the Endangered Species Act of 1973, as amended (ESA) (January 15, 2021, Final Rule). In addition, this action opens a 30-day comment period to allow interested parties to comment on issues of fact, law, and policy raised by that rule and whether further delay of the effective date is necessary.

DATES: As of March 1, 2021, the effective date of the final rule that published on January 15, 2021, at 86 FR 4820, is delayed from March 16, 2021, to April 30, 2021.

Comment Period: To be assured consideration, comments must be received or postmarked by March 31, 2021.

ADDRESSES: You may submit comments using either of the following methods:

Electronically via the Federal eRulemaking Portal: Please visit *https://www.regulations.gov.* In the Search Box, enter FWS–R1–ES–2020–0050, which is the docket number for this action, and click ''search'' to view the publications associated with the docket folder. Locate the document with an open comment period and follow the instructions to submit your comments prior to the close of the comment period.

By hard copy: Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R1–ES–2020–0050, U.S. Fish and Wildlife Service, MS: JAO/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and locate the docket folder for FWS–R1–ES–2020–0050.

FOR FURTHER INFORMATION CONTACT: Bridget Fahey, Division of Conservation and Classification, U.S. Fish and Wildlife Service, Falls Church, VA 22041, telephone 703–358–2172. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On January 15, 2021, we published a final rule (86 FR 4820) revising critical habitat for the northern spotted owl by excluding additional areas from designation as critical habitat pursuant to the Secretary of the Interior's authority under section 4(b)(2) of the ESA (16 U.S.C. 1531 *et seq.*). On January 20, 2021, the White House issued a memorandum instructing Federal agencies to consider postponing the effective date after January 20, 2021, of any rules that have published in the **Federal Register** but not yet taken effect, for the purpose of reviewing any questions of fact, law, and policy the rules may raise (86 FR 7424; January 28, 2021) (''Regulatory Freeze Memorandum'').

One of our rules, the revised designation of critical habitat for the northern spotted owl, was published in the **Federal Register** but has not yet taken effect so it is subject to review (86 FR 4820; January 15, 2021). A review of this rule is particularly warranted because of the considerable change between the proposed rule and the final rule. Specifically, on August 11, 2020, the Service proposed a rule to exclude 204,653 acres (82,820 hectares) in 15 counties in Oregon from the species' designated critical habitat (85 FR 4847; August 11, 2020). The final rule excludes approximately 3,472,064 acres (1,405,094 hectares) in 14 counties in Washington, 21 counties in Oregon, and 10 counties in California from the species' designated critical habitat (86 FR 4820; January 15, 2021). The additional areas excluded in the final rule (more than 3.2 million acres) and the rationale for the additional exclusions were not presented to the public for notice and comment. We are considering whether the public had appropriate notice in the proposed rule such that the determinations made in the final rule were a ''logical outgrowth'' of the proposed rule. We note that several members of Congress expressed concerns regarding the additional exclusions, among other concerns, which they identified in a February 2, 2021, letter to the Inspector General of the Department of the Interior seeking review of the rule.

We have also received at least two notices of intent to sue from interested parties regarding allegations of procedural defects (among other potential defects) with respect to our rulemaking for the final critical habitat exclusions. The Service has been sued each time it has issued a final rule regarding critical habitat for the northern spotted owl. These suits include challenges to the initial designation in 1992 (57 FR 1796; January 15, 1992) (see, *e.g., Trinity County Concerned Citizens* v. *Babbitt,* 1993 WL 650393 (D.D.C. 1993)), a revision in 2008 (73 FR 47326; August 13, 2008) (see *Carpenters Industrial Council* v. *Kempthorne,* No. 1:08–cv–01409 (D.D.C.)), and the revision in 2012 (77 FR 71876; December 4, 2012) (see *Pacific Northwest Regional Council of Carpenters* v. *Bernhardt,* No. 1:13–cv–00361 (D.D.C.)).

In light of the litigation history of northern spotted owl critical habitat designations, the clear intentions from some parties to file suit to challenge the January 15, 2021, Final Rule, and other questions raised, we are reviewing whether the rulemaking was procedurally adequate. In particular, as noted above, we are reviewing whether the Final Rule was a ''logical outgrowth'' of the proposal and whether the public had fair notice and an opportunity to comment on the expansive change in both location and amount of areas excluded from critical habitat, as well as the rationale for those changes. Extending the effective date of the January 15, 2021, Final Rule while the Service reconsiders it may avoid unnecessary litigation challenging a rule that may change, which could conserve judicial, public, and agency resources.

We are, therefore, delaying the effective date of the final rule we published on January 15, 2021, that revised the designation of critical habitat for the northern spotted owl under the ESA (86 FR 4820), to give us time to consider questions of law, policy, and fact in regard to that final rule. The original effective date of the rule was March 16, 2021; with this document, we are delaying the effective date of the rule until April 30, 2021.

This 45-day delay of the January 15, 2021, Final Rule—based on the good cause articulated below—is for the purpose of reviewing any questions of fact, law, and policy that are raised by that rule as well as the effect of the delay, consistent with the Regulatory Freeze Memorandum and OMB Memorandum M–21–14. During this period, we will continue to gather information to determine whether any further steps should be undertaken, including whether there is a need to postpone the effective date further to give us additional time to reconsider the rule. To that end, we invite the public to submit comment on any issues of fact, law, or policy raised by the January 15, 2021, Final Rule, including, without limitation, the following:

(1) In a January 21, 2021, memorandum (OMB M–21–14) addressing steps agencies should take in response to the Regulatory Freeze Memorandum in reviewing recently finalized rules, OMB requires agencies to consider, among other things, whether the rulemaking process was procedurally adequate, including by taking final action that was a logical outgrowth of the proposal, and whether interested parties had a fair opportunity to present contrary facts and arguments. We, therefore, invite comment on whether you think procedural issues exist in the January 15, 2021, Final Rule rulemaking process and if so, what those issues are and what the Service could do to remedy them.

(2) Whether the Service should extend the effective date of the January 15, 2021, Exclusions Rule beyond April 30, 2021, and, if so, for how long and what, if any, the impacts of that delay would be.

(3) Whether the Secretary's conclusions and analyses in the January 15, 2021, Final Rule were consistent with the law, and whether the Secretary properly exercised his discretion under section 4(b)(2) of the ESA in excluding the areas at issue from critical habitat.

(4) Whether, and with what supporting rationales, the Service should reconsider, amend, rescind, or allow to go into effect the January 15, 2021, Final Rule.

II. Good Cause Under the Administrative Procedure Act

Our implementation of this action extending the effective date of the revisions to the northern spotted owl critical habitat rule from March 16, 2021, until April 30, 2021, without opportunity for public comment, effective immediately upon publication in the **Federal Register**, is based on the good-cause exception provided in the Administrative Procedure Act (APA). Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), we have determined that good cause exists to forgo the requirements to provide prior notice and an opportunity for public comment on this 45-day delay in the effective date of the January 15, 2021, Final Rule, and to make this action announcing the delay effective immediately. Under the totality of the circumstances presented here, notice and comment would be both impracticable and contrary to the public interest because taking the time to provide for public notice and comment would prevent the Service from performing its functions, create confusion and disruption in the ESA section 7(a)(2) consultation process, and thwart the conservation purposes of the Act.

As noted above, we are reviewing whether the determinations made in the final rule were a ''logical outgrowth'' of the proposed rule. In addition, there has been substantial litigation in the past on critical habitat designations for this species, and we have already received two notices of intent to sue to challenge the January 15, 2021, Final Rule. Our agency's ''due and required'' execution of its functions under the ESA would be unavoidably prevented if we allow the effective date to be triggered without the thorough review described above. *See* S. Doc. No. 248, 79th Cong., 2d Sess. At 200 (1946). That is, if the January 15, 2021, final exclusions from designated critical habitat of more than 3 million acres of northern spotted owl habitat become effective, there is the potential that we will not have met our obligations under the Act to provide

required protections for listed species. *See Tennessee Valley Authority* v. *Hill,* 437 U.S. 153, 174 (1978) (in enacting the ESA, it is ''beyond doubt that Congress intended endangered species to be afforded the highest of priorities''). Specifically, once the exclusions become effective, Federal agencies will no longer be required to consult with the Service under section 7(a)(2) of the ESA to determine if agency actions will result in the destruction or adverse modification of that formerly designated habitat. Federal agencies could thus proceed to undertake (or to authorize others to undertake) activities that would remove that habitat before the Service has the opportunity to reconsider whether those exclusions were appropriate in the first place. Because the habitat is defined by forested stands, particularly of older trees, it cannot be replaced for many decades once removed. Even if the final exclusions rule were to become effective only briefly such that immediate implementation of habitat-removal activities would be unlikely or limited, having areas previously designated be excluded, then reconsidered and potentially included again, would cause confusion and disruption in the section 7(a)(2) consultation process, again impeding the Federal agencies from executing their conservation functions, and also affecting third parties reliant on the Federal agency activities.

Allowing the January 15, 2021, Final Rule to take effect would also undermine the citizen-suit procedures established in the statute. The Act provides that persons alleging a violation must provide 60-day notice of intent to sue (NOI) prior to filing suit. 16 U.S.C. 1540(g)(2)(C). The purpose of the notice requirement is to provide agencies with ''an opportunity to review their actions and take corrective measures if warranted.'' *Alliance for the Wild Rockies* v. *USDA,* 772 F.3d 592, 601 (9th Cir. 2014). As discussed above, we have received NOIs that, among other things, raise a substantial allegation of a notice-and-comment defect in the January 15, 2021, Final Rule. Upon initial review of the NOIs, the Service has concluded that it needs additional time to review the allegations in the NOIs to determine whether they have merit. However, notice and comment on this delay of 45 days would prevent the Service from determining whether ''corrective measures'' are warranted before expiration of the 60-day period intended for this purpose. We are also considering whether we may need more time for review, and as noted above, therefore seek comment on whether we should further extend the effective date and, if so, how long the further extension should be.

Finally, it is important to recognize that excluding areas from critical habitat is not required by the ESA—the authority to exclude particular areas from designations of critical habitat under the second sentence of section 4(b)(2) of the ESA is in the discretion of the Secretary. (In contrast, other duties relating to critical habitat are mandatory: The duty for the Service to designate critical habitat, 16 U.S.C. 1533(a)(3), and the duty of Federal agencies to ensure that their actions are not likely to result in the destruction or adverse modification of critical habitat, 16 U.S.C. 1536(a)(2).) Therefore, a delay in the effective date of the final rule excluding areas from critical habitat for the northern spotted owl does not delay compliance with a mandate of the Act. Delaying the effective date of the January 15, 2021, Final Rule, which purported to exercise that discretionary authority, simply preserves the status quo while we undertake additional review to ensure compliance with the legal mandates and conservation purposes of the ESA.

In sum, we find that the totality of the circumstances here—the history of litigation and newly threatened suits, the potential for a ''logical outgrowth'' problem in the final rule, and the threat to the Service's execution of its statutory functions, among other issues—indicate that there is good cause to forgo notice and comment procedures here because it is impractical and contrary to the public interest for the Service to provide notice and an opportunity to comment on an extension of the effective date of March 16, 2021, for the January 15, 2021, Final Rule.

We also find that there is good cause to make this rule effective immediately instead of waiting until 30 days after publication for it to become effective. The APA normally requires this 30-day ''grace period'' so as to give affected parties time to adjust their behavior before a final rule takes effect. See, *e.g., Riverbend Farms, Inc.* v. *Madigan,* 958 F.2d 1479, 1485 (9th Cir. 1992). However, the APA provides an exception to this 30-day grace period for good cause. 5 U.S.C. 553(d). There is good cause to allow this extension of the January 15, 2021, Final Rule's effective date to go into effect immediately because it preserves the status quo, and there is no change to which parties would need time to adjust their behavior. Further, if this rule extending the effective date were itself not to become effective for 30 days, it would mean that the January 15, 2021, Final Rule would go into effect on March 16, 2021. That would create the same issues as discussed in the preceding paragraphs, *i.e.,* prevent the Service from performing its functions, create confusion and disruption in the ESA section 7(a)(2) consultation process, and thwart the conservation purposes of the ESA.

We therefore conclude that we have good cause to issue this final rule, effective immediately, extending the effective date of the January 15, 2021, Final Rule until April 30, 2021.

The White House memorandum also recommends that, for rules postponed for further review, agencies consider opening a 30-day comment period to allow interested parties to provide comments about issues of fact, law, and policy raised by those rules, and consider any requests for reconsideration involving such rules. Consistent with this guidance, this rule provides notice and invites public comments on issues of fact, law, and policy raised by the rule, whether we should further extend the effective date, and, if so, how long the further extension should be. A delay in the effective date and opening of a new 30-day comment period is necessary to ensure that the public has the opportunity to provide, and the Service is able to consider, additional comments to fully inform the Service's decisions in light of current law and policy before the January 15, 2021, Final Rule becomes effective.

Public Comments

You may submit your comments and materials concerning this action by one of the methods listed in **ADDRESSES**. Comments must be submitted to *http://www.regulations.gov* before 11:59 p.m. (Eastern Time) on the date specified in **DATES**. We will not consider mailed comments that are not postmarked by the date specified in **DATES**. We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If you provide personal identifying information in your comment, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Comments and materials we receive will be available for public inspection on *http://www.regulations.gov.*

Authority

The authorities for this action are 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

Martha Williams,

Senior Advisor to the Secretary, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2021–04209 Filed 2–26–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 679 and 680

[Docket No. 2102190025]

RIN 0648–BJ73

Fisheries of the Exclusive Economic Zone Off Alaska; Central Gulf of Alaska Rockfish Program; Amendment 111

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 111 to the Fishery Management Plan for Groundfish of the Gulf of Alaska Management Area (GOA FMP) and a regulatory amendment to reauthorize the Central Gulf of Alaska (CGOA) Rockfish Program. This final rule retains the conservation, management, safety, and economic gains realized under the Rockfish Program and makes minor revisions to improve administration of the Rockfish Program. This final rule is necessary to continue the conservation benefits, improve efficiency, and provide economic benefits of the Rockfish Program that would otherwise expire on December 31, 2021. This final rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the GOA FMP, and other applicable laws.

DATES: This rule is effective on March 31, 2021.

ADDRESSES: Electronic copies of the Environmental Assessment and the Regulatory Impact Review (collectively referred to as the ''Analysis'') and the Finding of No Significant Impact prepared for this final rule may be obtained from *https://www.regulations.gov* or from the NMFS Alaska Region website at *https://www.fisheries.noaa.gov/region/alaska.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Glenn Merrill; in person at NMFS Alaska Region, 709 West 9th Street, Room 401, Juneau, AK; and 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.

FOR FURTHER INFORMATION CONTACT: Stephanie Warpinski, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS published the Notice of Availability for Amendment 111 in the **Federal Register** on July 27, 2020 (85 FR 15367), with public comments invited through September 28, 2020. NMFS published the proposed rule to implement Amendment 111 in the **Federal Register** on September 4, 2020 (85 FR 55243) with public comments invited through October 5, 2020. The Secretary of Commerce approved Amendment 111 on October 22, 2020 after accounting for information from the public, and determining that Amendment 111 is consistent with the GOA FMP, the Magnuson-Stevens Act, and other applicable laws. The FMP amendment text includes two grammatical errors that were not found prior to the approval. These errors do not materially change the language in the FMP amendment nor are these errors reflected in the regulatory text that this final rule promulgates. The regulatory text accurately reflects the amendment's intent. NMFS received ten comment letters on the proposed Amendment 111 and the proposed rule. A summary of the comments and NMFS' responses are provided under the heading ''Comments and Responses'' below.

Background

The following background sections describe the Rockfish Program and the need for this final rule.

The Rockfish Program

This section provides a brief overview of the existing Rockfish Program. A detailed description of the Rockfish Program and its development is provided in the preamble to the proposed rule and in Section 1.2 of the Analysis.

The Rockfish Program is a type of limited access privilege program (LAPP) developed to enhance resource conservation and improve economic efficiency in the CGOA rockfish fisheries. The Rockfish Program as implemented under this final rule will continue the LAPP management structure, and will provide the same benefits established under the previous Rockfish Program implemented by Amendment 88 to the GOA FMP (76 FR 81247, December 27, 2011). For more information about the background and history of this program, see the preamble to the proposed rule (85 FR 55243, September 4, 2020) and the Analysis (See **ADDRESSES**).

The Rockfish Program (1) assigns quota share (QS) and cooperative quota (CQ) to participants for primary and secondary species, (2) allows a participant holding an LLP license with rockfish QS to form a rockfish cooperative with other persons, (3) allows holders of catcher/processor LLP licenses to opt-out of rockfish cooperatives for a given year, (4) establishes a limited access fishery for participants who do not participate in a fishery cooperative for a given year, (5) includes an entry level longline fishery for persons who do not hold rockfish QS, (6) establishes constraints, commonly known as sideboard limits, for other non-Rockfish Program fisheries that apply to vessels and LLP licenses eligible to participate in the Rockfish Program, and (7) includes monitoring and enforcement provisions.

As summarized in Sections 2 and 3.5 of the Analysis (See **ADDRESSES**), the Rockfish Program provided greater security to harvesters through the formation of rockfish cooperatives. Fishing under cooperative management resulted in a slower-paced fishery that allows a harvester to choose when to fish. The Rockfish Program also provided greater stability for processors by spreading out production over a longer period. Overall, the Rockfish Program provides greater benefits to shoreside processors, catcher/processors, CGOA fishermen, and communities than were realized under the previous LLP management scheme.

Need for This Final Rule

Under Amendment 88, the current Rockfish Program was given a 10-year life span. The North Pacific Fishery Management Council (Council) recommended this action to prevent the Rockfish Program from expiring on December 31, 2021. This final rule maintains the conservation management, safety, and economic benefits of the Rockfish Program and improves efficiency by making minor revisions to existing regulations to improve administrative provisions of the Rockfish Program.

Unless otherwise noted, the reauthorized Rockfish Program includes all regulatory provisions established under the Rockfish Program implemented by Amendment 88. These provisions include the existing allocation of QS among the fishery participants, the process and requirements to fish in a cooperative, sideboard limitations, and monitoring and reporting requirements. Section 1.7 of the Analysis describes the alternatives considered and Section 1.10.2 provides the rationale for the reauthorized Rockfish Program. The reader is referred to those sections of the Analysis (See **ADDRESSES**) for additional details.

Amendment 111 to the GOA FMP and this final rule reauthorize the Rockfish Program and address a variety of administrative and management issues of the Rockfish Program. The specific regulatory changes recommended by the Council and included in this final rule are discussed in Section 1.6.2 of the Analysis (See **ADDRESSES**) and include:

- Removing the Rockfish Program sunset date of December 31, 2021, with the effect of allowing the Rockfish Program to continue indefinitely;
- Specifying that only shoreside processors receiving Rockfish Program CQ must submit the Rockfish Ex-vessel Volume and Value Report, rather than catcher/processors;
- Modifying cooperative check-in notice timing into the Rockfish Program from 48 to 24 hours;
- Removing requirements that an annual Rockfish Program cooperative report be submitted to NMFS. The Council requested that the Rockfish Program cooperatives continue to voluntarily provide annual reports to the Council;
- Removing requirements for a fishing plan to be submitted with a cooperative application for CQ;
- Requiring annual NMFS cost recovery reports in regulation;
- Allowing NMFS to reallocate unharvested Pacific cod allocated to Rockfish Program cooperatives to other non-Rockfish Program sectors after the Rockfish Program fisheries close on November 15, consistent with existing inseason management regulatory authorities;
- Allowing NMFS to reallocate unused rockfish incidental catch allowances (ICA) to Rockfish Program cooperatives;
- Clarifying regulations regarding accounting for inseason use caps to specify that any transfer of unused rockfish ICAs or catcher/processor CQ to catcher vessel cooperatives does not apply to catcher vessel ownership, cooperative, harvester CQ, or shoreside processor CQ use caps;
- Exempting vessels from Crab Rationalization Program sideboard limits when fishing in the Rockfish Program;
- Removing catcher/processor rockfish program sideboard limits in the Western GOA rockfish fisheries;
- Removing the requirement for a trawl catcher vessel that has checked into and is participating in the Rockfish Program fishery to stand down for three days when transiting from the BSAI to the GOA while Pacific cod or pollock is open to directed fishing in the BSAI;
- Removing requirements for shoreside processors under the Rockfish Program to provide an observer work station and observer communication requirements; and
- Making minor technical corrections to clarify the season dates for directed fishing for Pacific cod under the Rockfish Program, and updating references to dusky rockfish (*Sebastes variabilis*) throughout regulations in 50 CFR part 679.

The following section describes the regulatory changes in greater detail.

This Final Rule

This section describes the changes to current regulations included in this final rule. This final rule will modify regulations at § 679.80(a)(2) to remove the expiration date of the Rockfish Program. The Rockfish Program had a 10-year authorization that required the Council to review the Rockfish Program and make any necessary changes to management based on that review, or allow the Rockfish Program to expire. This action responds to the Council's review.

This final rule modifies Rockfish Program recordkeeping and reporting requirements to: (1) Amend regulations at § 679.5(r)(10)(i) to clearly state that only shoreside processors taking deliveries of species harvested using Rockfish Program CQ must submit the Rockfish Ex-Vessel Volume and Value Report; (2) modify cooperative check-in times from 48 to 24 hours at § 679.5(r)(8)(i)(A)(*1*); (3) remove the requirement for an annual Rockfish Program cooperative report to be submitted to NMFS at § 679.5(r)(6), and § 679.81(i)(3)(xxv) and (xxvi); (4) remove the requirement for rockfish cooperatives to submit a fishing plan with annual applications for CQ at § 679.81(f)(4)(i)(D)(*3*); and (5) add a regulation at § 679.85(g) that states NMFS will annually publish a mandatory rather than voluntary Rockfish Program cost recovery report.

Additional detail describing the impact of these recordkeeping and reporting changes is included in the preamble of the proposed rule and in Section 3.7 of the Analysis (See **ADDRESSES**).

This final rule adds regulations at § 679.81(j) to authorize NMFS to reallocate unharvested Pacific cod after directed fishing under the Rockfish Program closes on November 15, consistent with existing reallocation procedures for Pacific cod in the Gulf of Alaska. Regulations at § 679.20(a)(12)(ii) allow NMFS to reallocate unused Rockfish Program Pacific cod. Under this provision, and taking into account the capability of a sector to harvest the reallocation, NMFS will allocate unused Rockfish Program Pacific cod first to catcher vessels, then to the combined catcher vessel and catcher/processor pot sector, and then to all other catcher/processor sectors.

This final rule adds regulations at § 679.81(j)(2), that authorize NMFS to reallocate unharvested rockfish species Incidental Catch Allowances (ICAs) to rockfish cooperatives. ICAs are set in the annual harvest specifications to account for incidental catch in other fisheries so that the TAC will not be exceeded. Section 3.7.10 of the Analysis and the preamble of the proposed rule details the process of determining reallocations of ICAs. If NMFS determines there is not sufficient ICA to reallocate, then no reallocation would occur.

This final rule adds regulations at § 679.82(a)(1)(vi) to clarify that any transfer of reallocated Rockfish Program ICAs or catcher/processor CQ to a catcher vessel cooperative does not apply when calculating catcher vessel use caps, including CV ownership, cooperative CQ, harvester QS, or shoreside processor caps. Use caps are established to limit consolidation. (Please see the preamble of the proposed rule and Section 3.7.11 of the Analysis for additional detail on use cap provisions.)

This final rule makes several changes to regulations governing the sideboards and other tools designed to protect other Gulf of Alaska fishery participants outside of the Rockfish Program. Sideboards are limitations on the ability of harvesters to harvest in fisheries other than the CGOA rockfish fisheries. The changes include: (1) Exempting Rockfish Program vessels from sideboard limits implemented under the Crab Rationalization Program at § 680.22(a)(1); (2) removing the Western GOA directed fishing prohibition and rockfish sideboard ratios at § 679.82(e)(4) for Rockfish Program

catcher/processors; and (3) as further discussed below, removing the requirement at § 679.23(h)(1) for a trawl catcher vessel checked into and participating in the Rockfish Program fishery to stand down for three days when transiting from the BSAI to the GOA while Pacific cod or pollock is open to directed fishing in the BSAI. In addition, NMFS also adds a clarifying technical revision to the remaining information at § 679.82(e)(4) to remove the table and reorganize the West Yakutat District rockfish sideboard ratios.

For this final rule, NMFS modifies § 679.23(h)(1) to remove the 3-day stand down requirement when a vessel moves from the BSAI to the GOA and is checked-in and participating in a Rockfish Program cooperative. This revision removes a regulatory limitation on vessels moving into the Rockfish Program but does not increase potential harvests in other non-Rockfish Program fisheries. Vessels that are not participating in the Rockfish Program must still comply with the 3-day stand down.

This final rule modifies regulations at § 679.84(f)(1) to remove unnecessary requirements for shoreside processors to maintain an observer workstation and communications equipment. These requirements were originally implemented under the Rockfish Pilot Program, which required that fisheries observers be stationed at shoreside processors participating in the Rockfish Pilot Program. Observer requirements for shoreside processors were removed with the implementation of the Rockfish Program in 2012, making these equipment requirements no longer necessary.

This final rule includes two additional technical corrections to regulations that clarify the season dates for directed fishing for Pacific cod under the Rockfish Program and updates references to dusky rockfish throughout the regulations. This final rule clarifies the season dates for directed fishing for Pacific cod with trawl gear at § 679.23(d)(3)(ii) by cross-referencing the Rockfish Program season dates in § 679.84(g). Current Rockfish Program regulations at § 679.80(a)(3)(ii) specify that fishing by vessels participating in a Rockfish Program cooperative is authorized from 1200 hours, A.l.t., May 1 through 1200 hours, A.l.t., November 15. To clarify this, NMFS modifies regulations at § 679.23(d)(3)(ii) in this final rule to reference the specific season dates authorized under the Rockfish Program.

This final rule changes references to ''pelagic shelf'' rockfish to ''dusky'' rockfish throughout regulations in 50 CFR part 679 to update regulations consistent with changes that have occurred to species categories since 2012 and the implementation of the Rockfish Program. Revising the references from pelagic shelf rockfish to dusky rockfish within the regulations and FMP is consistent with existing protocols for the annual stock assessment and harvest specifications of dusky rockfish.

This final rule clarifies at § 679.82(e)(9)(iii) that a rockfish cooperative may not exceed any deep-water or shallow-water halibut PSC sideboard limit assigned to that cooperative. This clarification was meant to be included with the Rockfish Program implemented by Amendment 88 to the GOA FMP (76 FR 81247, December 27, 2011). If a cooperative uses halibut PSC fishing for rockfish in the WGOA or the West Yakutat District, any halibut PSC used will be debited from the deep-water complex halibut PSC limit assigned to that cooperative. Once a cooperative reaches its deep-water halibut PSC sideboard limit, it will be able to continue to fish for rockfish in the Western GOA or West Yakutat District. This is further explained in the response to comment 3 in the ''Comments and Responses'' section below as well as in the ''Changes from Proposed to Final Rule'' section below.

Comments and Responses

NMFS received 10 comment letters on the NOA for Amendment 111 and the proposed rule. NMFS has summarized and responded to 18 unique comments below. One of the comment letters received was outside the scope of the proposed rule. The comments were from individuals, environmental groups, and Rockfish Program cooperative participants.

Comments on the Proposed Rule

Comment 1: Several commenters expressed general support for the reauthorization of the Rockfish Program without a sunset date. Commenters support the reauthorization of the Rockfish Program and the benefits the Program has created for historical harvesters, processors and the community of Kodiak.

Response: NMFS acknowledges this comment.

Comment 2: One commenter expressed support for the modification to § 679.82(e)(4), which removes the definition of sideboard ratios for Rockfish Program catcher/processors in the WGOA. However, the commenter does not support the proposed change to § 679.82(e)(2) that would remove the reference to the WGOA in this paragraph. This modification to § 679.82(e)(2) would lift the existing prohibition on directed rockfish fishing in the WGOA for non-Amendment 80 catcher/processors, which was not considered nor recommended by the Council.

Response: NMFS acknowledges the respondent's support for the change to sideboard ratios for the Western GOA at § 679.82(e)(4). NMFS agrees that the proposed rule incorrectly proposed to modify regulations at § 679.82(e)(2) by removing the words ''Western GOA'' in this paragraph. This error has been corrected in this final rule.

Comment 3: A commenter requested that NMFS further clarify regulations implementing Amendment 88 to the GOA FMP (76 FR 81248, December 27, 2011). In the response to comment 31 in the final rule implementing Amendment 88 to the GOA FMP, NMFS responded to three questions related to the application of the deep-water halibut complex halibut PSC sideboard. NMFS stated in the final rule that if a cooperative uses halibut PSC fishing for rockfish in the Western GOA or the West Yakutat District, any halibut PSC used will be debited from the deep-water complex halibut PSC limit assigned to that cooperative. Once a cooperative reaches its deep-water halibut PSC sideboard limit, it will be able to continue to fish for rockfish in the Western GOA or West Yakutat District. However, reaching the deep-water halibut PSC limit would not prohibit the harvester from fishing for rockfish in the Western GOA or West Yakutat region. Any halibut PSC used for fishing rockfish would be debited from the deep-water complex halibut PSC limit assigned to that cooperative. In the final rule implementing Amendment 88 to the GOA FMP, NMFS clarified this by modifying regulations at § 679.7(n)(6)(iv) however, the commenter requested that NMFS update regulations at § 679.82(e)(9)(iii) to further clarify this point in this rule as intended in the final rule implementing Amendment 88 to the GOA FMP.

Response: NMFS agrees that this clarification is needed and this change is included in this final rule. As further explained in the ''Changes from Proposed to Final Rule'' section of this final rule, NMFS adds a clarification at § 679.82(e)(9)(iii) that was meant to be added in at the implementation of the Rockfish Program through Amendment 88 to the GOA FMP. Once a halibut PSC limit is reached by a rockfish cooperative, that cooperative is prohibited from directed fishing in the

shallow-water or deep-water flatfish complex depending on which PSC halibut sideboard had been reached in in the Western GOA or the West Yakutat District.

Comment 4: A commenter disagreed with the proposed changes to remove observer coverage requirements and observer workstations under the Rockfish Program because data collected by observers is necessary to investigate corruption in this fishery.

Response: NMFS acknowledges the commenter's support for observer data collected in the Rockfish Program fisheries. However, NMFS disagrees that the requirement for a shoreside processor to provide an observer workstation and communication equipment should not be removed. This final rule maintains existing observer coverage requirements for all participants for the purpose of monitoring the Rockfish Program fisheries as implemented under Amendment 88 to the GOA FMP (76 FR 81248, December 27, 2011). However, as part of that 2011 action, observer coverage requirements for shoreside processors were removed but the observer workstation and communication equipment requirements inadvertently remained in place. Without a requirement for observer coverage at shoreside processors under the Rockfish Program the observer workstation and communications equipment are not necessary and therefore these requirements are removed from regulation in this final rule. These changes are further described in the preamble to the proposed rule and Section 3.7.9 of the Analysis (See **ADDRESSES**).

Comment 5: A commenter stated that there is no such thing as ''unused'' fish and asserts that NMFS should not be authorized to reallocate any unused fish or Pacific cod under this Program.

Response: NMFS disagrees. Each year, after consultation with the Council, NMFS publishes the final harvest specifications, to specify the total allowable catch (TAC) for each target groundfish species and apportionments thereof, Pacific halibut prohibited species catch (PSC) limits, and seasonal allowances of pollock and Pacific cod. ''Unused'' fish in this context means unharvested and refers to the amount of catch for a particular species has been specified for harvest up to the TAC or apportionment of the TAC but has not yet been fully harvested in the specified time period. Under the GOA FMP and its implementing regulations, NMFS has existing authority to reallocate unharvested species. This final rule authorizes NMFS to reallocate Pacific cod and rockfish ICA's that would otherwise remain unharvested without reallocation. These changes will contribute to achieving optimum yield under National Standard 1 and potentially reduce mandatory discards of these species in other fisheries. Additional information is included in the preamble to the proposed rule and Sections 1.9.2, 3.7.2, and 3.7.10 in the Analysis (See **ADDRESSES**).

Comment 6: A commenter stated that proposed changes to regulations implementing the Rockfish Program, including changes to recordkeeping and reporting requirements, appear to increase unsustainable overharvesting of the fisheries.

Response: NMFS disagrees. Changes to recordkeeping and reporting requirements are summarized in the classification section of this final rule and do not modify provisions of the Rockfish Program that would affect NMFS' ability to monitor fishery harvests under the Rockfish Program. These recordkeeping and reporting changes clarify existing provisions of the program and remove unnecessary reporting requirements. These changes are described in more detail in Section 3.7 of the Analysis (See **ADDRESSES**).

Comment 7: We support the proposed revisions to remove unnecessary reporting requirements. Removing the requirements to submit a fishing plan and to submit a cooperative report to NMFS will save industry unnecessary time as neither report is used in actively managing the fishery. Although the Cooperative Manager will still give a voluntary cooperative report/presentation to the Council once per year to inform the Council and the public on the program's and cooperative's performance, we estimate the time saved will be up to 25 hours per year. We also support reducing the submission time for a cooperative check-in report from at least 48 hours to at least 24 hours before the vessel begins a fishing trip to help improve fishing efficiency.

Response: NMFS acknowledges this comment.

Comment 8: Two commenters suggest that NMFS should not use information submitted by commercial fishermen for fisheries management. The commenters suggested that the changes to reporting and recordkeeping requirements proposed by this action are inconsistent with the MSA and are likely to decrease the robustness of science-based components of the program and lead to increased accidental or intentional overfishing.

Response: NMFS acknowledges this comment. This final rule makes minor administrative changes to the Rockfish Program, none of which modify the types of information that NMFS relies on to make fishery management decisions. The Magnuson-Stevens Act and the GOA FMP require, among other things, that fishery management decisions be based on the best scientific information available. This final rule does not change the data sources used to monitor the harvest of species allocated under the Rockfish Program.

Comment 9: NMFS received several comment letters addressing issues outside the scope of this action. Commenters did not support this action because of the effects of fishing on natural resources, including marine mammals, and suggested that NMFS cut all commercial fishing quota by 50 percent, ban trawling in the Gulf of Alaska, and stop fishing for Pacific cod entirely.

Response: These comments address management issues that are beyond the scope of Amendment 111 and this regulatory action. This final rule does not change the process of allocating quota or establishing TACs or sideboard limits under the Rockfish Programs, nor does this final rule change specific management measures that govern the harvest of allocated species under the Rockfish Program, such as fishing location, timing, effort, or authorized gear types. This final rule removes the sunset date and makes minor changes to the regulations implementing the Rockfish Program. The Magnuson-Stevens Act and the GOA FMP require, among other things, that the Council and NMFS manage fisheries to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery and base management decisions on the best scientific information available. The commenter provided no information to support cutting commercial fishing quota by 50 percent off Alaska. Currently, commercial groundfish fisheries off Alaska are being responsibly managed with conservative harvest strategies and provide important economic benefits to Alaskan communities. Additionally, in Section 2 of the Analysis prepared for this action, NMFS considered impacts on endangered and threatened species and marine mammals (See **ADDRESSES**).

Comment 10: One commenter questioned how the quality of goods would be affected by the slower fishing times and if the industry will have to deal with quality control declines as production slows, including training procedures for this scenario.

Response: Sections 3.5.7 and 3.5.8 in the Analysis describes rockfish products, markets, and associated wholesale market values (See **ADDRESSES**). Section 4.1 of the Analysis goes into detail on how each National Standard is met (See **ADDRESSES**). The Rockfish Program establishes CQ allocations that allow stakeholders and groups of stakeholders to more efficiently utilize the CGOA resource relative to the limited access management that would go into place with no action. Efficiency is enhanced by allowing CQ holders to scale effort spatially and temporally to reduce costs and increase value.

In addition, there is a downward trend for rockfish products; however, it is attributed to currency valuation and rising secondary processing costs, not slower fishing time. At this time, NMFS is not aware of reduced quality control under the Rockfish Program, either at this present time or at implementation of the Pilot Program, when the LAPP was established. As such, NMFS does not provide training procedures that address quality control in an established LAPP.

Comment 11: One commenter questioned if this rule supports the common (or great) good and if this rule is against the rights of other businesses fishing in the area for their own productivity.

Response: In recommending Amendment 111, the Council considered the 10 National Standards as contained in the Magnuson-Stevens Act. The National Standards are principles with which fishery management plans and their implementing regulations must be consistent, thereby ensuring sustainable and responsible fishery management. Section 4.1 of the Analysis goes into detail on how each National Standard is met (See **ADDRESSES**). This final rule promotes National Standards 5 and 6, specifically, in terms of community and economic considerations. This final rule maintains existing fish harvesting efficiencies under the Rockfish Program and modifies specific administrative provisions to improve operational efficiency of the Rockfish Program. The Rockfish Program takes into account the unique nature of the CGOA rockfish fishery in terms of its timing during the fishing year and value to the community of Kodiak. The Rockfish Program allows the fishery to be prosecuted during a longer period of time and avoid conflicts with the salmon fisheries that take place during July.

Comment 12: In the preamble of the proposed rule, NMFS omitted mention of thornyhead rockfish (*Sebastolobus alaskanus*), which is a secondary species for both catcher vessel and catcher processor cooperatives.

Response: NMFS acknowledges the error in the preamble of the proposed rule. The secondary species rationalized under the Rockfish Program include Pacific cod, rougheye rockfish, shortraker rockfish, sablefish, and thornyhead rockfish. The regulatory text correctly specifies Rockfish Program secondary species. In Section 2.2 of the Analysis, thornyhead rockfish are discussed in detail as a secondary species (See **ADDRESSES**).

Comment 13: The proposed regulation will undermine both the environmental and economic protections Congress intended with the MSA by increasing the TACs while simultaneously removing the sensible reporting and monitoring of this commercial activity. The past disasters, both for rockfish and for the people who depend on them for their livelihood, show a clear need for sensible common sense restrictions on fishing and continued reporting mandates.

Response: One of the goals of the Rockfish Program is to enhance resource conservation in the CGOA rockfish fisheries. The Rockfish Program, as implemented by this rule and Amendment 111 to the GOA FMP, continues the cooperative management structure that provides the fleet with tools to minimize bycatch to the extent practicable, reduce discards and improve utilization of groundfish species.

Overfishing Limits (OFLs) and TACs are set each year with conservation in mind. The Rockfish Program's primary and secondary species are not subject to overfishing and are not overfished; TACs are set in a precautionary manner. The current harvest specifications process and authorities for in-season management prevent overfishing and provide for the Rockfish Program to achieve optimum yield on a continuing basis. As described in the proposed rule and Section 2.2 of the Analysis, and this final rule, harvest of Rockfish Program quota will continue to be established by the Council and NMFS through the annual harvest specifications (85 FR 13802, March 10, 2020) (See **ADDRESSES**). Amendment 111 and this final rule do not substantively change conservation and management of the species managed under the CGOA Rockfish Program.

As described in the response to comment 8, this final rule makes minor administrative changes to the Rockfish Program, none of which modify the types of information that NMFS relies on to make fishery management decisions. This final rule does not change the data sources used to monitor the harvest of species allocated under the Rockfish Program.

Comment 14: The MSA states that any conservation efforts in the area must take into account any potential effects it could have on surrounding fishing communities. Fishing communities are defined as ''a social or economic group whose members reside in a specific location and share a common dependency on commercial, recreational, or subsistence fishing.'' This would include many of the region's indigenous communities. Amendment 111 has not demonstrated sufficient concern towards the cultural and health impacts it will have on Alaska Native communities.

Putting the area's rockfish population at risk of overharvesting would have direct negative impacts on Alaska Native communities who have long depended on rockfish for nutritional and cultural needs. Lack of precautions to assure sustainable catch of rockfish populations could have negative impacts on food insecurity. The ambition of industry should not curtail the cultural and subsistence use of wild fish stocks by Native Alaskans. We request that the agency review and weigh the impact that this rulemaking will have on Native Alaskan communities.

Response: As explained in the response to comment 12, Amendment 111 and this final rule do not substantively change conservation and management of the species managed in the CGOA Rockfish Program. Section 2.2 of the Analysis and the response to comment 12 describe how the GOA rockfish population is not at risk of being overfished or subjected to overfishing (See **ADDRESSES**).

This final rule and Amendment 111 are consistent with National Standard 8 and maintain the existing management structure of the Rockfish Program. As described in Section 3.5.6 of the Analysis and the Social Impact Assessment, no issues were identified for this final rule that would put the sustained participation of any fishing communities, including Alaska Native communities, at risk. Implementing this final rule would not change the community protection measures built into the Rockfish Program and previously found to be functioning as intended. The Rockfish Program is likely to have continued beneficial impacts on fishing communities. Patterns of community participation in the CGOA rockfish fisheries are unlikely to change with implementation of the final rule. Among communities

substantially engaged in and/or substantially dependent on the CGOA rockfish fisheries managed under the Rockfish Program, Kodiak is the most centrally engaged in and dependent on the fishery as measured by multiple indices across multiple sectors of the fishery. Kodiak has experienced beneficial impacts across harvester, processor, and support services sectors because of the implementation of the Rockfish Program, relative to the pre-Rockfish Pilot Program conditions, and has specifically benefitted from several community protection measures built into the program. Although not all individual operations have benefitted equally from the change in qualifying years between the Rockfish Pilot Program and the Rockfish Program, no substantial adverse sector-level or community-level impacts resulting from the implementation of the Rockfish Program have been identified for the community of Kodiak.

Comment 15: It is indicated within the EA that climate change is a reasonably foreseeable future action that may have an impact on primary and secondary species located within the action area. Given this explicit understanding of the looming detrimental impacts of climate change, even if the drastic increase in harvesting does not single handedly reduce the viability of the fish population, there is minimal room for natural phenomena to take place in combination with the harvesting increase while maintaining a viable fish stock that can support the industry. To ignore the risks of climate change and resulting El Niño events on the rockfish population coupled with increasing harvest, and its potential to decimate this rockfish population as seen in the West Coast, suggest that the proposed rule should fully consider the risk of climate change and take more restrictive conservational measures.

Response: Section 2.2.3 of the EA states that climate change is the only reasonably foreseeable future action (RFFA) identified as likely to have an impact on primary and secondary target species allocated within the action area and timeframe, the EA concludes that ''considering the direct and indirect impacts of the proposed action when added to the impacts of past and present actions, previously analyzed in other documents incorporated by reference, and the impacts of the RFFAs listed above, the cumulative impacts of the proposed action are determined to be insignificant.'' Effects of the action and RFFAs on the target species are considered insignificant, because they are not expected to jeopardize the capacity of the stock to yield sustainable biomass on a continuing basis and are unlikely to affect the distribution of harvested stocks either spatially or temporally such that it has an effect on the ability of the stock to sustain itself.

Although the net effect of climate change on fish resources is currently difficult to predict with accuracy, NMFS and the Council use the Ecosystem Status Reports (ESR) to track the status and trends of ecosystem components through a variety of indicators that are synthesized through a blend of data analysis and modeling to produce ecosystem assessments. The ESR may thus provide early warning signals of direct ecosystem impacts that may affect fish resources, including rockfish species that could warrant management intervention or evidence of the efficacy of previous management actions, as well as track performance in meeting the stated ecosystem-based management goals of the Council.

NMFS reviews the RFFAs, including climate change, as described in the Harvest Specifications Environmental Impact Statement (EIS) each year to determine whether they occurred and, if they did occur, whether they would change the analysis in the Harvest Specifications EIS of the impacts of the harvest strategy on the human environment (See **ADDRESSES**). In addition, NMFS considers each year whether other actions not anticipated in the Harvest Specifications EIS occurred that would have a bearing on the harvest strategy or its impacts. Each year stock assessment authors review the previous year's ESR for factors that may impact stock/complex biomass and summarize those for the Plan Teams' review. Indicators of concern can be highlighted within each stock assessment and can be used by the Groundfish Plan Teams and the Council to justify modification of allowable biological catch (ABC) recommendations or time/space allocations of catch. NMFS anticipates that current monitoring of groundfish trends and environmental conditions through selected key indicators, reporting in the annual ESRs, and incorporation of this information into the annual stock assessments and the harvest specification process is currently sufficient to alert the Council and NMFS managers to changes to rockfish population trends and conditions.

Comments on the Information Collection Supporting Statements for OMB Control Numbers 0648–0678 and 0648–0545

Comment 16: A commenter identified a couple changes to the supporting statement for the Rockfish Program collection of information (OMB Control Number 0648–0545). First, the commenter disagreed with the statement that ''the cooperative must form an association with the processor to which it historically delivered the most rockfish. The cooperative/processor associations are intended to ensure that a cooperative lands a substantial portion of its catch with its members' historic processor.'' This was the case during the Rockfish Pilot Program. However, with the current Rockfish Program a cooperative must form an association with a processor within the city limits of Kodiak but that processor need not be the member's ''historic'' processor. Second, the supporting statement notes that the Rockfish Program Vessel Check-In/Check-Out and Termination of Fishing Report and Application for Rockfish Cooperative Fishing Quota (CQ) may be submitted to NMFS more often than quarterly. The commenter thinks the Agency meant that the Application for Inter-Cooperative Transfer of Rockfish Cooperative Quota and the Rockfish Program Vessel Check-In/Check-Out reports may be submitted more often than quarterly (these transfers and check ins/outs occur many times over the season). The Application for Rockfish Cooperative Fishing Quota is submitted only once per year and any Termination of Fishing Report would be submitted only once per year.

Response: NMFS agrees with these changes, and they are reflected in the supporting statement for OMB Control Number 0648–0545 associated with this final rule.

Comment 17: A commenter was heartened to read that NMFS Alaska Region is currently working on offering submission of the Application for Rockfish Cooperative Fishing Quota application online through eFISH. The use of eFISH for vessel check-in and check-outs and CQ transfers greatly reduced the time and paperwork burden for the cooperatives so they look forward to being able to submit the annual cooperative applications online through eFISH.

Response: NMFS acknowledges this comment.

Comment 18: Note that the fishery management council in Alaska is the North Pacific Fishery Management Council (NPFMC), not ''Alaska Council.'' Note that the program is titled, ''Central Gulf of Alaska Rockfish Program,'' not ''Alaska Rockfish Program.''

Response: In response to this comment, the title of the information collection for OMB Control Number 0648–0678 has been changed from Alaska Council Cooperative Annual

Reports to North Pacific Fishery Management Council Cooperative Annual Reports to reflect the correct name of the regional fishery management council. The title of the information collection for OMB Control Number 0648–0545 has been changed from Alaska Rockfish Program: Permits and Reports to Central Gulf of Alaska Rockfish Program: Permits and Reports to refer to the correct name of the program.

Changes From Proposed to Final Rule

There were two changes from the proposed to the final rule to correct an error in the proposed rule for this action and to correct an error included in the final rule implementing Amendment 88 to the GOA FMP (76 FR 81248, December 27, 2011).

The proposed rule inadvertently proposed to remove the words ''Western Gulf of Alaska'' in regulations at § 679.82(e)(2). Based on public comment 2 above, the final rule does not remove the words ''Western Gulf of Alaska'' at § 679.82(e)(2). The proposed change to paragraph § 679.82(e)(2) would have removed Western Gulf of Alaska sideboard limits applicable to vessels operating in fisheries outside the Rockfish Program. This proposed change to paragraph (e)(2) would have removed the Western Gulf of Alaska directed fishing prohibition applicable to vessels operating in fisheries outside the Rockfish Program. This is outside the scope of the action recommended by the Council and therefore this previously proposed change is not included in this final rule.

The second change from proposed to final rule corrects an inadvertent omission in the final rule implementing Amendment 88 to the GOA FMP (76 FR 81248, December 27, 2011). Comment 3 in this final rule provides support for this change. As originally described by NMFS in the response to comment 31 (76 FR 81248, December 27, 2011), this change clarifies that catcher/processors are limited from expanding their harvests of deep-water flatfish beyond an amount that could be supported by the proportion of the halibut PSC historically used by a cooperative. NMFS adds a clarification at § 679.82(e)(9)(iii) that was meant to be added in at the implementation of the Rockfish Program through Amendment 88 to the GOA FMP (76 FR 81247, December 27, 2011). A rockfish cooperative may not exceed any deep-water or shallow-water halibut PSC sideboard limit assigned to that cooperative. If a cooperative uses halibut PSC while fishing for rockfish in the WGOA or the West Yakutat District, any halibut PSC used will be debited from the deep-water complex halibut PSC sideboard limit assigned to that cooperative. Once a cooperative reaches its deep-water halibut PSC sideboard limit, it could continue to fish for rockfish in the Western GOA or West Yakutat District because the Council intended to limit the ability of cooperatives to expand their harvests of deep-water flatfish with the halibut PSC sideboard limit beyond an amount that could be supported by the proportion of the halibut PSC historically used by a cooperative during 2000 through 2006. The Council did not intend to limit the rockfish fisheries, which were fully harvested during this period. NMFS is clarifying that once the deep-water halibut PSC sideboard limit it reached, cooperatives may not continue to fish for deep-water species, except rockfish that are open for directed fishing, in the Western GOA or West Yakutat District and this is in response to a comment received at the final rule stage. Any halibut PSC that continues to accrue in the rockfish fishery by the cooperative in the WGOA and West Yakutat District will continue to accrue to the overall deep-water species fishery halibut PSC limit for the GOA.

Classification

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that Amendment 111 to the GOA FMP and this final rule are necessary for the conservation and management of the CGOA Rockfish Program and are consistent with the GOA FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis (FRFA), the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. The preambles to the proposed rule and this final rule include a detailed description of the actions necessary to comply with this rule and as part of this rulemaking process. NMFS has published on its website a summary of compliance requirements that serves as the small entity compliance guide for the Rockfish Program: *https://www.fisheries.noaa.gov/resource/document/central-gulf-alaska-rockfish-program-informational-guide.* This rule does not require any additional compliance from small entities that is not described in the preambles. Copies of this final rule are available from NMFS at the following website: *https://www.fisheries.noaa.gov/region/alaska.*

Final Regulatory Flexibility Analysis (FRFA)

This FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the final rule.

Section 604 of the Regulatory Flexibility Act (RFA) requires that, when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code (5 U.S.C. 553), after being required by that section or any other law to publish a general notice of final rulemaking, the agency shall prepare a FRFA (5 U.S.C. 604). Section 604 describes the required contents of a FRFA: (1) A statement of the need for and objectives of the rule; (2) a statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made to the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes including a statement of the factual, policy, and legal reasons for selecting the alternative adopted and why each

one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

A description of this final rule and the need for and objectives of this rule are contained in the preamble to the proposed rule (85 FR 55243, September 4, 2020) and final rule and are not repeated here.

Public and Chief Counsel for Advocacy Comments on the IRFA

An IRFA was prepared in the Classification section of the preamble to the proposed rule. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule. NMFS received no comments specifically on the IRFA.

Number and Description of Small Entities Regulated by This Final Rule

This final rule will directly regulate the owners and operators of catcher vessels, catcher/processor vessels, and shoreside processors eligible to participate in the CGOA Rockfish Program. In 2019 (the most recent year of complete data), 54 vessel owners participated in the Rockfish Program, 19 of which are considered small entities based on the $11 million threshold. No catcher/processor vessels are classified as small entities because their combined gross income through affiliation with the Amendment 80 cooperative exceeds the $11 million first wholesale value threshold. In 2018 and 2019, six shore-based cooperatives were associated with a unique shoreside processor under the Rockfish Program. Reliable information is not available on ownership affiliations among individual processing operations or employment for the fish processors directly regulated by this final rule. Therefore, NMFS assumes that all of the processors directly regulated by this final rule could be small. Additional detail is included in Sections 3.5.5 and 3.9 in the Analysis prepared for this final rule (see **ADDRESSES**).

In addition to the main program, this final rule also maintains the ''entry level'' fishery for the longline sector. Since participation in that fishery is voluntary, the number of small entities participating in future years cannot be reliably predicted. From 2012 to 2019, an average of 4 vessels targeted CGOA rockfish in the entry level longline sector. Participation in this fishery has typically included vessels using jig gear and are considered small entities. Therefore, it is likely that a substantial portion of the entry level longline fishery participants will be small entities.

Recordkeeping, Reporting, and Other Compliance Requirements

This final rule will modify recordkeeping and reporting requirements under the Rockfish Program to (1) clarify that only shoreside processors receiving Rockfish Program CQ must submit the Rockfish Ex-vessel Volume and Value Report; (2) modify cooperative check-in times from 48 to 24 hours; (3) remove the requirement for an annual Rockfish Program cooperative report to be submitted to NMFS; (4) remove the requirement for rockfish cooperatives to submit a fishing plan with its annual application for cooperative quota; and (5) require NMFS to annually publish a Rockfish Program cost recovery report. These recordkeeping and reporting changes will clarify existing provisions of the program and remove unnecessary reporting requirements, slightly reducing the reporting burden for all directly regulated entities including small entities. The impacts of these changes are described in more detail in Section 3.7 of the Analysis prepared for this final rule (See **ADDRESSES**).

Description of Significant Alternatives Considered to the Final Action That Minimize Adverse Impacts on Small Entities

The final rule builds upon the Rockfish Pilot Program and the previously implemented Rockfish Program. The Rockfish Pilot Program was originally enacted through congressional direction to address economic inefficiencies in the fishery that primarily affected small entities. In recommending this final rule, the Council considered two alternatives, as it evaluated the potential for the continued rationalization of the CGOA rockfish fisheries. The two alternatives are the ''no action'' alternative (Alternative 1) that allows the Rockfish Program to expire on December 31, 2021 and an action alternative (Alternative 2) reauthorizing the Rockfish Program with numerous alternative elements to address a suite of potential management revisions. The Council considered alternatives that would modify the duration of the Rockfish Program: (1) Remove the sunset date, or (2) implement a new sunset date of 10 to 20 years; and select from numerous alternative elements to revise administrative provisions of the Rockfish Program. The Council selected Alternative 2 with the suite of elements included in this final rule to remove the sunset date and modify specific provisions of the Rockfish Program.

Based upon the best available scientific data, and in consideration of the Council's objectives of this action, it appears that there are no significant alternatives to the final rule that have the potential to accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that have the potential to minimize any significant adverse economic impact of the proposed rule on small entities. After public process, the Council concluded that the proposed Rockfish Program will best accomplish the stated objectives articulated in the preamble for this final rule, and in applicable statutes, and will minimize to the extent practicable adverse economic impacts on the universe of directly regulated small entities.

Duplicate, Overlapping, or Conflicting Federal Rules

NMFS has not identified any duplication, overlap, or conflict between this final rule and existing Federal rules.

Collection-of-Information Requirements

This final rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This rule changes the existing requirements for two collections of information—OMB Control Numbers 0648–0678 (Alaska Council Cooperative Annual Reports) and 0648–0545 (Alaska Rockfish Program: Permits and Reports)—and requests extension of OMB Control Number 0648–0545.

OMB Control Number 0648–0678

This rule revises the information collection requirements contained in OMB Control Number 0648–0678 to remove the requirement for an annual Rockfish Program cooperative report to be submitted to NMFS. This requirement is unnecessary, and removing it decreases the respondents' reporting costs. Another revision, which is not connected to this final rule, removes the AFA Catcher Vessel Intercooperative Agreement as a separate component of this collection because this is already included as an appendix to the AFA Annual Catcher Vessel Intercooperative Report, which is approved under OMB Control Number 0648–0678. The public reporting burden is estimated to average per individual response 40 hours for the AFA Annual Catcher Vessel Intercooperative Report and 25 to 40 hours for the annual Rockfish Program cooperative report submitted to the Council. The burden hours reported in the proposed rule

were erroneously reported in minutes instead of hours. This final rule includes the accurate estimate of burden hours. The estimated burden hours for the submission of cooperative reports to NMFS reduces the overall burden hour estimate for this collection by 45 hours.

OMB Control Number 0648–0545

This final rule revise the information collection requirements contained in OMB Control Number 0648–0545, and NMFS has requested an extension of this collection for three years. This collection contains three applications and reports used by Rockfish Program cooperatives to apply for cooperative fishing permits, transfer cooperative quota, and manage cooperative fishing activity. This collection is necessary for NMFS to effectively administer and monitor compliance with the management provisions of the Rockfish Program.

This rule removes the requirement for a rockfish cooperative to submit a fishing plan with its Application for Rockfish Cooperative Fishing Quota. No change is made to the estimated reporting burden or costs for this application as the estimate allows for differences in the time needed to complete and submit the application. This rule also reduces the time for a Rockfish Program catcher vessel to submit a cooperative check-in report from 48 hours to 24 hours before the start of a fishing trip. This does not change the estimated reporting burden or costs for this report. These changes are necessary to remove unnecessary reporting requirements.

The respondents are the seven Rockfish Program cooperatives; the estimated total annual burden hours are 35 hours; and the estimated total annual cost to the public for recordkeeping and reporting costs is $35.

Public reporting burden per individual response is estimated to average 2 hours for the Application for Rockfish Cooperative Fishing Quota; 10 minutes for the Application for Inter-Cooperative Transfer of Rockfish Cooperative Quota; and 10 minutes for the Rockfish Program Vessel Check-In/Check-Out and Termination of Fishing Report.

The public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Written comments and recommendations for this information collection should be submitted on the following website: *www.reginfo.gov/public/do/PRAMain.* Find these particular information collections by using the search function and entering either the title of the collection or the OMB Control Number (0648–0678 or 0648–0545).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirement of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 19, 2021.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 679 and 680 are amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

§ 679.2 [Amended]

■ 2. In § 679.2, in paragraph (1) of the definition for ''Rockfish Program species'' and paragraph (1) of the definition for ''Rockfish sideboard limit'', remove the words ''pelagic shelf rockfish'' and add in their place the words ''dusky rockfish''.

■ 3. In § 679.5, remove and reserve paragraph (r)(6) and revise paragraph (r)(8)(i)(A)(*1*) and (r)(10)(i).

The revisions read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(r) * * *

(8) * * *

(i) * * *

(A) * * *

(*1*) At least 24 hours prior to the time the catcher vessel begins a fishing trip to fish under a CQ permit; or

* * * * *

(10) * * *

(i) *Applicability.* A rockfish processor (as defined at § 679.2) that receives and purchases landings of rockfish CQ groundfish must submit annually to NMFS a complete Rockfish Ex-vessel Volume and Value Report, as described in this paragraph (r)(10), for each reporting period for which the rockfish processor receives rockfish CQ groundfish.

* * * * *

§ 679.20 [Amended]

■ 4. In § 679.20, in paragraph (d)(1)(vi)(C)(*1*), remove the words ''pelagic shelf rockfish'' and add in their place the words ''dusky rockfish''.

■ 5. In § 679.23, revise paragraphs (d)(3)(ii) introductory text and (h)(1) to read as follows:

§ 679.23 Seasons.

* * * * *

(d) * * *

(3) * * *

(ii) *Trawl gear.* Subject to other provisions of this part, directed fishing for Pacific cod with trawl gear in the Western and Central Regulatory Areas is authorized only during the following two seasons except as authorized in Subpart G of this Section under the Rockfish Program:

* * * * *

(h) * * *

If you own or operate a catcher vessel and fish for groundfish with trawl gear in the ***	You are prohibited from subsequently deploying trawl gear in the ***	Until ***
(1) BSAI while pollock or Pacific cod is open to directed fishing in the BSAI.	Western and Central GOA regulatory areas.	1200 hours A.l.t. on the third day after the date of landing or transfer of all groundfish on board the vessel harvested in the BSAI, unless you are engaged in directed fishing for Pacific cod in the GOA for processing by the offshore component or if checked-in and participating in a CGOA Rockfish Program cooperative.

* * * * *

■ 6. In § 679.80 revise the paragraph (a) subject heading and remove and reserve paragraph (a)(2).

The revision reads as follows:

§ 679.80 Allocation and transfer of rockfish QS.

* * * * *

(a) *Applicable areas and seasons*—

* * * * *

■ 7. In § 679.81, remove and reserve paragraph (f)(4)(i)(D)(*3*), remove paragraphs (i)(3)(xxv) and (xxvi), and add paragraph (j).

The addition reads as follows:

§ 679.81 Rockfish Program annual harvester privileges.

* * * * *

(j) *Reallocations*—Annual reallocation of Central Gulf of Alaska rockfish species—

(1) *Pacific cod.* After the Rockfish Program fisheries close on November 15, the Regional Administrator may reallocate any unused amount of Pacific cod from the Rockfish Program to other sectors through notification in the **Federal Register** consistent with regulations at § 679.20(a)(12)(ii).

(2) *Rockfish ICAs*—(i) *General.* The Regional Administrator may reallocate a portion of a Central GOA rockfish ICAs to rockfish cooperatives if the amounts assigned to the Central GOA rockfish ICAs are projected not to be harvested or used. The timing of a reallocation will be at the discretion of the Regional Administrator.

(ii) *Reallocation of Central Gulf of Alaska rockfish ICA species.* If, during a fishing year, the Regional Administrator determines that a reallocation of a portion of the ICAs of Central Gulf of Alaska rockfish species to rockfish cooperatives is appropriate, the Regional Administrator will issue a revised CQ permit to reallocate that amount of Central Gulf of Alaska rockfish species to rockfish cooperatives according to the following:

(A) Catcher vessel rockfish cooperatives will be given priority for reallocation; and

(B) The amount of additional CQ issued to each rockfish cooperative = Amount of Central Gulf of Alaska rockfish species available for reallocation to rockfish cooperatives × (Amount of CQ for that Central Gulf of Alaska rockfish species initially assigned to that rockfish cooperative/Σ CQ for that Central Gulf of Alaska rockfish species initially assigned to all rockfish cooperatives in the respective sector).

■ 8. In § 679.82:

■ a. Add paragraph (a)(1)(vi);

■ b. In paragraphs (d)(3) and (e)(2), remove the words ''pelagic shelf rockfish'' and add in their place the words ''dusky rockfish''; and

■ c. Revise paragraphs (e)(4) and (e)(9)(iii).

The addition and revisions read as follows:

§ 679.82 Rockfish Program use caps and sideboard limits.

(a) * * *

(1) * * *

(vi) Any transfer of reallocated rockfish ICA (as authorized under § 679.81(j)(2)) or catcher/processor CQ to a catcher vessel cooperative does not apply to catcher vessel ownership, cooperative, harvester CQ, or shoreside processor CQ use caps.

* * * * *

(e) * * *

(4) *West Yakutat District rockfish sideboard ratios.* The rockfish sideboard ratio for each rockfish fishery in the West Yakutat District is an established percentage of the TAC for catcher/processors in the directed fishery for dusky rockfish and Pacific ocean perch. These percentages are confidential.

* * * * *

(9) * * *

(iii) A rockfish cooperative may not exceed any deep-water or shallow-water halibut PSC sideboard limits assigned to that cooperative when directed fishing for species other than rockfish.

* * * * *

■ 9. In § 679.84, revise paragraph (f)(1) to read as follows:

§ 679.84 Rockfish Program recordkeeping, permits, monitoring, and catch accounting.

* * * * *

(f) * * *

(1) *Catch monitoring and control plan (CMCP).* The owner or operator of a shoreside processor receiving deliveries from a catcher vessel described in § 679.51(a)(2) must ensure the shoreside processor complies with the CMCP requirements described in § 679.28(g) except the requirements for an observer workstation and communication with observer as specified in § 679.28(g)(7)(vii) and (viii).

* * * * *

■ 10. In § 679.85, add paragraph (g) to read as follows:

§ 679.85 Cost recovery.

* * * * *

(g) *Annual report.* Each year, NMFS will publish a report describing the rockfish program cost recovery fee program.

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 11. The authority citation for part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

■ 12. In § 680.22, revise paragraph (a)(1) introductory text to read as follows:

§ 680.22 Sideboard protections for GOA groundfish fisheries.

* * * * *

(a) * * *

(1) *Vessels subject to GOA groundfish sideboard directed fishing closures.* Any vessel that NMFS has determined meets one or both of the following criteria is subject to GOA groundfish sideboard directed fishing closures issued under paragraph (e) of this section except when participating in the Rockfish Program authorized under part 679, subpart G, of this chapter.

* * * * *

[FR Doc. 2021–03859 Filed 2–26–21; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 38
Monday, March 1, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 213

RIN 0412–AA96

Claims—Collection Regulation

AGENCY: U.S. Agency for International Development.

ACTION: Proposed rule.

SUMMARY: The U.S. Agency for International Development (USAID) seeks public comment on a proposed rule to revise its regulation on claims collection in its entirety to incorporate applicable statutory and regulatory provisions and to make other changes. Specifically, an amendment made by the Digital Accountability and Transparency Act of 2014 (DATA Act) requires USAID to refer to the Secretary of the Treasury all past-due, legally enforceable, non-tax debt that are over 120 days delinquent. The changes will maximize the effectiveness of USAID's claim-collection procedures.

DATES: Comments must be received no later than March 31, 2021.

ADDRESSES: Address all comments concerning this proposed rule to Dorothea Malloy, Office of the Chief Financial Officer, United States Agency for International Development, 1300 Pennsylvania Avenue NW, USAID Annex, Room 8.80C, Washington, DC 20523. Submit comments, identified by title of the action and Regulatory Information Number (RIN) by any of the following methods:

1. Through the Federal eRulemaking Portal at *http://www.regulations.gov* by following the instructions for submitting comments.

2. By mail, addressed to USAID, Office of the Chief Financial Officer, 1300 Pennsylvania Avenue NW, USAID Annex, Room 8.80C, Washington, DC 20523.

FOR FURTHER INFORMATION CONTACT: Dorothea Malloy, Telephone: (202) 916–2518; or Email: *dmalloy@usaid.gov.*

SUPPLEMENTARY INFORMATION:

A. Instructions

All comments must be in writing and submitted through one of the methods specified in the **ADDRESSES** section above. All submissions must include the title of the action and RIN for this rulemaking. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message.

Please note that USAID recommends sending all comments to the Federal eRulemaking Portal because security-screening precautions have slowed the delivery and dependability of surface mail to USAID in Washington, DC.

USAID will make comments available at *http://www.regulations.gov* for public review without change, including any personal information provided. We recommend that you do not submit information that you consider Confidential Business Information (CBI) or any information otherwise protected from disclosure by statute.

USAID will only address substantive comments on the rule. USAID might not consider comments that are insubstantial or outside the scope of the proposed rule.

B. Request for Comments

USAID requests comments on its proposed rule to revise our claim-collection regulations to comply with the Digital Accountability and Transparency Act of 2014 (DATA Act) and to update claims-collections definitions and references.

I. Background

This rulemaking proposes revisions to part 213 of title 22 of the Code of Federal Regulations (CFR), USAID's claim-collection regulation, to conform to a statutory requirement that Federal Departments and Agencies must refer all past-due, legally enforceable, non-tax debt that is delinquent for more than 120 days, including non-tax debt administered by a third party that is acting as an agent for the Federal Government, to the Secretary of the Treasury for the purposes of administrative offset. The proposed rule also updates claims-collection definitions to align with the Debt Collection Improvement Act of 1996, and specifies that the Bureau of the Fiscal Service is the Agency within the U.S. Department of the Treasury to which USAID refers delinquent debts. The changes will maximize the effectiveness of USAID's claim-collection procedures.

II. Regulatory Findings

Executive Orders 12866, 13563, and 13771

USAID has drafted this proposed rule in accordance with Executive Orders (E.O.s) 12866 and 13563, which direct Federal Departments and Agencies to assess all the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equality). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. USAID has reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in E.O.s 12866 and 13563 and finds that the benefits of issuing this rule outweigh any costs, which the Agency assesses to be minimal. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB/OIRA) has determined that this rule is not a ''significant regulatory action'' as defined in E.O. 12866 and, accordingly, has not reviewed it. OMB/OIRA also has determined that this rule is not an ''economically significant regulatory action'' under Section 3(f)(1) of E.O. 12866. This proposed rule is not subject to the requirements of E.O. 13771 because OMB has determined it to be non-significant within the meaning of E.O. 12866.

Regulatory Flexibility Act

USAID certifies that this rule will not have a significant economic impact on a substantial number of small entities. Consequently, the Agency has not prepared a regulatory-flexibility analysis.

Small Business Regulatory Enforcement Fairness Act

This rule is not a ''major rule'' as defined by the Small Business Regulatory Enforcement Fairness Act of 1996 (Section 804(2) of Title 5 of the United States Code [U.S.C.]). This rule will not result in an annual effect on the U.S. economy of $100 million or more;

a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign-based companies in domestic and import markets.

Unfunded Mandates Reform Act

This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year, and it will not significantly or uniquely affect small governments. Therefore, USAID has deemed no actions were necessary under the provisions of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*).

Executive Order 13132

This rule 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. In accordance with E.O. 13132, USAID has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Summary Impact Statement.

Executive Order 12988

In accordance with E.O. 12988, the Office of the General Counsel at USAID has determined that this rule does not unduly burden the judicial system and meets the requirements of Sections 3(a) and 3(b)(2) of the Executive order.

Executive Order 13175

USAID has determined that this rule would not have substantial direct effects on one or more Indian Tribes, the relationship between the Federal Government and Indian Tribes, or the distribution of power and responsibilities between the Federal Government and Indian Tribes (E.O. 13175).

Paperwork Reduction Act

This rule does not contain information-collection requirements, and therefore a submission to OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required.

List of Subjects in 22 CFR Part 213

Claims, Government employees, Income taxes, Wages.

For the reasons stated in the preamble, USAID proposes to amend part 213 of title 22 of the CFR as follows:

PART 213—CLAIMS COLLECTION

■ 1. The authority citation for part 213 is revised to read as follows:

Authority: 22 U.S.C. 2381(a); 31 U.S.C. 902(a); 31 U.S.C. 3701–3719; 5 U.S.C. 5514; 31 CFR part 285; 31 CFR parts 900 through 904.

■ 2. Revise the heading for subpart A to read as follows:

Subpart A—General Provisions

■ 3. Revise § 213.1 to read as follows:

§ 213.1 Purpose and scope.

(a) *Purpose.* This part prescribes standards and procedures for the collection and disposal of claims due to the United States from the U.S. Agency for International Development (USAID). This part covers USAID's administrative actions to collect claims/debts (including administrative and salary offsets; compromise; suspension or termination of collection actions; transfer and/or referral of claims to the U.S. Departments of the Treasury and Justice). The terms ''claim'' and ''debt'' are synonymous and interchangeable. They refer to an amount of money, funds, or property that an appropriate USAID official has determined to be due to the United States from any person, organization, or entity except another Federal Department or Agency.

(b) *Scope.* The standards and procedures in this part are applicable to all claims and debts for which a statute, regulation, or contract does not prescribe different standards or procedures.

(c) *Applicability.* This part does not apply to USAID:

(1) Claims arising out of loans for which compromise and collection authority is conferred by Section 635(g)(2) of the Foreign Assistance Act of 1961, as amended;

(2) Claims arising from investment-guaranty operations for which settlement and arbitration authority is conferred by Section 635(l) of the Foreign Assistance Act of 1961, as amended;

(3) Claims against any foreign country or any political subdivision thereof, or any public international organization;

(4) Claims where the Chief Financial Officer (CFO) determines that the achievement of the purposes of the Foreign Assistance Act of 1961, as amended, or any other provision of law administered by USAID require a different course of action;

(5) Claims owed USAID by other Federal Departments and Agencies. Such debts will be resolved by negotiation between the Departments/Agencies; and

(6) Claims that appear to be fraudulent, false, or misrepresented by a party with an interest in the claim except to the extent provided in § 213.4.

■ 4. Amend § 213.2 by revising paragraphs (d) through (o) and adding paragraphs (p) through (s) to read as follows:

§ 213.2 Definitions.

* * * * *

(d) *Claim (or Debt)* means an amount of money, funds, or property that a USAID official has determined to be due the United States from any person, organization, or entity, except another Federal Department or Agency. As used in this part, the terms ''debt'' and ''claim'' are synonymous and interchangeable.

(e) *CFO* means the Chief Financial Officer of USAID or a USAID official delegated by the CFO to act on the CFO's behalf.

(f) *Compromise* means that the creditor Agency accepts less than the full amount of an outstanding debt in full satisfaction of the entire amount of the debt.

(g) *Creditor Agency* means the Federal Department or Agency to which the debt is owed, including a debt-collection center when acting on behalf of a creditor Agency in matters pertaining to the collection of a debt.

(h) *Debtor* means an individual, organization, association, corporation, or a State or local government indebted to the United States, or a person or entity with legal responsibility for assuming the debtor's obligation.

(i) *Delinquent debt* means any debt that is past due and is legally enforceable. A debt is past due if it has not been paid by the date specified in the Agency's initial written demand for payment notice or applicable agreement or instrument (including a post-delinquency payment agreement) unless the parties involved have made other satisfactory payment arrangements.

(j) *Discharge of indebtedness* means the release of a debtor from personal liability for a debt. Further collection action is prohibited.

(k) *Disposable pay* means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay, which remains after the deduction of any amount required by law to be withheld (other than deductions to execute garnishment orders) in accordance with 5 CFR parts 581 and 582. Among the legally required deductions that must be applied first to determine disposable pay are levies pursuant to the Internal Revenue Code (Title 26 of the United

States Code) and deductions described in 5 CFR 581.105(b) through (f). These deductions include, but are not limited to, Social Security withholdings; Federal, State, and local tax withholdings; health-insurance premiums; retirement contributions; and life-insurance premiums.

(l) *Employee* means a current U.S. Direct-Hire employee of the Federal Government, including a current member of the Armed Forces or a Reserve of the Armed Forces.

(m) *Employee salary offset* means the administrative collection of a debt by deductions at one or more officially established pay intervals from the current pay account of an employee without the employee's consent.

(n) *Person* means an individual, firm, partnership, corporation, association, and, except for purposes of administrative offsets under subpart C of this part and interest, penalties, and administrative costs under subpart B of this part, includes State and local governments and Indian tribes and components of tribal governments.

(o) *Recoupment* is a special method for adjusting debts that arise under the same transaction or occurrence. For example, obligations that arise under the same contract generally are subject to recoupment.

(p) *Suspension* means the temporary cessation of active debt collection pending the occurrence of an anticipated event.

(q) *Termination* means the cessation of all active debt-collection action for the foreseeable future.

(r) *Waiver* means the decision to forgo the collection of a debt owed to the United States, as provided for by a specific statute and according to the standards set out under that statute.

(s) *Withholding order* means any order for the withholding or garnishment of pay issued by USAID or a judicial or administrative body. For the purposes of this part, ''wage-garnishment order'' and ''garnishment order'' have the same meaning as ''withholding order.''

§ 213.3 [Removed]

■ 5. Remove § 213.3.

§ 213.4 [Redesignated as § 213.3 and Amended]

■ 6. Redesignate § 213.4 as § 213.3, and amend newly redesignated § 213.3 by revising paragraph (a) to read as follows:

§ 213.3 Other remedies.

(a) This part does not supersede or require the omission or duplication of administrative proceedings required by contract, statute, or regulation (*e.g.,* resolution of audit findings under grants or contracts; or appeal provisions under grants or contracts).

* * * * *

§ 213.5 [Redesignated as § 213.4 and Amended]

■ 7. Redesignate § 213.5 as § 213.4 and revise newly redesignated § 213.4 to read as follows:

§ 213.4 Fraud claims.

(a) The CFO will refer a claim that appears to be fraudulent, false, or misrepresented by a party that has an interest in the claim to the USAID Office of Inspector General (OIG). The OIG has the responsibility for investigating or referring the matter, where appropriate, to the U.S. Department of Justice (DOJ). The OIG has the responsibility to provide the results of the investigation on a timely basis to the CFO for any further action.

(b) The CFO will not administratively compromise, terminate, or suspend collection action, or otherwise dispose of a claim that appears to be fraudulent, false, or misrepresented by a party that has an interest in the claim, without the approval of DOJ.

§ 213.6 [Redesignated as § 213.5 and Amended]

■ 8. Redesignate § 213.6 as § 213.5 and revise newly redesignated § 213.5 to read as follows:

§ 213.5 Subdivision of claims not authorized.

USAID will not subdivide a claim to avoid the $100,000 limit on the Agency's authority to compromise a claim, suspend collection action on a claim, or terminate collection action on a claim. A debtor's liability that arises from a particular transaction or contract is a single claim.

§ 213.7 [Redesignated as § 213.6]

■ 9. Redesignate § 213.7 as § 213.6.

■ 10. Revise the heading for subpart B to read as follows:

Subpart B—Collection Actions

§ 213.8 [Redesignated as § 213.7 and Amended]

■ 11. Redesignate § 213.8 as § 213.7 and amend newly redesignated § 213.7 by revising paragraph (a) to read as follows:

§ 213.7 Collection—general.

(a) The CFO takes action to collect all debts owed the United States that arise out of USAID's activities, and to reduce debt delinquencies. Collection actions may include sending at least one written demand for payment notice to the debtor's last-known address provided in the records of USAID. Other appropriate action may proceed the written demand for payment notice, including immediate referral to DOJ for litigation, when such action is necessary to protect the Federal Government's interest.

* * * * *

§ 213.9 [Redesignated as § 213.8 and Amended]

■ 12. Redesignate § 213.9 as § 213.8 and amend newly redesignated § 213.8 by:

■ a. Revising the section heading and paragraphs (a) introductory text, (a)(4), (5), (7), (8), (10), and (11);

■ b. Adding paragraph (a)(12); and

■ c. Revising paragraph (b).

The revisions and addition read as follows:

§ 213.8 Written demand for payment notice.

(a) When an Agency official determines that a debt is owed to USAID, the Agency sends a written demand for payment notice to the debtor. Unless otherwise provided by agreement, contract, or order, the written demand for payment notice informs the debtor of:

* * * * *

(4) Any rights available to the debtor to review the debt, or to have recovery of the debt waived (by citing the available review or waiver authority, the conditions for review or waiver, and the effects of the review or waiver request on the collection of the debt);

(5) The date on which debt payment is due, which will be not more than 30 days from the date the written demand-for-payment notice is mailed or hand-delivered;

* * * * *

(7) The debt is considered delinquent if it is not paid on the due date provided in the initial written demand-of-payment notice;

(8) The imposition of interest charges, penalties, and administrative costs that USAID may assess against a delinquent debt, and the date when such charges apply;

* * * * *

(10) The Agency will refer delinquent debt unpaid at 90 days from the initial written demand for payment notice to the Bureau of the Fiscal Service (Fiscal Service) within the U.S. Department of the Treasury. Statute requires the referral of delinquent debt to Fiscal Service no later than 120 days from the initial written demand-for-payment notice. Fiscal Service will use means available to the Federal Government for collecting a debt, including administrative wage-garnishment, the use of collection agencies, and reporting

the indebtedness to a credit-reporting bureau (see § 213.15);

(11) The address, telephone number, and name of the person available to discuss the debt; and

(12) The possibility of referral to DOJ for litigation if USAID cannot collect the debt administratively.

(b) USAID will respond promptly to written communications from the debtor, generally within 30 days of receipt of such a communication.

§ 213.10 [Redesignated as § 213.9 and Amended]

■ 13. Redesignate § 213.10 as § 213.9 and amend newly redesignated § 213.9 by revising the section heading and paragraphs (a) and (c) and adding (e) to read as follows:

§ 213.9 Agency review requirements.

(a) For purposes of this section, whenever USAID must afford a debtor a review within the Agency, USAID shall provide the debtor with a reasonable opportunity for a review when the debtor requests reconsideration of the debt in question. The review may include the examination of documents, internal discussions with relevant officials, and discussion by letter or orally with the debtor, at USAID's discretion. For the offset of current Federal salary under 5 U.S.C. 5514 for certain debts, an employee may request an outside hearing. See §§ 213.21 and 213.22 when USAID is the creditor Agency.

* * * * *

(c) This section does not require an oral hearing with respect to debt collection in which the agency has determined that review of the written record is an adequate means to correct a prior mistake.

* * * * *

(e) If, after review, USAID either sustains or amends its determination, it shall notify the debtor of its intent to collect the sustained or amended debt. The notification to collect the sustained or amended debt will include accrued interest on the sustained or amended debt, calculated from the date of delinquency. If USAID has suspended collection actions previously, it will re-institute them unless it receives payment of the sustained or amended amount, or the debtor has made a proposal for a payment plan to which the Agency agrees, by the date specified in the notification of USAID's decision.

§ 213.11 [Redesignated as § 213.10 and Amended]

■ 14. Redesignate § 213.11 as § 213.10 and amend newly redesignated § 213.10 by revising paragraph (b) to read as follows:

§ 213.10 Aggressive collection actions; documentation.

* * * * *

(b) USAID documents all administrative collection actions in the claim file, along with the basis for any compromise, termination, or suspension of collection actions. USAID retains this documentation, which may include the Claims-Collection Litigation Report (CCLR) provided in § 213.24, in the appropriate debt file.

§ 213.12 [Redesignated as § 213.11 and Amended]

■ 15. Redesignate § 213.12 as § 213.11 and amend newly redesignated § 213.11 by revising the section heading and paragraphs (a)(1) and (e) to read as follows:

§ 213.11 Interest, penalties, and administrative costs.

(a) * * *

(1) Interest begins to accrue on all delinquent debts starting from the day after the payment due date established in the initial written demand-for-payment notice to the debtor. USAID will assess an annual rate of interest that is equal to the U.S. Department of the Treasury Current Value of Funds Rate (CVFR) unless a different rate is necessary to protect the interest of the Federal Government. USAID will notify the debtor of the basis for its finding that a different rate is necessary to protect the interest of the Government.

* * * * *

(e) *Waivers for the collection of interest, penalties, and administrative costs.* (1) The CFO will waive the collection of interest and administrative charges on the portion of the debt paid within 30 days after the date on which interest begins to accrue. The CFO may extend this 30-day period, on a case-by-case basis, when he or she determines that such action is in the best interest of the Federal Government. A decision to extend or not to extend the payment period is final, and is not subject to further review.

(2) The CFO may (without regard to the amount of the debt) waive the collection of all or part of accrued interest, penalties, or administrative costs, when he or she determines that—

(i) A waiver is justified under the standards for the compromise of claims under § 213.25; or

(ii) Collection of these charges would be against equity and good conscience, or is not in the best interest of the United States.

(3) The CFO may make a decision to waive interest, penalties, or administrative costs at any time.

§ 213.13 [Redesignated as § 213.12 and Amended]

■ 16. Redesignate § 213.13 as § 213.12 and revise newly redesignated § 213.12 to read as follows:

§ 213.12 Interest, penalties, and administrative costs pending consideration of debt waiver or review.

Interest, penalties, and administrative costs will continue to accrue on a debt during a review by USAID and during a waiver of indebtedness consideration by the Agency; except that USAID will not assess interest, penalties, and administrative costs where a statute or a regulation specifically prohibits the collection of the debt during the period of the Agency's review or consideration of a debt waiver.

■ 17. Add new § 213.13 to read as follows:

§ 213.13 Waivers of indebtedness.

The CFO may grant waivers of indebtedness for certain types of debt identified in Federal statutes under the following waiver authorities:

(a) *Waiver authorities*—(1) *Debts that arise out of erroneous payments of pay and allowances, and of travel, transportation, and relocation expenses and allowances.* Title 5 U.S.C. 5584 provides the authority for waiving, in whole or in part, debts that arise out of erroneous payments of pay or allowances, travel, transportation, or relocation expenses and allowances to an employee of USAID, if collection would be against equity and good conscience, or not in the best interests of the United States:

(i) The CFO may not grant a waiver if there exists in connection with the claim an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person who has an interest in obtaining a waiver.

(ii) Fault is considered to exist if, in light of the circumstances, the employee knew, or should have known through the exercise of due diligence, that an error existed, but he or she failed to take corrective action. What an employee should have known is evaluated under a reasonable-person standard. However, employees are expected to have a general understanding of the Federal pay system applicable to them.

(iii) An employee with notice that a payment might be erroneous is expected to make provisions for eventual repayment. Financial hardship is not a basis for granting a waiver for an

employee who was on notice of an erroneous payment.

(iv) If the deciding official finds no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person who has an interest in obtaining a waiver of the claim, the employee is not automatically entitled to a waiver. Before granting a waiver, the deciding official also must determine that collection of the claim against an employee would be against equity and good conscience, or not in the best interests of the United States. Factors to consider when determining if collection of a claim against an employee would be against equity and good conscience, or not in the best interests of the United States, include, but are not limited to, the following:

(A) Whether collection of the claim would cause serious financial hardship to the employee from whom the Agency seeks collection;

(B) Whether, because of the erroneous payment, the employee either has relinquished a valuable right or changed positions for the worse, regardless of his or her financial circumstances;

(C) The time elapsed between the erroneous payment and the discovery of the error and notification of the employee;

(D) Whether failure to make restitution would result in unfair gain to the employee; and

(E) Whether recovery of the claim would be unconscionable under the circumstances.

(2) *Debts that arise out of advances in pay (5 U.S.C. 5524a); situations of Authorized or Ordered Departures (5 U.S.C. 5522);* or *allowances and differentials for employees stationed abroad (5 U.S.C. 5922).* Title 5 U.S.C. 5524a, 5522, or 5922 provide authority for waiving, in whole or in part, a debt that arises out of such an advance payment if it is shown that recovery would be against equity and good conscience, or against the public interest:

(i) Factors to consider when determining if recovery of an advance payment would be against equity and good conscience, or against the public interest, include, but are not limited to, the following:

(A) Death of the employee;

(B) Retirement of the employee for disability;

(C) Inability of the employee to return to duty because of disability (supported by an acceptable medical certificate); and

(D) Whether failure to repay would result in unfair gain to the employee.

(ii) [Reserved]

(3) *Debts that arise out of employee training expenses.* Title 5 U.S.C. 4108 provides the authority for waiving, in whole or in part, a debt that arises out of employee training expenses if it is shown that recovery would be against equity and good conscience, or against the public interest:

(i) Factors to consider when determining if recovery of a debt that arises out of employee training expenses would be against equity and good conscience, or against the public interest, include, but are not limited to, the following:

(A) Death of the employee;

(B) Retirement of the employee for disability;

(C) Inability of the employee to return to duty because of disability (supported by an acceptable medical certificate); and

(D) Whether failure to repay would result in unfair gain to the employee.

(ii) [Reserved]

(4) *Under-withholding of life-insurance premiums.* Title 5 U.S.C. 8707(d) provides the authority for waiving the collection of unpaid deductions that result from the under-withholding of premiums under the Federal Employees' Group Life Insurance Program if the individual is without fault and recovery would be against equity and good conscience, or against the public interest:

(i) Fault is considered to exist if, in light of the circumstances, the employee knew, or should have known through the exercise of due diligence, that an error existed, but he or she failed to take corrective action:

(ii) Factors to consider when determining whether the recovery of unpaid deduction that results from under-withholding would be against equity and good conscience, or against the public interest, include, but are not limited to, the following:

(A) Whether collection of the claim would cause serious financial hardship to the individual from whom the Agency seeks collection;

(B) The time elapsed between the failure to withhold properly and the discovery of the failure and notification of the individual;

(C) Whether failure to make restitution would result in unfair gain to the individual; and

(D) Whether recovery of the claim would be unconscionable under the circumstances.

(5) *Student-Loan Repayment Program service agreements.* Title 5 U.S.C. 5379 provides for waiving, in whole or in part, debt that arises from the Student-Loan Repayment Program if it is shown that recovery would be against equity and good conscience, or against the public interest:

(i) Factors to consider when determining if recovery of a debt that arises out of the Student-Loan Repayment Program would be against equity and good conscience, or against the public interest, include, but are not limited to, the following:

(A) Death of the employee;

(B) Retirement of the employee for disability;

(C) Inability of the employee to return to duty because of disability (supported by an acceptable medical certificate); and

(D) Whether failure to repay would result in unfair gain to the employee.

(ii) [Reserved]

(b) [Reserved]

■ 18. Amend § 213.14 by revising the introductory text to read as follows:

§ 213.14 Contracting for collection services.

USAID has entered into a cross-servicing agreement with the Bureau of the Fiscal Service (Fiscal Service) of the U.S. Department of the Treasury. Fiscal Service is authorized to take all appropriate action to enforce the collection of accounts referred to it in accordance with applicable statutory and regulatory requirements. Fiscal Service bases any applicable fees on the funds collected, and will collect such fees from the debtor along with the original amount of the indebtedness. After referral, Fiscal Service will be solely responsible for the maintenance of the delinquent debtor records in its possession, and for updating the accounts as necessary. Fiscal Service may take any of the following collection actions on USAID's behalf:

* * * * *

■ 19. Amend § 213.15 by revising the section heading, introductory text, and paragraphs (b) introductory text, (b)(2)(ii) and (iii), and (c) and removing paragraph (d) to read as follows:

§ 213.15 Use of credit-reporting bureaus.

USAID reports delinquent debts owed to it to appropriate credit-reporting bureaus through the cross-servicing agreement with the Bureau of the Fiscal Service (Fiscal Service) at the U.S. Department of the Treasury.

* * * * *

(b) Before referring claims to Fiscal Service and disclosing debt information to credit-reporting bureaus, USAID will have done the following:

* * * * *

(2) * * *

(ii) If the debtor does not pay the debt 90 days after receiving the initial written demand-for-payment notice,

USAID intends to refer the debt to Fiscal Service and disclose to a credit-reporting agency the information authorized for disclosure by this subpart; and

(iii) The debtor can request an Agency review or waiver, where applicable.

(c) Before submitting information to a credit-reporting bureau, USAID will provide a written statement to Fiscal Service that the Agency has taken all required actions. Additionally, Fiscal Service thereafter will update the accounts as necessary during the period it holds the account information.

§ 213.17 [Amended]

■ 20. Amend § 213.17 in the first sentence by adding the words ''or she'' after the word ''he.''

§ 213.19 [Amended]

■ 21. Amend § 213.19 in the first sentence of paragraph (a) by removing the word ''penalty'' and adding ''penalties,'' in its place.

■ 22. Revise the heading for subpart C to read as follows:

Subpart C—Administrative and Salary Offset

■ 23. Amend § 213.20 by:

■ a. Revising paragraphs (a)(1), (a)(2)(ii), (a)(3)(i), and (b);

■ b. Removing paragraph (c);

■ c. Redesignating paragraphs (d) through (h) as paragraphs (c) through (g);

■ d. Revising newly redesignated paragraphs (d) heading and (d)(1); and

■ e. In newly redesignated paragraphs (f)(1) and (f)(2)(ii), removing ''creditor agency'' and adding ''creditor Agency'' in its place.

The revisions read as follows:

§ 213.20 Administrative offset of non-employee debts.

* * * * *

(a) * * *

(1) The CFO collects debts by administrative offset only after USAID has sent the debtor a written demand-for-payment notice that outlines the type and amount of the debt, the intention of the Agency to use administrative offset to collect the debt, and explaining the debtor's rights under 31 U.S.C. 3716.

(2) * * *

(ii) The opportunity for a review within USAID of the Agency's decision related to the claim(s); and

* * * * *

(3) * * *

(i) The offset is in the nature of a recoupment;

* * * * *

(b) *Interagency offset.* The CFO may offset a debt owed to another Federal Department or Agency from amounts due or payable by USAID to the debtor, or may request another Federal Department or Agency to offset a debt owed to USAID. The CFO, through USAID's cross-servicing arrangement with the Bureau of the Fiscal Service (Fiscal Service) within the U.S. Department of the Treasury, may request the Internal Revenue Service to offset an overdue debt from a Federal income-tax refund due to the debtor. Fiscal Service may also garnish the salary of a private-sector employee when reasonable attempts to obtain payment have failed. USAID will make interagency offsets from an employee's salary in accordance with the procedures contained in §§ 213.22 and 213.23.

* * * * *

(d) *Review of a decision to offset the debt.* (1) USAID will not offset the debt while a debtor is seeking review of the debt under this section, or under another statute, regulation, or contract. However, interest, penalties, and administrative costs will continue to accrue during this period, unless otherwise waived by the CFO. The CFO may initiate offset as soon as practical after the completion of a review, or after a debtor waives the opportunity to request review.

* * * * *

■ 24. Amend § 213.21 by revising paragraph (b) to read as follows:

§ 213.21 Employee salary offset—general.

* * * * *

(b) *Scope.* The provisions of this section apply to collection by salary offset under 5 U.S.C. 5514 of debts owed USAID and debts owed to other Federal Departments and Agencies by USAID's employees. USAID will make every effort reasonably and lawfully possible to collect administratively any amounts owed by its employees prior to initiating collection by salary offset. An amount advanced to an employee for *per diem* or mileage allowances in accordance with 5 U.S.C. 5705, but not used for allowable travel expenses, is recoverable from the employee by salary offset without regard to the due-process provisions in § 213.22. This section does not apply to debts for which another statute collection explicitly provides for, or prohibits, salary offset (*e.g.,* travel advances under 5 U.S.C. 5705 and employee-training expenses under 5 U.S.C. 4108).

* * * * *

■ 25. Amend § 213.22 by revising the section heading and paragraphs (c)(4) and (9), (d), (f) heading, (f)(1), (g), (k)(1), (n) introductory text, and (n)(1) and (3) to read as follows:

§ 213.22 Salary offset when USAID is the creditor Agency.

* * * * *

(c) * * *

(4) An explanation of the requirements concerning interest, penalties, and administrative costs;

* * * * *

(9) That the filing of a request for hearing within 15 days of receipt of the original notification will stay the assessment of interest, penalties, and administrative costs, and the commencement of collection proceedings;

* * * * *

(d) *Request for a hearing.* An employee may request a hearing by filing a written, signed request to the Office of the Chief Financial Officer, United States Agency for International Development, 1300 Pennsylvania Avenue NW, USAID Annex, Room 8.80D, Washington, DC 20523–4601. The request must state the basis upon which the employee disputes the proposed collection of the debt. The employee must sign the request, and USAID must receive it within 15 days of his or her receipt of the notification of proposed deductions. The employee should submit, in writing, all facts, evidence, and witnesses that support his or her position to the CFO within 15 days of the date of the request for a hearing. The CFO will arrange for the services of a hearing official not under the control of USAID, and will provide the hearing official with all documents relating to the claim.

* * * * *

(f) *Form of hearing, written response, and final decision.* (1) Normally, a hearing will consist of the hearing official's making a decision based on a review of the claims file and any materials submitted by the debtor. However, in instances in which the hearing official determines that the validity of the debt turns on an issue of veracity or credibility that the review of documentary evidence cannot resolve, the hearing official, at his or her discretion, may afford the debtor an opportunity for an oral hearing. Such an oral hearing will consist of a conference before a hearing official in which the employee and the Agency will have the opportunity to present evidence, witnesses, and argument. If desired, the employee may be represented by an individual of his or her choice. The Agency shall maintain a summary

record of oral hearings provided under the procedures in this section.

* * * * *

(g) *Request for waiver.* In certain instances, an employee may have a statutory right to request a waiver of overpayment of pay or allowances (*e.g.,* 5 U.S.C. 5584 or 5 U.S.C. 5724(i)). When an employee requests waiver consideration under a right authorized by statute, the Agency will suspend further collection on the debt until it makes a final administrative decision on the waiver request. However, when it appears that an employee's resignation, termination, or other action may prejudice the Government's ability to recover the debt, the suspension of recovery is not required. During the period of the suspension, USAID will not assess interest, penalties, charges, and administrative costs against the debt. The Agency will not duplicate, for purposes of salary offset, any of the procedures already provided the debtor under a request for waiver. See § 213.13.

* * * * *

(k) * * *

(1) Deductions to liquidate an employee's debt will begin on the date stated in the Agency's written demand-for-payment notice of intention to collect, from the employee's current pay unless he or she has paid the debt or filed a timely request for a hearing on issues for which a hearing is appropriate.

* * * * *

(n) *Interest, penalties, and administrative cost.* USAID will assess interest, penalties, and administrative costs on debts collected under the procedures in this section. Interest, penalties, and administrative costs will continue to accrue during the period that the debtor is seeking a review of the debt or requesting a waiver. The following guidelines apply to the assessment of these costs on debts collected by salary offset:

(1) USAID will start to assess interest on all debts not collected by the payment due date specified in the initial written demand-for-payment notice. USAID will waive the collection of interest and administrative charges on the portion of the debt paid within 30 days after the date on which interest begins to accrue.

* * * * *

(3) Deductions by administrative offset normally begin prior to the time for assessment of a penalty. Therefore, USAID will not assess a penalty charge unless deductions occur more than 90 days from the due date in the initial written demand-for-payment notice.

* * * * *

■ 26. Amend § 213.23 by:

■ a. Revising the section heading;

■ b. Removing ''creditor agency'' and ''creditor agency's'' and adding ''creditor Agency'' and ''creditor Agency's'', respectively, in their places everywhere they appear; and

■ c. Revising paragraph (b).

The revisions read as follows:

§ 213.23 Salary offset when USAID is not the creditor Agency.

* * * * *

(b) *Requests to USAID by another Agency to offset salary.* Requests for salary offset must be sent to the Office of the Chief Financial Officer, United States Agency for International Development, 1300 Pennsylvania Avenue NW, USAID Annex, Room 8.80D, Washington, DC 20523–4601.

* * * * *

■ 27. Revise the heading for subpart D to read as follows:

Subpart D—Compromise of Claims

■ 28. Revise § 213.24 to read as follows:

§ 213.24 General.

The CFO may compromise claims for money or property when the principal balance of a claim, exclusive of interest, penalties, and administrative costs, does not exceed $100,000. Where the claim exceeds $100,000, the authority to accept the compromise rests with DOJ. The CFO may reject an offer of compromise in any amount. DOJ's approval is not required if the Agency rejects a compromise offer. When the claim exceeds $100,000 and the CFO recommends acceptance of a compromise offer, he or she will refer the claim with his or her recommendation to DOJ for approval. The referral may be in the form of the Claims-Collection Litigation Report (CCLR) and will outline the basis for USAID's recommendation. USAID refers compromise offers for claims in excess of $100,000 to the Commercial Litigation Branch of the Civil Division of the Department of Justice, Washington, DC 20530, unless otherwise provided by DOJ's delegations or procedures.

■ 29. Revise § 213.25 to read as follows:

§ 213.25 Standards for the compromise of claims.

(a) The CFO may compromise a claim pursuant to this section if USAID cannot collect the full amount because:

(1) The debtor is unable to pay the full amount of the debt within reasonable time, as verified through credit reports or other financial information;

(2) The Federal Government is unable to collect the debt in full within a reasonable time by enforced collection proceedings;

(3) The cost of collecting the debt does not justify the enforced collection of the full amount; or

(4) There is significant doubt concerning the Government's ability to prove its case in court;

(b) In evaluating the debtor's inability to pay, the CFO may consider, among other factors, the following:

(1) Age and health of the debtor;

(2) Present and potential income;

(3) Inheritance prospects;

(4) The possibility that assets have been concealed or improperly transferred by the debtor;

(5) The availability of assets or income which may be realized by enforced collection proceedings; or

(6) The applicable exemptions available to the debtor under State and Federal law in determining the Federal Government's ability to enforce collection;

(c) The CFO may compromise a claim, or recommend acceptance of a compromise to DOJ, where there is significant doubt concerning the Federal Government's ability to prove its case in court for the full amount of the claim, either because of the legal issues involved or because of a *bona fide* dispute as to the facts. The amount accepted in compromise in such cases will fairly reflect the probability of prevailing on the legal issues involved, considering fully the availability of witnesses and other evidentiary data required to support the Government's claim. In determining the litigative risks involved, USAID will give proportionate weight to the likely amount of court costs and attorney fees the Government could incur if it is unsuccessful in litigation;

(d) The CFO may compromise a claim, or recommend acceptance of a compromise to DOJ, if the cost of collection does not justify the enforced collection of the full amount of the debt. The amount accepted in compromise in such cases may reflect an appropriate discount for the administrative and litigative costs of collection, taking into consideration the time it will take to effect collection. Costs of collection might be a substantial factor in the settlement of small claims, but normally will not carry great weight in the settlement of large claims. In determining whether the cost of collection justifies enforced collection of the full amount, USAID may consider the positive effect that enforced collection of the claim could have on the collection of other similar claims;

(e) To assess the merits of a compromise offer, the CFO should

obtain a current financial statement from the debtor, executed under penalty of perjury, that shows the debtor's assets, liabilities, income and expense; and

(f) The CFO may compromise statutory penalties, forfeitures, or debts established as an aid to enforcement, and to compel compliance, when he or she determines that accepting the offer will serve the Agency's enforcement policy adequately, in terms of deterrence and securing compliance (both present and future).

Subpart E—Suspension or Termination of Collection Action

§ 213.29 [Amended]

■ 30. Amend § 213.29 by removing ''penalty charges'' and adding ''penalties,'' in its place.

■ 31. Amend § 213.30 by:

■ a. Revising the section heading;

■ b. In paragraph (c), adding the words ''or her'' after ''his''; and

■ c. Revising paragraphs (d) introductory text and (e).

The revisions read as follows:

§ 213.30 Standards for suspension of collection action.

* * * * *

(d) The CFO may suspend collection activities on debts of $100,000 or less during the pendency of a permissive waiver or administrative review when there is no statutory requirement and he or she determines that:

* * * * *

(e) The CFO will decline to suspend collection when he or she determines that the request for waiver or administrative review is frivolous, or that the debtor made it primarily to delay collection.

§ 213.31 [Amended]

■ 32. Amend § 213.31 in the first sentence by removing the word ''penalty'' and adding ''penalties,'' in its place.

■ 33. Amend § 213.32 by revising the section heading and the introductory text to read as follows:

§ 213.32 Standards for termination of collection action.

The CFO may terminate collection action on a debt when he or she determines that:

* * * * *

■ 34. Revise § 213.34 to read as follows:

§ 213.34 Debts discharged in bankruptcy.

The CFO generally terminates collection activity on a debt discharged in bankruptcy, regardless of the amount. USAID may continue collection activity, however, subject to the provisions of the Bankruptcy Code for any payments provided under a plan of reorganization. The CFO will seek legal advice by the Office of the USAID General Counsel if he or she believes that any claims or offsets might have survived the discharge of a debtor.

Subpart F—Discharge of Indebtedness and Reporting Requirements

■ 35. Revise § 213.35 to read as follows:

§ 213.35 Discharging indebtedness—general.

(a) Before discharging a delinquent debt (also referred to as a close out of the debt), the CFO must take all appropriate steps to collect such debt, including (as applicable), the following:

(1) Administrative offset;

(2) Tax-refund offset;

(3) Offset of Federal salary;

(4) Referral to private collection contractors;

(5) Referral to Federal Departments or Agencies that are operating a debt-collection center;

(6) Reporting delinquencies to credit-reporting bureaus;

(7) Garnishing the wages of a delinquent debtor; and

(8) Litigation or foreclosure.

(b) The CFO will make a determination that collection action is no longer warranted and request that litigation counsel release any liens of record that are securing the debt. Discharge of indebtedness is distinct from the termination or suspension of collection activity, and the Internal Revenue Code might apply. When the CFO suspends or terminates collection action on a debt, the debt remains delinquent, and USAID may pursue further collection action at a later date in accordance with the standards set forth in this part. When a debt is discharged in full or in part, further collection action is prohibited, and USAID must terminate debt-collection action.

■ 36. Revise § 213.36 to read as follows:

§ 213.36 Reporting to Department of the Treasury's Internal Revenue Service.

Upon discharge of indebtedness, USAID must report the discharged debt as *income to the debtor* to the IRS in accordance with the requirements of 26 U.S.C. 6050P and 26 CFR 1.6050P–1. USAID may request Fiscal Service to file such a discharge debt report to the IRS on the Agency's behalf.

■ 37. Revise the heading for subpart G to read as follows:

Subpart G—Referrals to the U.S. Department of Justice

■ 38. Amend § 213.37 by revising the section heading and paragraph (a) to read as follows:

§ 213.37 Referrals to the U.S. Department of Justice.

(a) The CFO, through USAID's cross-servicing agreement with Fiscal Service and by direct action, refers to DOJ for litigation all claims on which the Federal Government has taken aggressive collection actions but which could not be collected, compromised, suspended, or terminated. USAID makes such referrals as early as possible, consistent with aggressive Agency collection action, and within the period for bringing a timely suit against the debtor. Unless otherwise provided by DOJ's regulations or procedures, USAID refers for litigation debts of more than $2,500 but less than $1 million to DOJ's Nationwide Central Intake Facility, as required by the instructions for the Claims-Collection Litigation Report (CCLR). USAID shall refer debts of more than $1 million to the Civil Division at DOJ.

* * * * *

■ 39. Revise the heading for subpart H to read as follows:

Subpart H—Mandatory Transfer of Delinquent Debt to U.S. Department of the Treasury

■ 40. Revise § 213.38 to read as follows:

§ 213.38 Mandatory transfer of debts to Department of the Treasury's Bureau of the Fiscal Service—general.

(a) USAID's procedures call for the transfer of legally enforceable debt to Fiscal Service 90 days from the date provided on the Agency's initial written demand-for-payment notice issued to the debtor. A debt is legally enforceable if the Agency has made a final determination that the debt, in the amount stated, is due and there are no legal bars to collection action. A debt is not considered legally enforceable for purposes of mandatory transfer to Fiscal Service if a debt is the subject of a pending administrative review process required by statute or regulation and collection action during the review process is prohibited.

(b) Except as set forth in paragraph (a) of this section, USAID will transfer any debt covered by this part that is more than 120 days delinquent to Fiscal Service for debt-collection services. A debt is considered 120 days delinquent for purposes of this section if it is 120 days past due and is legally enforceable.

■ 41. Amend § 213.39 by:

■ a. Revising the introductory text; and
■ b. Adding a period at the end of paragraph (f).

The revision and addition read as follows:

§ 213.39 Exceptions to mandatory transfer.

USAID is not required to transfer a debt to the Financial Management Service (FMS) of the U.S. Department of the Treasury pursuant to § 214.37(b) during such period of time that the debt:

* * * * *

Kent Kuyumjian,

Deputy Chief Financial Officer.

[FR Doc. 2021–03385 Filed 2–26–21; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 96

46 CFR Parts 71, 115, and 176

[Docket No. USCG–2020–0123]

RIN 1625–AC65

Safety Management Systems for Domestic Passenger Vessels

AGENCY: Coast Guard, DHS.

ACTION: Advance notice of proposed rulemaking; correction.

SUMMARY: The Coast Guard is correcting an advance notice of proposed rulemaking (ANPRM) published in the **Federal Register** of January 15, 2021, seeking public comment on the potential use of Safety Management Systems (SMSs) to improve safety and reduce marine casualties on board U.S.-flagged passenger vessels. The ANPRM contained an incorrect internal cross-reference in the list of questions for the public.

DATES: March 1, 2021.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Lieutenant Kimberly Gates, Vessel and Facility Operating Standards Division (CG–OES–2), U.S. Coast Guard; telephone 202–372–1455, email *kimberly.m.gates@uscg.mil.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2021–01058, beginning on page 3899 in the issue of January 15, 2021, make the following correction in the **SUPPLEMENTARY INFORMATION** section:

On page 3902 in the third column, in the paragraph for Question 19, replace the text ''question 4'' with the text ''question 6.''

The corrected Question 19 reads as follows: ''How would the costs and benefits of expanding other existing regulations, as detailed in question 6, differ from the costs and benefits of requiring SMSs for all passenger vessels?''

Dated: February 19, 2021.

M.T. Cunningham,

Chief, Office of Regulations and Administrative Law, U.S. Coast Guard.

[FR Doc. 2021–04011 Filed 2–26–21; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2020–0343; FRL–10016–31–Region 6]

Air Plan Approval; Texas; Clean Air Act Requirements for Enhanced Vehicle Inspection and Maintenance and Nonattainment New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve portions of two State Implementation Plan (SIP) revisions submitted by the State of Texas for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). The SIP revisions proposed for approval describe how CAA requirements for vehicle Inspection and Maintenance (I/M) and Nonattainment New Source Review (NNSR) are met in the Dallas-Fort Worth (DFW) and Houston-Galveston-Brazoria (HGB) serious ozone nonattainment areas.

DATES: Written comments must be received on or before March 31, 2021.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2020–0343, at *https://www.regulations.gov* or via email to *paige.carrie@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 Carrie Paige, 214–665–6521, *paige.carrie@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: Ms. Carrie Paige, EPA Region 6 Office, Infrastructure and Ozone Section, 214–665–6521, *paige.carrie@epa.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may 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

On March 12, 2008, the EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) to provide increased protection of public health and the environment (73 FR 16436, March 27, 2008).[1] The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997 but is set at a more protective level. Specifically, the 2008 ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less

[1] For a history of the ozone NAAQS, please visit *https://www.epa.gov/ground-level-ozone-pollution/table-historical-ozone-national-ambient-air-quality-standards-naaqs.* For information on EPA's periodic review of the ozone NAAQS, please visit *https://www.epa.gov/naaqs/ozone-o3-air-quality-standards.*

than or equal to 0.075 ppm. *See* 40 CFR 50.15.[2]

Both the DFW and HGB areas were designated as nonattainment for the 2008 ozone NAAQS (77 FR 30088, May 21, 2012). The DFW area consists of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant and Wise counties. The HGB area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties.

On December 23, 2014, the D.C. Circuit Court issued a decision rejecting, among other things, our attainment deadlines for the 2008 ozone nonattainment areas, finding that we did not have statutory authority under the CAA to extend those deadlines to the end of the calendar year. *NRDC* v. *EPA,* 777 F.3d 456, 464–69 (D.C. Cir. 2014). Consistent with the court's decision we modified the attainment deadlines for all nonattainment areas for the 2008 ozone NAAQS, and set the attainment deadline for all 2008 moderate ozone nonattainment areas, including the DFW area as July 20, 2018, and the HGB area (initially classified as marginal) as July 20, 2015 (80 FR 12264, March 6, 2015). The HGB area qualified for a 1-year extension of the attainment deadline and we revised the attainment deadline to July 20, 2016 (81 FR 26697, May 4, 2016). The HGB area did not meet the revised attainment deadline of July 20, 2016, and we reclassified the area to moderate (81 FR 90207, December 14, 2016). The DFW and HGB areas did not meet the moderate area attainment deadline and were accordingly reclassified as serious (84 FR 44238, August 23, 2019).[3] Section 182 of the CAA outlines SIP requirements applicable to ozone nonattainment areas in each classification category. The serious area classification triggers additional requirements, including NNSR and enhanced vehicle I/M. *See* CAA section 182(c) and 40 CFR 51.350.

On May 13, 2020, the Texas Commission on Environment Quality (TCEQ or State) submitted to EPA a SIP revision for each of the DFW and HGB serious ozone nonattainment areas. In those SIP revisions, the State describes how the DFW and HGB areas meet the enhanced vehicle I/M program and NNSR requirements for serious ozone nonattainment areas using existing measures already approved into the SIP. These two SIP revisions are available in the docket for this action, at *www.regulations.gov,* docket number EPA–R06–OAR–2020–0343.

II. The TCEQ Submittals and EPA's Evaluation

The two Texas SIP revisions include a statement certifying that the DFW and HGB areas meet the serious area requirements for enhanced I/M and nonattainment NSR for the 2008 eight-hour ozone NAAQS. In addition, the SIP revisions provide a brief history of the enhanced I/M and NNSR programs in the Texas SIP. The SIP revisions also state that, (1) the vehicle I/M program in the DFW and HGB ozone nonattainment areas meet the federal requirements for areas classified as serious or above; and (2) because the Texas SIP includes nonattainment NSR requirements, the requirements for nonattainment NSR are met for the DFW and HGB serious ozone nonattainment areas.

Enhanced Vehicle Inspection and Maintenance

Section 182(c)(3) of the CAA requires states with ozone nonattainment areas classified as serious or worse to implement an enhanced program to reduce hydrocarbon emissions and nitrogen oxides (NO_X)[4] emissions from in-use motor vehicles registered in each urbanized area in the nonattainment area. The Federal rules addressing I/M program requirements are provided at 40 CFR part 51, subpart S and further defined at 40 CFR 51.350 (Applicability). Under these requirements, serious ozone nonattainment areas in urbanized areas with 1980 Census-defined urbanized populations of 200,000 or more are required to adopt enhanced I/M programs (40 CFR 51.350(a)(2) and (4)).

The Texas SIP includes 30 TAC Section 114.2 (Inspection and Maintenance Definitions) and 30 TAC Section 114.50 (Vehicle Emissions Inspection Requirements) except for 30 TAC Section 114.50(b)(2).[5] Under these provisions Brazoria, Fort Bend, Galveston, Harris, and Montgomery counties in the HGB area are included in the I/M program, and Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant counties in the DFW area are included in the I/M program. The program requires that gasoline powered light-duty vehicles, and light and heavy-duty trucks between two and twenty-four years old, that are registered or required to be registered in the I/M program area, including fleets, are subject to annual inspection and testing. These programs were adopted and approved as meeting the applicable requirements of the I/M rules in response to the area designations under the one-hour ozone standard and later the 1997 8-hour standard. The size of the HGB nonattainment area did not change with the implementation of the 2008 ozone standard. As a result, EPA's previous finding that the program covers the necessary vehicle population is still appropriate. See 70 FR 58119, 58132 (October 5, 2005) and 71 FR 52670 (September 6, 2006). Wise County was added to the DFW nonattainment area under the 2008 standard. Wise County, however, is not required to be included in the I/M program as the current I/M program in the DFW area sufficiently covers a non-urbanized area population greater than the urbanized area in Wise County. To verify, we evaluate the extent of area coverage for I/M, as defined at 40 CFR 51.350(b)(2): ''Outside of ozone transport regions, programs shall nominally cover at least the entire urbanized area, based on the 1990 census.[6] Exclusion of some urban population is allowed as long as an equal number of non-urban residents of the MSA containing the subject urbanized area are included to compensate for the exclusion.'' Based on the 1990 census, the urban population of the DFW area covered by the I/M program (which consisted of 9 counties: Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant) was 3,198,259 and the urban population of Wise County was 8,735. Thus, the population of the entire urbanized area was 3,206,994 (3,198,259 + 8,735). The urban and non-urban population of the 9-county DFW area was 3,885,415. By subtracting the population of the entire urbanized area (3,206,994) from the urban and non-urban populations of the 9-county DFW I/M area (3,885,415 − 3,206,994 = 678,421), more than an equal number of non-urban residents in the 9-county DFW area are included in the I/M

[2] The current NAAQS for ozone is an 8-hour standard of 0.070 ppm, finalized in 2015 (October 26, 2015, 80 FR 65292). This action does not address the 2015 ozone NAAQS.

[3] The attainment deadline for a serious area classification is 9 years after the initial designation as nonattainment, which in this case is July 20, 2021. See 40 CFR 51.1103 and 84 FR 44238.

[4] NO_X and Volatile Organic Compounds (VOC) are precursors to ozone formation.

[5] We did not approve 30 TAC Section 114.50(b)(2) as part of the Texas SIP as (1) it placed an additional reporting burden upon commanders at Federal facilities regarding affected Federal vehicles that is not imposed upon any other affected non-federal vehicle; and (2) the additional reporting requirement is not an essential element for an approvable I/M program, since affected Federal vehicles are also subject to the same reporting requirements as other affected non-federal vehicles. See 66 FR 57261, 57262 (November 14, 2001).

[6] Texas is not included in the Ozone Transport Region (OTR), which is defined at CAA section 184(a).

program to compensate for the exclusion of the urbanized population of 8,735 in Wise County.[7] Thus, Wise County need not implement an I/M program.

Therefore, since the provisions in the Texas SIP already include the I/M requirements specified by the CAA for serious ozone nonattainment areas, we are proposing to approve this portion of the two SIP revisions.

Nonattainment NSR

The applicable NNSR requirements for the various ozone nonattainment classifications are described in CAA section 182 and further defined in 40 CFR part 51, subpart I (Review of New Sources and Modifications). Under these requirements new major sources or major modifications at existing sources in an ozone nonattainment area must comply with the lowest achievable emission rate and obtain sufficient emission offsets.[8] For serious ozone nonattainment areas, major sources are defined as any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 50 tons per year (tpy) of NO_X or VOC (*see* CAA sections 182(c) and 182(f), and 40 CFR 51.165). The emission offset ratio required for serious ozone nonattainment areas is 1.2 to 1 (*see* CAA section 182(c)(10).

The EPA-approved Texas SIP already includes 30 TAC Section 116.12 (Nonattainment and Prevention of Significant Deterioration Review Definitions) and 30 TAC Section 116.150 (New Major Source or Major Modification in Ozone Nonattainment Area).[9] These provisions require new major sources or major modifications at existing sources in the DFW and HGB areas to comply with the lowest achievable emission rate and obtain emission offsets at the serious classification ratio of 1.2 to 1.

Therefore, since the provisions in the Texas SIP already include the NNSR requirements specified by the CAA for serious ozone nonattainment areas, we are proposing to approve this portion of the two SIP revisions.

III. Proposed Action

We are proposing to approve portions of two revisions to the Texas SIP submitted on May 13, 2020, that describe how CAA requirements for vehicle I/M and NNSR are met in the DFW and HGB serious ozone nonattainment areas for the 2008 ozone NAAQS.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 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, Volatile organic compounds.

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

Dated: February 5, 2021.

David Gray,

Acting Regional Administrator, Region 6.

[FR Doc. 2021–02758 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

[7] All population data in this paragraph are from the 1990 Census. The 1990 Census report for Texas is in the docket for this rulemaking.

[8] Offsets are the ratio of total emissions reductions of NO_X or VOC to the emissions increase of such air pollutant.

[9] *See* 60 FR 49781, September 27, 1995 and subsequent revisions at 77 FR 65119, October 25, 2012 and 79 FR 66626, November 10, 2014.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2020–0320; FRL–10020–55–Region 3]

Air Plan Approval; Pennsylvania; 1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the Youngstown-Warren-Sharon Area; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is reopening the comment period for a proposed rulemaking published in the **Federal Register** on October 30, 2020. EPA is reopening the comment period based on a request for a 15-day extension.

DATES: The comment period will reopen until March 16, 2021 to allow additional time for stakeholders to review and comment on the proposal. The comment period for the proposed rulemaking published October 30, 2020 (85 FR 68826), which ended on November 30, 2020, is being reopened. EPA must receive comments on or before March 16, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2020–0320 at *https://www.regulations.gov,* or via email to *gordon.mike@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting

comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, 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. 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.*

FOR FURTHER INFORMATION CONTACT: Keila M. Pagán-Incle, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2926. Ms. Pagán-Incle can also be reached via electronic mail at *pagan-incle.keila@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA proposed to approve a state implementation plan (SIP) revision submitted on March 10, 2020 by the Pennsylvania Department of Environmental Protection (PADEP). The SIP submittal (also referred to as ''1997 8-hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the Youngstown-Warren-Sharon Area'') addresses Clean Air Act (CAA) requirements for the 1997 8-hour ozone national ambient air quality standard (NAAQS) in the Youngstown-Warren-Sharon Area. EPA's October 30, 2020 notice proposed to approve the second maintenance plan for the Pennsylvania portion of the Youngstown-Warren-Sharon Area as a revision to the Pennsylvania SIP.

EPA is reopening the comment period based on an anonymous request to reopen the comment period. The commenter states they were unable to obtain information about EPA's proposed rulemaking via email or phone from the EPA contact listed in the October 30, 2020 notice. After reviewing this request, EPA has determined that the listed EPA contact was not available via email or phone during approximately half of the 30-day comment period. Therefore, EPA has decided to reopen the comment period for an additional 15 days to March 16, 2021. All comments received on or before March 16, 2021 will be entered into the public record and considered by EPA before taking final action on the proposed rulemaking. Comments submitted between the close of the original comment period and the re-opening of this comment period will be accepted and considered.

Dated: February 18, 2021.

Diana Esher,

Acting Regional Administrator, Region III.

[FR Doc. 2021–04106 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R05–OAR–2020–0518; FRL–10020–54–Region 5]

Air Plan Approval; Wisconsin; Large Municipal Waste Combustors Negative Declaration Withdrawal for Designated Facilities and Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve Wisconsin's request for withdrawal of the previously approved Large Municipal Waste Combustors (LMWC) Negative Declaration. The Wisconsin Department of Natural Resources (WDNR) submitted its LMWC Negative Declaration withdrawal on September 25, 2020, certifying that the State of Wisconsin has only one LMWC unit currently operating and requesting that the Federal plan continue to apply to the single source in the state.

DATES: Comments must be received on or before March 31, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2020–0518, at *http://www.regulations.gov* or via email to *hulting.melissa@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, 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. 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 *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Margaret Sieffert, Environmental Engineer, Environmental Protection Agency, Region 5, 77 West Jackson Boulevard (AT–18J), Chicago, Illinois 60604, (312) 353–1151, *sieffert.margaret@epa.gov.*

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

I. Background

Section 111(d) of the Clean Air Act (Act) requires that EPA develop regulations providing that states must submit to EPA plans establishing standards of performance for certain existing sources of pollutants. A standard of performance would apply to the existing source associated with pollutants that are noncriteria pollutants (*i.e.,* pollutants for which there is no national ambient air quality standard) and are not on a list published under section 108 of the Act or emitted from a source category regulated under section 112 of the Act. Section 129 of the Act, and 40 CFR part 60, subpart B, apply the section 111(d) requirements to existing solid waste combustors, including LMWCs, and provide that EPA should include, as part of the performance standards, emissions guidelines (EGs) that include the plan elements required by section 129.

The regulation at 40 CFR part 60, subpart B, contains general provisions applicable to the adoption and submittal of state plans for subject facilities under sections 111(d) and 129 (111(d)/129 plan) and negative declarations if no such facilities exist in the state. 40 CFR part 62, subpart A, provides the procedural framework for the submission of the plans and negative

declarations. If, at a later date, an existing LMWC is found in a state that previously submitted a negative declaration, the Federal plan implementing the LMWC EGs would automatically apply to that unit.

EPA promulgated new source performance standards and EGs for LMWCs on December 19, 1995 (60 FR 65387), and amended them most recently on May 10, 2006 (71 FR 27324). However, on March 20, 2007, EPA issued a notice of reconsideration for three sections of the final rule (72 FR 13016). The standards and EGs are codified at 40 CFR part 60, subparts Cb and Eb, respectively.

A LMWC unit, as defined in 40 CFR 60.32b, means any municipal waste combustor unit with a combustion capacity greater than 250 tons per day of municipal solid waste. The designated facilities to which the original EG's applied were existing LMWC units for which construction was commenced on or before September 20, 1994.

States were required to submit negative declarations or state plans for existing LMWCs, pursuant to sections 111(d) and 129 of the Act and 40 CFR part 60, subpart B. WDNR submitted a negative declaration under LMWC on September 26, 1997, certifying that it had no existing LMWCs. On November 12, 1998, EPA finalized the Federal plan under 40 CFR part 62, subpart FFF (65 FR 33461). EPA approved WDNR's negative declaration under 40 CFR 62.12360 on May 24, 2000 (65 FR 33461).

On September 25, 2020, WDNR submitted its LMWC negative declaration withdrawal, in which it certifies that there is one LMWC unit currently operating in Wisconsin. The only LMWC unit is at Xcel French Island, located in La Crosse, WI. Because there is only one source, WDNR is requesting that the previously approved negative declaration be withdrawn and that the Federal plan continue to apply to the source.

Section 111(d)/129 requires states to submit state plans when LMWC units exist in its boundaries, and requires EPA to develop a Federal plan to cover facilities when states do not develop state plans. EPA understands that the extensive time and resources that would be required by WDNR to adopt a rule and submit a state plan are disproportionate to the single affected source in Wisconsin. EPA's Federal plan implementing the EG's would continue to apply to the source in Wisconsin (as well as to any existing affected sources if found at a later date), upon approval of the withdrawal of the negative declaration. Wisconsin would implement and enforce the Federal plan through its Title V permitting process. This is described in a February 19, 2002 WDNR and EPA Region 5 Memorandum of Agreement. This action should not be construed as an approval of a state plan or delegation of the Federal plan. Wisconsin's section 111(d)/129 obligations are separate from Wisconsin's obligations under title V of the Act. Wisconsin understands and accepts this limitation.

II. Proposed EPA Action

EPA is proposing to approve Wisconsin's request for withdrawal of a previously approved Negative Declaration and to amend 40 CFR part 62 to reflect WDNR's withdrawal. WDNR submitted its LMWC Negative Declaration withdrawal on September 25, 2020, certifying that there is only one LMWC unit, as defined under 40 CFR 60.31b, currently operating in the State of Wisconsin and requested that the Federal plan apply to the single source in the State. EPA understands that the extensive work that would be required by WDNR to prepare an approved state plan would be disproportionate to the single affected source in Wisconsin, and is proposing to approve the withdrawal and have the Federal plan apply to the known affected source.

III. Statutory and Executive Order Reviews

A. General Requirements

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and therefore is not subject to review by the Office of Management and Budget under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and merely notifies the public of EPA's approval for a withdrawal of a previously approved LMWC Negative Declaration. This action imposes no requirements beyond those imposed by the state. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). This rule is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a withdrawal, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a withdrawal.

In reviewing section 111(d)/129 plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. With regard to withdrawals for designated facilities received by EPA from states, EPA's role is to notify the public of the approval of the state's withdrawal and revise 40 CFR part 62 accordingly. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a section 111(d)/129 withdrawal for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a section 111(d)/129 withdrawal, to use VCS in place of a section 111(d)/129 withdrawal submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements, Large Municipal Waste Combustors.

Dated: February 22, 2021.

Cheryl Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2021–03983 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 86, No. 38
Monday, March 1, 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.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

TIME AND DATE: March 5, 2021, 2:00 p.m. EDT.

PLACE: Public Meeting Hosted via Audio Conference.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Chemical Safety and Hazard Investigation Board (CSB) will convene a public meeting on Friday, March 5, 2021, at 2:00 p.m. EDT. The Board will review the CSB's progress in meeting its mission and highlight safety product newly released through investigations and safety recommendations.

Additional Information

This meeting will only be available via the following call-in number. If you require a translator or interpreter, please notify the individual listed below as the ''Contact Person for Further Information,'' at least three business days prior to the meeting.

Audience members should use the following information to access the meeting:

Dial-In: 1 (800) 697–5978 Audience US Toll Free; 1 (630) 691–2750 Audience US Toll

Passcode: 6470 316#

Please dial the phone number five minutes prior to the start of the conference call and enter your passcode.

The CSB is an independent federal agency charged with investigating incidents and hazards that result, or may result, in the catastrophic release of extremely hazardous substances. The agency's Board Members are appointed by the President and confirmed by the Senate. CSB investigations look into all aspects of chemical accidents and hazards, including physical causes such as equipment failure as well as inadequacies in regulations, industry standards, and safety management systems.

Contact Person for Further Information

Hillary Cohen, Communications Manager, at *public@csb.gov* or (202) 446–8094. Further information about this public meeting can be found on the CSB website at: *www.csb.gov.*

Dated: February 24, 2021.

Sabrina Morris,

Board Affairs Specialist, Chemical Safety and Hazard Investigation Board.

[FR Doc. 2021–04213 Filed 2–25–21; 11:15 am]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Management and Organizational Practices Survey—Hospitals

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on November 19, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau.

Title: Management and Organizational Practices Survey-Hospitals.

OMB Control Number: 0607–XXXX.

Form Number(s): MOPS–HP.

Type of Request: Regular submission, New Information Collection Request.

Number of Respondents: 3,200.

Average Hours per Response: 45 minutes.

Burden Hours: 2,400.

Needs and Uses: The Census Bureau proposes conducting the Management and Organizational Practices Survey-Hospitals (MOPS–HP) in order to provide critical information on the health sector to our many stakeholders in support of our mission to serve as ''the leading source of quality data about the nation's people and economy.'' The MOPS–HP will collect information on the use of structured management practices from Chief Nursing Officers (CNOs) at approximately 3,200 hospitals with the goal of producing four publicly available indices that measure key characteristics of these structured management practices. The proposed MOPS–HP will be collected for reference years 2020 and 2019. Content includes performance monitoring, goals, staff management, the use of standardized clinical protocols, and medical record documentation. Some questions are adapted from the Management and Organizational Practices Survey (MOPS) (OMB Approval Number 0607–0963), conducted in the manufacturing sector, allowing for inter-sectoral comparisons.

The MOPS–HP will provide a deeper understanding of the business processes which impact an increasingly important sector of the economy; total national health expenditures represented almost 18 percent of U.S. gross domestic product in 2017 (National Center for Health Statistics). The MOPS–HP will provide a nationally representative sample, enabling stakeholders to understand the role of structured management practices in financial and clinical outcomes in U.S. hospitals. This understanding is of increasing importance with the COVID–19 pandemic, where the overwhelming number of hospitalizations at varying points has stretched staff and resources to capacity. In much the same way that the MOPS allowed for the measurement of the importance of these structured management practices for productivity and growth in the manufacturing sector, the MOPS–HP will inform our understanding of hospitals. Questions developed and tested for the MOPS–HP instrument are adapted from the 2015 MOPS and the 2009 World Management Survey's (WMS) healthcare instrument. The Census Bureau conducted the MOPS in 2010 and 2015 with approximately 35,000 manufacturing plants to measure management practices. These data show that management practices are strongly correlated with plant profitability and productivity. The WMS has collected

data on 20 basic management practices for approximately 2,000 hospitals in nine countries, including 307 in the U.S. Interviewers ask open-ended questions and rate responses to indicate whether the management practices are more or less structured. Data from the WMS show large variations in these practices and their systematic relationship with clinical outcomes such as mortality rates from heart attacks.

The COVID–19 pandemic highlights the relevance of hospital management practices, especially as they relate to hospitals' ability to respond to shocks to their organization and the health care system. In light of this, the Census Bureau has modified the survey proposal to collect data for reference years 2020 and 2019. This change seeks to directly measure management practices and protocols before and during the pandemic to gain a better understanding of how hospitals have had to adjust and pivot operations during this public health emergency. The Census Bureau has also included two questions in the MOPS–HP content to help improve measurement of hospital preparedness. These questions will provide information on two elements of responsiveness, hospitals' coordinated deployment of frontline clinical workers and hospitals' ability to quickly respond to needed changes in standardized clinical protocols. In an effort to limit respondent burden while adding this content, adjustments were made to keep the total number of questions and estimated burden per response unchanged.

The MOPS–HP will be a supplement to the Service Annual Survey (SAS) and will utilize a subset of its mail-out sample. Its sample will consist of hospital locations for enterprises classified under General Medical and Surgical Hospitals (NAICS 6221) and sampled in the SAS. The survey will be mailed separately from the SAS and collected electronically through the Census Bureau's Centurion online reporting system. Respondents will be sent an initial letter with instructions detailing how to log into the instrument and report their information. These letters will be addressed to the location's Chief Nursing Officer (CNO). Collection is scheduled to begin in April 2021 and end in October 2021. Due to the nature of the respondents, this schedule may be impacted by the effects of COVID–19. The Census Bureau is monitoring the ongoing situation and will adjust dates as necessary as the collection start date approaches as we do not want to add burden to an overly burdened sector of the economy.

The Census Bureau will produce a publicly available press release to describe the survey and discuss the results. The Census Bureau will also write at least one research paper describing the MOPS–HP collection, processing, and data findings. Conditional on quality, the Census Bureau will construct and publish in a research paper indices of management practices, which can be used in tabulations and empirical analyses for potential use by the public, clinicians, hospitals, and researchers. These indices as well as microdata will be available to approved Federal Statistical Research Data Centers (FSRDC) users and will provide benefits to other Federal agencies and the public.

Examining factors that impact clinical and financial outcomes is essential to understanding the health care industry, which makes up a large portion of the U.S. economy. The MOPS–HP will provide unique national-level estimates on management and organizational practices in hospitals that could improve our understanding of the hospital industry:

- The Centers for Medicare and Medicaid Services' Hospital Compare data or the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) survey could be used in conjunction with the MOPS–HP to determine whether hospitals with more structured management practices have higher overall patient ratings and are more likely to be recommended.
- The National Hospital Care Survey from the National Center for Health Statistics could be used in combination with the MOPS–HP's index to evaluate how management practices relate to hospital utilization and patient care.
- Data from the Surveys on Patient Safety Culture-Hospital Survey from the Agency for Healthcare Research and Quality could be used to study whether hospitals with more structured management practices have fewer patient safety events.
- Policymakers could use the data to understand how management and organizational practices are evolving in hospitals, which can help understand changes in the industry. The Census Bureau plans to use the data collected from the MOPS–HP's questions on medical record documentation to construct an index measuring the management of multiple objectives—clinical and financial—that would inform policymakers concerned with both aspects of hospital performance. By examining any links between the survey's measures of management practices and clinical outcomes, the survey may help to inform policymakers and to encourage practices that are beneficial to patients and our population as a whole.
- Hospital administrators could utilize planned public indices to benchmark their own practices, and subsequently make decisions or set policies to improve their financial and clinical outcomes.
- The MOPS–HP data could be used in combination with the Census Bureau's collected data on hospital finances, including revenues and expenses, to improve our understanding on how management practices may impact financial performance.
- In a letter of support, the Bureau of Economic Analysis (BEA) expressed their interest in the MOPS–HP and noted that it will help aid their mission to promote ''. . . a better understanding of the U.S. economy . . .'' The letter states that the MOPS–HP will ''fill a critical gap in our current understanding of how management systems affect patient health outcomes and healthcare expenditures.''

Affected Public: Business or other for-profit organizations; Not-for-profit institutions.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: The Census Bureau will conduct the MOPS–HP on a mandatory basis under authority of Title 13, United States Code, Sections 131, 182, 224, and 225.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering the title of the collection.

Sheleen Dumas,

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

[FR Doc. 2021–04190 Filed 2–26–21; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–64–2020]

Foreign-Trade Zone (FTZ) 106—Oklahoma City, Oklahoma; Authorization of Production Activity; Miraclon Corporation (Flexographic/Aluminum Printing Plates and Direct/Thermo Imaging Layer Film); Weatherford, Oklahoma

On October 27, 2020, Miraclon Corporation submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 106F, in Weatherford, Oklahoma.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (85 FR 70580, November 5, 2020). On February 24, 2021, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: February 24, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–04102 Filed 2–26–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–13–2021]

Foreign-Trade Zone (FTZ) 72—Indianapolis, Indiana; Notification of Proposed Production Activity; XPO Logistics (Wearable Electronic Communication/Data Device Kitting); Clayton, Indiana

XPO Logistics (XPO) submitted a notification of proposed production activity to the FTZ Board for its facility in Clayton, Indiana. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 18, 2021.

The XPO facility is located within FTZ 72. The facility is used for the kitting of wearable electronic communication/data devices with watch bands of various materials. 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 XPO 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, XPO would be able to choose the duty rate during customs entry procedures that applies to wearable electronic communication/data devices (duty-free). XPO 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 wearable electronic communication/data devices and watch bands of leather, steel, silicon and woven nylon textile material (duty rate ranges from duty-free to 11.2%). The request indicates that certain materials/components are subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is April 12, 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.*

Dated: February 24, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–04103 Filed 2–26–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–12–2021]

Foreign-Trade Zone (FTZ) 5—Seattle, Washington; Notification of Proposed Production Activity; Juno Therapeutics, Inc. (Biopharmaceuticals); Bothell, Washington

Juno Therapeutics, Inc. (Juno) submitted a notification of proposed production activity to the FTZ Board for its facility in Bothell, Washington. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 12, 2021.

A separate application has been submitted for FTZ designation at the company's facility under FTZ 5. The facility is used for the production of cell therapy products. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status material 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 Juno from customs duty payments on the foreign-status material used in export production. On its domestic sales, for the foreign-status material noted below, Juno would be able to choose the duty rate during customs entry procedures that applies to cell therapy products (duty-free). Juno would be able to avoid duty on foreign-status material which becomes scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment. The material sourced from abroad is human primary cells (''T-cells'') (duty-free).

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 12, 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 22, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–04104 Filed 2–26–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD

Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (Commerce) conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. Commerce invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, Commerce finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of a review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to a review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to: (a) Identify which companies subject to review previously were collapsed; and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete a Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of a proceeding where Commerce considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[1] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial Section D responses.

Opportunity to Request a Review: Not later than the last day of March 2021,[2] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in March for the following periods:

	Period
Antidumping Duty Proceedings	
AUSTRALIA: Certain Uncoated Paper, A–602–807	3/1/20–2/28/21
BELGIUM: Acetone, A–423–814	9/24/19–2/28/21
BRAZIL: Certain Uncoated Paper, A–351–842	3/1/20–2/28/21
CANADA: Iron Construction Castings, A–122–503	3/1/20–2/28/21

[1] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[2] Or the next business day, if the deadline falls on a weekend, Federal holiday or any other day when Commerce is closed.

	Period
FRANCE: Brass Sheet & Strip, A–427–602	3/1/20–2/28/21
GERMANY: Brass Sheet & Strip, A–428–602	3/1/20–2/28/21
INDIA: Large Diameter Welded Pipe, A–533–881	3/1/20–2/28/21
Off-The-Road Tires, A–533–869	3/1/20–2/28/21
Sulfanilic Acid, A–533–806	3/1/20–2/28/21
INDONESIA: Certain Uncoated Paper, A–560–828	3/1/20–2/28/21
ITALY: Brass Sheet & Strip, A–475–601	3/1/20–2/28/21
PORTUGAL: Certain Uncoated Paper, A–471–807	3/1/20–2/28/21
REPUBLIC OF KOREA: Acetone, A–580–899	9/24/19–2/28/21
RUSSIA: Silicon Metal, A–821–817	3/1/20–2/28/21
SOUTH AFRICA: Acetone, A–791–824	9/24/19–2/28/21
Carbon and Alloy Steel Wire Rod, A–791–823	3/1/20–2/28/21
TAIWAN: Light-Walled Rectangular Welded Carbon Steel Pipe and Tube, A–583–803	3/1/20–2/28/21
THAILAND: Circular Welded Carbon Steel Pipes and Tubes, A–549–502	3/1/20–2/28/21
THE PEOPLE'S REPUBLIC OF CHINA: Ammonium Sulfate, A–570–049	3/1/20–2/28/21
Amorphous Silica Fabric, A–570–038	3/1/20–2/28/21
Certain Biaxial Integral Geogrid Products, A–570–036	3/1/20–2/28/21
Certain Carbon and Alloy Steel Cut-To-Length Plate, A–570–047	3/1/20–2/28/21
Certain Plastic Decorative Ribbon, A–570–075	3/1/20–2/28/21
Circular Welded Austenitic Stainless Pressure Pipe, A–570–930	3/1/20–2/28/21
Glycine, A–570–836	3/1/20–2/28/21
Large Diameter Welded Pipe, A–570–077	3/1/20 –2/28/21
Sodium Hexametaphosphate, A–570–908	3/1/20–2/28/21
Certain Tissue Paper Products, A–570–894	3/1/20–2/28/21
Certain Uncoated Paper, A–570–022	3/1/20–2/28/21
UKRAINE: Carbon and Alloy Steel Wire Rod, A–823–816	3/1/20–2/28/21
Countervailing Duty Proceedings	
INDIA: Fine Denier Polyester Staple Fiber, C–533–876	1/1/20–12/31/20
Large Diameter Welded Pipe, C–533–882	1/1/20–12/31/20
Off-The-Road Tires, C–533–870	1/1/20–12/31/20
Sulfanilic Acid, C–533–807	1/1/20–12/31/20
INDONESIA: Certain Uncoated Paper, C–560–829	1/1/20–12/31/20
IRAN: In-Shell Pistachios, C–507–501	1/1/20–12/31/20
THE PEOPLE'S REPUBLIC OF CHINA: Ammonium Sulfate, C–570–050	1/1/20–12/31/20
Amorphous Silica Fabric, C–570–039	1/1/20–12/31/20
Certain Biaxial Integral Geogrid Products, C–570–037	1/1/20–12/31/20
Certain Carbon and Alloy Steel Cut-To-Length Plate, C–570–048	1/1/20–12/31/20
Certain Plastic Decorative Ribbon, C–570–076	1/1/20–12/31/20
Circular Welded Austenitic Stainless Pressure Pipe, C–570–931	1/1/20–12/31/20
Fine Denier Polyester Staple Fiber, C–570–061	1/1/20–12/31/20
Large Diameter Welded Pipe, C–570–078	1/1/20–12/31/20
Certain Uncoated Paper, C–570–023	1/1/20–12/31/20
TURKEY: Circular Welded Carbon Steel Pipes and Tubes, C–489–502	1/1/20–12/31/20

Suspension Agreements

None.

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party Commerce was unable to locate in prior segments, Commerce will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), Commerce clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[3]

Commerce no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an antidumping duty administrative

[3] *See* the Enforcement and Compliance website at *https://legacy.trade.gov/enforcement/.*

reviews.[4] Accordingly, the NME entity will not be under review unless Commerce specifically receives a request for, or self-initiates, a review of the NME entity.[5] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, Commerce will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an antidumping administrative review when there is no review requested of the NME entity, Commerce will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS website at *https://access.trade.gov.*[6] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[7]

Commerce will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of March 2021. If Commerce does not receive, by the last day of March 2021, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, Commerce will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: February 18, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–04133 Filed 2–26–21; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[5] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[6] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[7] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 41363 (July 10, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–092]

Mattresses From the People's Republic of China: Preliminary Intent To Rescind the 2020 Antidumping Duty New Shipper Review

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

SUMMARY: The Department of Commerce (Commerce) preliminarily finds that Shanghai Sunbeauty Trading Co., Ltd. (Sunbeauty) did not make a *bona fide* sale during the period of review (POR). Therefore, we preliminarily determine to rescind this new shipper review (NSR).

DATES: Applicable March 1, 2021.

FOR FURTHER INFORMATION CONTACT: Jesse Montoya, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8211.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 2020, Commerce published a notice of initiation of a new shipper review of the antidumping duty order on mattresses from the People's Republic of China (China).[1] Commerce subsequently issued an antidumping duty questionnaire, and supplemental questionnaires, to Sunbeauty and received timely responses. For additional background, *see* the Preliminary Decision Memorandum.[2]

Scope of the Order

The merchandise covered by the order are all types of youth and adult mattresses from China. The products subject to the order are currently properly classifiable under Harmonized Tariff Schedule for the United States (HTSUS) subheadings: 9404.21.0010, 9404.21.0013, 9404.29.1005, 9404.29.1013, 9404.29.9085, and 9404.29.9087. Products subject to this order may also enter under HTSUS subheadings: 9404.21.0095, 9404.29.1095, 9404.29.9095, 9401.40.0000, and 9401.90.5081. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this order is dispositive. For a complete description of the scope of the order, *see* the Preliminary Decision Memorandum.[3]

Methodology

Commerce is conducting this review in accordance with section 75l(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of sections in the Preliminary Decision Memorandum is attached in the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://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 Preliminary Decision

[1] *See Mattresses from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review,* 85 FR 46069 (July 31, 2020).

[2] *See* Memorandum, ''Decision Memorandum for the Preliminary Intent to Rescind the 2020 Antidumping Duty New Shipper Review of Mattresses from the People's Republic of China,'' issued concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[3] *Id.*

Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Preliminary Intent To Rescind the Antidumping Duty New Shipper Review

As discussed in the *Bona Fide* Sales Analysis Memorandum,[4] Commerce preliminarily finds Sunbeauty did not make a *bona fide* sale during the POR.[5] Commerce reached this conclusion based on the totality of the circumstances, including, among other things, the sale price and quantity. Because Sunbeauty did not make any *bona fide* sales during the POR, we preliminarily determine to rescind this review.[6] Because the factual information used in our *bona fides* analysis of Sunbeauty's sale involves business proprietary information, a full discussion of our analysis is in the proprietary *Bona Fide* Sales Analysis Memorandum.

Public Comment

Interested parties are invited to comment on the preliminary results of this review. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs.[7] Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each brief: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[8] Executive summaries should be limited to five pages total, including footnotes.[9] All submissions, with limited exceptions, must be filed electronically using ACCESS.[10] Electronically filed comments must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[11]

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. If a hearing is requested, Commerce will notify interested parties of the hearing date and time to be determined. Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of hearing participants; and (3) a list of the issues to be discussed in the hearing. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.

Commerce intends to issue the final results of this review, which will include the results of its analysis of issues raised in any briefs and rebuttal briefs received, no later than 90 days after the date these preliminary results of review are issued, pursuant to section 751(a)(2)(B) of the Act.

Assessment Rates

If Commerce issues a final rescission of this review, it intends to instruct U.S. Customs and Border Protection (CBP) to liquidate the relevant entry at the China-wide rate.

If Commerce does not proceed to a final rescission of this NSR, pursuant to 19 CFR 351.202(b)(1), it will calculate an importer-specific assessment rate based on the final results of this review. However, pursuant to Commerce's refinement to its assessment practice in non-market economy cases, for entries that were not reported in the U.S. sales database submitted by Sunbeauty, Commerce intends to instruct CBP to liquidate such entries at the China-wide rate.[12]

Cash Deposit Requirements

If Commerce proceeds to a final rescission of this review, the cash deposit rate will continue to be the China-wide rate for Sunbeauty because Commerce will not have determined an individual weighted-average dumping margin for Sunbeauty. If Commerce determines an individual weighted-average dumping margin for Sunbeauty, it intends to instruct CBP to collect cash deposits, effective upon the publication of the final results of review, equal to the calculated weighted-average dumping margin.

Notification to Importers

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

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: February 18, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Issues Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
V. Conclusion

[FR Doc. 2021–04175 Filed 2–26–21; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See* Memorandum, ''2020 Antidumping Duty New Shipper Review of Mattresses from the People's Republic of China: Preliminary *Bona Fide* Sales Analysis for Shanghai Sunbeauty Trading Co., Ltd.,'' dated concurrently with this notice (*Bona Fide* Sales Analysis Memorandum).

[5] The POR for this NSR is June 4, 2019, through May 31, 2020.

[6] *See* 19 CFR 351.213(d)(3).

[7] *See* 19 CFR 351.309(d)(1); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[8] *See* 19 CFR 351.309(c)(2) and (d)(2).

[9] *Id.*

[10] See 19 CFR 351.303.

[11] *See Temporary Rule.*

[12] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Review

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

Background

Every five years, pursuant to the Tariff Act of 1930, as amended (the Act), the Department of Commerce (Commerce) and the International Trade Commission automatically initiate and conduct reviews to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for April 2021

Pursuant to section 751(c) of the Act, the following Sunset Reviews are scheduled for initiation in April 2021 and will appear in that month's *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Review).

	Department contact
Antidumping Duty Proceedings	
Polyethylene Terephthalate Resin from Canada A–122–855 (1st Review)	Thomas Martin (202) 482–3936.
Polyethylene Terephthalate Resin from Oman A–523–810 (1st Review)	Thomas Martin (202) 482–3936.
Polyethylene Terephthalate Resin from India A–533–861 (1st Review)	Thomas Martin (202) 482–3936.
Polyethylene Retail Carrier Bags from Indonesia A–560–822 (2nd Review)	Mary Kolberg (202) 482–1785.
Polyethylene Retail Carrier Bags from Malaysia A–557–813 (3rd Review)	Mary Kolberg (202) 482–1785.
Polyethylene Terephthalate Resin from China A–570–024 (1st Review)	Thomas Martin (202) 482–3936.
Petroleum Wax Candles from China A–570–504 (5th Review)	Thomas Martin (202) 482–3936.
Polyethylene Retail Carrier Bags from Thailand A–549–821 (3rd Review)	Mary Kolberg (202) 482–1785.
Polyethylene Retail Carrier Bags from Vietnam A–552–806 (2nd Review)	Mary Kolberg (202) 482–1785.
Polyethylene Retail Carrier Bags from Taiwan A–583–843 (2nd Review)	Mary Kolberg (202) 482–1785.
Polyethylene Retail Carrier Bags from China A–570–886 (3rd Review)	Mary Kolberg (202) 482–1785.
Countervailing Duty Proceedings	
Polyethylene Terephthalate Resin from China C–570–025 (1st Review)	Jacqueline Arrowsmith (202) 482–5255.
Polyethylene Terephthalate Resin from India C–533–862 (1st Review)	Jacqueline Arrowsmith (202) 482–5255.
Polyethylene Retail Carrier Bags from Vietnam C–552–805 (2nd Review)	Jacqueline Arrowsmith (202) 482–5255.
Suspended Investigations	
No Sunset Review of suspended investigations is scheduled for initiation in April 2021.	

Commerce's procedures for the conduct of Sunset Review are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year (Sunset) Review* provides further information regarding what is required of all parties to participate in Sunset Review.

Pursuant to 19 CFR 351.103(c), Commerce will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact Commerce in writing within 10 days of the publication of the Notice of Initiation.

Please note that if Commerce receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue.

Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation. Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information, until further notice.[1]

This notice is not required by statute but is published as a service to the international trading community.

[1] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

Dated: February 16, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–04132 Filed 2–26–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–891]

Hand Trucks and Certain Parts Thereof From the People's Republic of China: Continuation of Antidumping Duty Order

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

SUMMARY: As a result of the determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC) that revocation of the antidumping duty order on hand trucks and certain parts thereof (hand trucks) from the People's Republic of China (China) would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the antidumping duty order.

DATES: Applicable March 1, 2021.

FOR FURTHER INFORMATION CONTACT: George McMahon or Margaret Collins, AD/CVD Operations Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1167 or (202) 482–6250, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 2004, Commerce published in the **Federal Register** the antidumping duty order on hand trucks from China.[1] On July 1, 2020, Commerce initiated, and the ITC instituted, the five-year (sunset) review of the *Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On November 4, 2020, Commerce published in the **Federal Register** the result of its third expedited sunset review of the antidumping duty order on hand trucks from China.[3] As a result of its review, Commerce determined that revocation of the *Order* would likely lead to a continuation or recurrence of dumping and, therefore,

[1] *See Notice of Antidumping Duty Order: Hand Trucks and Certain Parts Thereof from the People's Republic of China,* 69 FR 70122 (December 2, 2004) (the *Order*).

[2] *See Initiation of Five-Year (''Sunset'') Reviews,* 85 FR 39526 (July 1, 2020); *see also Hand Trucks and Certain Parts Thereof from China; Institution of a Five-Year Review,* 85 FR 39584 (July 1, 2020).

[3] *See Hand Trucks and Certain Parts Thereof from the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order,* 85 FR 70129 (November 4, 2020).

notified the ITC of the magnitude of the margins likely to prevail should the *Order* be revoked.[4]

On February 16, 2021, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the *Order* would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[5]

Scope of the Order

The merchandise subject to this *Order* consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof.

A complete or fully assembled hand truck is a hand-propelled barrow consisting of a vertically disposed frame having a handle or more than one handle at or near the upper section of the vertical frame; at least two wheels at or near the lower section of the vertical frame; and a horizontal projecting edge or edges, or toe plate, perpendicular or angled to the vertical frame, at or near the lower section of the vertical frame. The projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load. That the vertical frame can be converted from a vertical setting to a horizontal setting, then operated in that horizontal setting as a platform, is not a basis for exclusion of the hand truck from the scope of this order. That the vertical frame, handling area, wheels, projecting edges or other parts of the hand truck can be collapsed or folded is not a basis for exclusion of the hand truck from the scope of the order. That other wheels may be connected to the vertical frame, handling area, projecting edges, or other parts of the band truck, in addition to the two or more wheels located at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the order. Finally, that the band truck may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges or toe plate, and the two wheels at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the order.

Examples of names commonly used to reference hand trucks are hand truck, convertible hand truck, appliance hand truck, cylinder hand truck, bag truck, dolly, or hand trolley. They are typically imported under heading 8716.80.5010 of the Harmonized Tariff Schedule of the United States (HTSUS), although they may also be imported under heading 8716.80.5090. Specific parts of a hand truck, namely the vertical frame, the handling area and the projecting edges or toe plate, or any combination thereof, are typically imported under heading 8716.90.5060 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, Commerce's written description of the scope is dispositive.

Excluded from the scope are small two-wheel or four-wheel utility carts specifically designed for carrying loads like personal bags or luggage in which the frame is made from telescoping tubular material measuring less than 5/8 inch in diameter; hand trucks that use motorized operations either to move the hand truck from one location to the next or to assist in the lifting of items placed on the hand truck; vertical carriers designed specifically to transport golf bags; and wheels and tires used in the manufacture of hand trucks.

Excluded from the scope is a multifunction cart that combines, among others, the capabilities of a wheelbarrow and dolly. The product comprises a steel frame that can be converted from vertical to horizontal functionality, two wheels toward the lower end of the frame and two removable handles near the top. In addition to a foldable projection edge in its extended position, it includes a permanently attached steel tub or barrow. This product is currently available under proprietary trade names such as the ''Aerocart.''

Continuation of the Order

As a result of the determinations by Commerce and the ITC that revocation of the *Order* would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Order.* U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Order* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year review of the *Order* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to APO of their responsibility concerning the return, destruction, or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

Notification to Interested Parties

This five-year (sunset) review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: February 19, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–04186 Filed 2–26–21; 8:45 am]

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[4] *Id.*

[5] *See Hand Trucks and Certain Parts Thereof from China Inv. No. 731–TA–1059 (Third Review),* 86 FR 9535 (February 16, 2021); *see also* USITC Pub. 2021–03059 (February 2021).

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Decision on Application for Duty-Free Entry of Scientific Instruments, Cornell University, et al.

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). On January 27, 2021, the Department of Commerce published a notice in the **Federal Register** requesting public comment on whether instruments of equivalent scientific value, for the purposes for which the instruments identified in the docket(s) below are intended to be used, are being manufactured in the United States. *See Application(s) for Duty-Free Entry of Scientific Instruments, 86 FR 7271, January 27, 2021* (*Notice*).We received no public comments.

Docket Number: 20–010. Applicant: Cornell University, Department of Materials Science and Engineering, Carpenter Hall, 313 Campus Road, Ithaca, NY 14853. Instrument: Six-axes sample manipulator for ample resolved photoemission. Manufacturer: Fermi Instruments, China. Intended Use: See Notice at 86 FR7271, January 27, 2021. Comments: None received. Decision: Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that were being manufactured in

the United States at the time of order. Reasons: According to the applicant, the instrument will be used to fabricate on site new material and to study its electronic properties with several experimental techniques. Angle resolved photoemission (ARPES) will be the main technique, as it conveys directly most information needed on the electronic structure of the material, *e.g.,* whether it is conducting/insulating/superconducting anisotropic, close to an electronic instability, likely to undergo an electronic transition, etc. According to the applicant, this is of great importance for fundamental physics, but in a longer-term perspective, also in order to identify the potential of materials for applications, in particular in energy production, conversion and storage. The ARPES set up, as well as, the molecular beam epitaxy station for materials fabrication, will be used as a facility for internal and external users, which will have to submit proposals and apply for time to perform their experiments.

Docket Number: 20–011. Applicant: Cornell University, Department and Materials and Science Engineering, Carpenter Hall, 313 Campus Road, Ithaca, NY 14853. Instrument: Multi-gas lamp for angle-resolved photoemission. Manufacturer: Fermi, China. Intended Use: According to the applicant, the instrument will be used to fabricate on site new material and to study its electronic properties with several experimental techniques. Angle resolved photoemission (ARPES) will be the main technique, as it conveys directly most information needed on the electronic structure of the material, *e.g.,* whether it is conducting/insulating/superconducting anisotropic, close to an electronic instability, likely to undergo an electronic transition, etc. According to the applicant, this is of great importance for fundamental physics, but in a longer-term perspective, also in order to identify the potential of materials for applications, in particular, in energy production, conversion and storage. The excitation source is a key element of any photoemission setup. It provides a beam of light which is directed to the sample and causes the emission of the electrons, object of the measurement. For angle-resolved photoemission, the standard excitation source is a helium (He) gas discharge lamp, which excites He atoms and emits light caused by the de-excitation process. It is widely used in many laboratories and sold by a few companies in the world.

Docket Number: 20–012. Applicant: University of Minnesota, Department of Chemical Engineering and Materials Science, 421 Washington Avenue SE, Minneapolis MN 55455. Instrument: Spark Plasma Sintering Systems. Manufacturer: SUGA Co., Ltd., Japan. Intended Use: According to the applicant, the instrument will be used to study a variety of structural ceramic and metal materials including refractory alloys (*e.g.,* containing combinations of Nb, Ta, W, Mo, Zr, Hf, etc.,), (oxide ceramics such as $Gd_2Zr_2O_7$), ($Y_5Al_3O_{12}$), and $Y_2Si_2O_7$, and non-oxide ceramics such as SiC and Si_3N_4. The instrument will also be used to study the sintering or consolidation behavior of these materials and will be used to prepare dense specimens to be analyzed using other instruments. The research focuses on the development or materials with improved performance in extreme environments. The instrument will be used to generate dense specimens of the materials described above, which will subsequently be tested using other methods to determine their performance in oxidizing or corrosive environments. A key aspect of the investigations involved rapid consolidation in order to achieve high density while limiting grain growth associated with longer exposures to high temperature used in other sintering techniques.

Dated: February 23, 2021.

Richard Herring,

Director, Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2021–04079 Filed 2–26–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (Sunset) Reviews

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

SUMMARY: In accordance with the Tariff Act of 1930, as amended (the Act), the Department of Commerce (Commerce) is automatically initiating the five-year reviews (Sunset Reviews) of the antidumping and countervailing duty (AD/CVD) order(s) and suspended investigation(s) listed below. The International Trade Commission (the ITC) is publishing concurrently with this notice its notice of *Institution of Five-Year Reviews* which covers the same order(s) and suspended investigation(s).

DATES: Applicable March 1, 2021.

FOR FURTHER INFORMATION CONTACT: Commerce official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. For information from the ITC, contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

Commerce's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to Commerce's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with section 751(c) of the Act and 19 CFR 351.218(c), we are initiating the Sunset Review(s) of the following antidumping and countervailing duty order(s) and suspended investigation(s):

DOC case No.	ITC case No.	Country	Product	Commerce contact
A–475–059	AA1921–167	Italy	Pressure Sensitive Plastic Tape (5th Review)	Mary Kolberg (202) 482–1785.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Commerce's regulations, Commerce's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the

public on Commerce's website at the following address: *https://enforcement.trade.gov/sunset.* All submissions in these Sunset Reviews must be filed in accordance with Commerce's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), can be found at 19 CFR 351.303.

In accordance with section 782(b) of the Act, any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. Parties must use the certification formats provided in 19 CFR 351.303(g). Commerce intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), Commerce will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation. Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (APO) to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. Commerce's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[1]

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with Commerce's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, Commerce will automatically revoke the order without further review.[2]

If we receive an order-specific notice of intent to participate from a domestic interested party, Commerce's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that Commerce's information requirements are distinct from the ITC 's information requirements. Consult Commerce's regulations for information regarding Commerce's conduct of Sunset Reviews. Consult Commerce's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at Commerce.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: February 16, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–04134 Filed 2–26–21; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Pacific Islands Region Vessel and Gear Identification Requirements

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on October 28, 2020, (85 FR 68305) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Pacific Islands Region Vessel and Gear Identification Requirements.

OMB Control Number: 0648–0360.

Form Number(s): None.

Type of Request: Regular.

Number of Respondents: 484.

Average Hours per Response: 1 Hour, Vessel ID Requirements; 1 Minute, Gear ID Requirements.

Total Annual Burden Hours: 1,217.

Needs and Uses: Regulations at 50 CFR 665.16, 300.35, and 300.217 require that all U.S. vessels with Federal permits fishing for western Pacific fishery management unit species display identification markings on the vessel. Each Vessel registered for use with a permit issued under Subparts B through E and Subparts G through I of 50 CFR 665, must have the vessel's official number displayed on both sides of the deckhouse or hull, and on an appropriate weather deck. Regulations at 50 CFR 300.35 require that each vessel fishing under the South Pacific Tuna Treaty must display its international radio call sign on the hull, the deck, and on the sides of auxiliary equipment, such as skiffs and helicopters. Vessels fishing for highly migratory species in the Western and Central Pacific Fisheries Commission (WCPFC) Convention Area and in international waters must comply with the regulations at 50 CFR 300.217 requiring the display of the vessel's international radio call sign on both sides of the deckhouse or hull, and on an appropriate weather deck, unless specifically exempted. In each case, the numbers must be a specific size and in specified locations. The display of the identifying numbers aids in fishery law enforcement.

The regulations at 50 CFR 665.128, 665.228, 665.428, 665.628, and 665.804 require that certain fishing gear must be marked. In the pelagic longline fisheries, the vessel operator must

[1] *See Temporary Rule Modifying AD/CVD Service Requirements Due to* COVID–19, 85 FR 41363 (July 10, 2020).

[2] *See* 19 CFR 351.218(d)(1)(iii).

ensure that the official number of the vessel is affixed to every longline buoy and float. In the coral reef ecosystem fisheries, the vessel number must be affixed to all fish and crab traps. The marking of gear links fishing or other activity to the vessel, aids law enforcement, and is valuable in actions concerning the damage to or loss of gear, and civil proceedings.

Affected Public: Mainly small for-profit businesses and individuals.

Frequency: As required.

Respondent's Obligation: Mandatory.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0360.

Sheleen Dumas,

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

[FR Doc. 2021–04113 Filed 2–26–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA896]

Marine Mammals; File No. 23188

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that the Institute of Marine Sciences, University of California at Santa Cruz, 130 McAllister Way, Santa Cruz, CA 95060 (Responsible Party: Daniel Costa, Ph.D.), has applied for an amendment to scientific research permit No. 23188.

DATES: Written, telefaxed, or email comments must be received on or before March 1, 2021.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 23188 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 23188 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Sara Young or Shasta McClenahan, Ph.D., (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 23188 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 23188, issued on September 25, 2020 (85 FR 63524), authorizes the permit holder to conduct scientific research on northern elephant seals (*Mirounga angustirostris*) in California. The permit continues a long-term research program started in 1968 to study northern elephant seal population growth and status, reproductive strategies, behavioral and physiological adaptations for diving and fasting, general physiology and metabolism, and sensory physiology. The permit holder is requesting the permit be amended to include a new research location and increase the number of takes of juvenile elephant seals by 50 animals annually for the currently authorized activities. The increased takes will be for a comparative study of weaning weights across colonies, including the Lost Coast colony in the King Range National Conservation Area.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 24, 2021.

Amy Sloan,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–04121 Filed 2–26–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA869]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Site Characterization Surveys off the Coast of Massachusetts

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from Mayflower Wind Energy LLC (Mayflower) for authorization to take marine mammals incidental to site characterization surveys off the coast of Massachusetts in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0521) and along a potential submarine cable route to landfall at Falmouth, Massachusetts. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments must be received by March 31, 2021.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National

Marine Fisheries Service, and should be submitted via email to *ITP.Pauline@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427–8401. 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.

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 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which NMFS has not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

NMFS will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On October 23, 2020, NMFS received a request from Mayflower for an IHA to take marine mammals incidental to site characterization surveys in the area of the Lease Area OCS–A 0521and a submarine export cable route connecting the Lease Area to landfall in Falmouth, Massachusetts. A revised application was received on December 15, 2020. NMFS deemed that request to be adequate and complete on February 1, 2021. Mayflower's request is for take of a small number of 14 species of marine mammals by Level B harassment only. Neither Mayflower nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to Mayflower for similar work (85 FR 45578; July 29, 2020) in the same Lease Area and along the same submarine cable route that is effective from July 23, 2020 through July 22, 2021. However, the surveys began on July 23, 2020 and ended on October 23, 2020. Mayflower submitted a marine mammal monitoring report and complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHA. Information regarding their monitoring results may be found in the Estimated Take section.

Description of Proposed Activity

Overview

Mayflower proposes to conduct marine site characterization surveys, including high-resolution geophysical (HRG) and geotechnical surveys, in the Lease Area and along a potential submarine cable route to landfall at Falmouth, Massachusetts.

The objective of the activities is to acquire high resolution geophysical (HRG) and geotechnical data on the bathymetry, seafloor morphology, subsurface geology, environmental/biological sites, seafloor obstructions, soil conditions, and locations of any man-made, historical or archaeological resources within the Lease Area and along the proposed export cable route corridor.

Underwater sound resulting from Mayflower's proposed activities, specifically its proposed HRG surveys, have the potential to result in incidental take of marine mammals in the form of behavioral harassment.

Dates and Duration

The total duration of HRG survey activities would be approximately 471 survey days. Each day that a survey vessel is operating counts as a single survey day. Two survey vessels operating on the same day count as two survey days. This schedule is based on 24-hour operations in the offshore, deep-water portion of the Lease Area, and 12-hour operations in shallow-water and nearshore areas of the export cable route. Some shallow-water HRG activities would occur only during daylight hours. Mayflower proposes to begin survey activities on April 1, 2021 and conclude by November 30, 2021. However, the proposed IHA would be effective for one year from the date of issuance.

Specific Geographic Region

Mayflower's survey activities would occur in the Northwest Atlantic Ocean in the Lease Area which is located approximately 20 nautical miles (38 kilometers (km)) south-southwest of Nantucket, Massachusetts and covers approximately 515 km^2. All survey efforts would occur within U.S. Federal

and state waters. Water depths in the Lease Area are approximately 38–62 meters (m). Surveys would occur within the Lease Area and along a potential submarine cable route connecting to landfall at Falmouth, MA (see Figure 1). For the purpose of this IHA, the Lease Area and export cable route are collectively referred to as the Project Area.

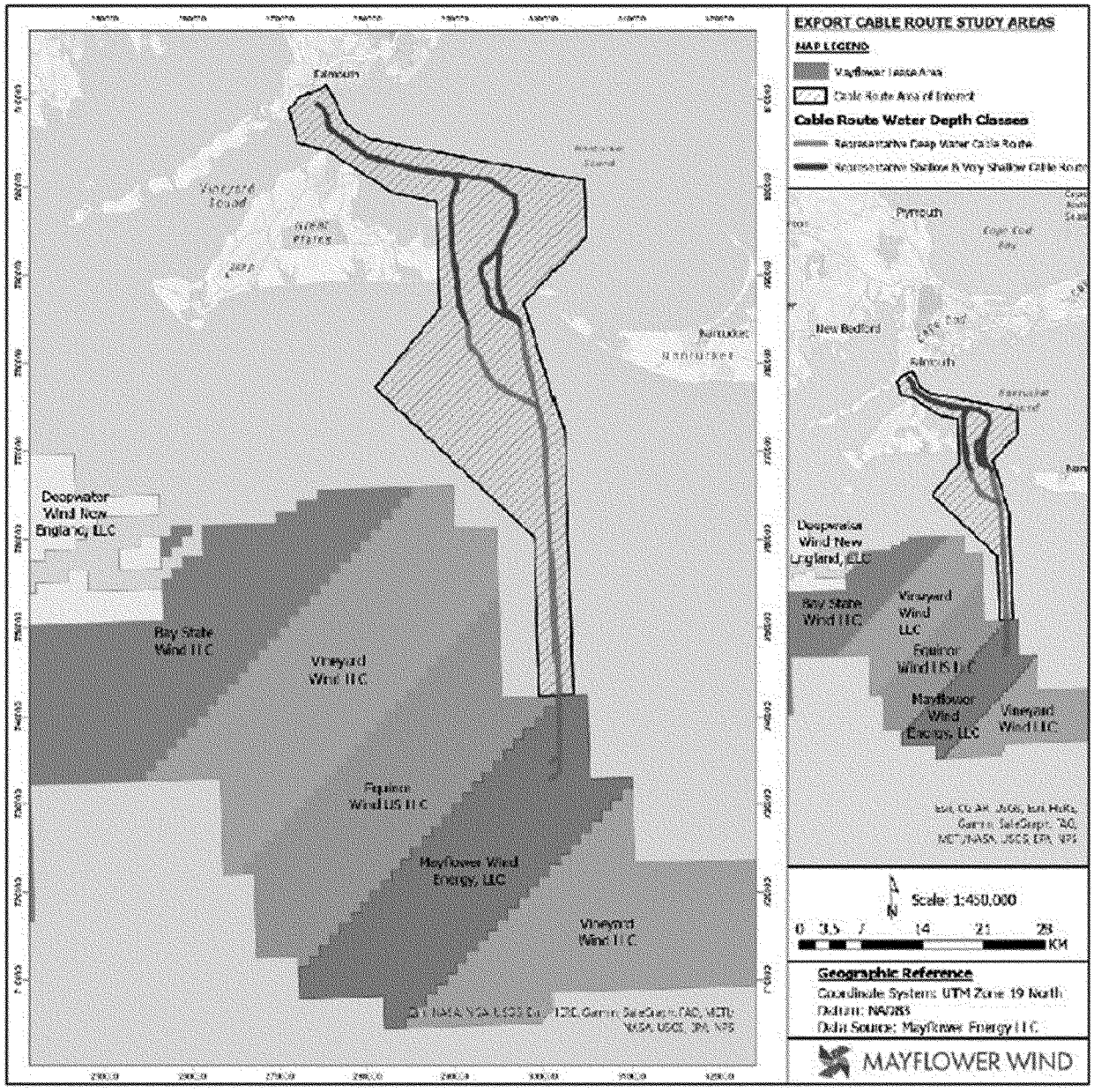

Figure 1 – Survey Area and Export Cable Route Corridor

Detailed Description of Specific Activity

Mayflower's proposed marine site characterization surveys includes the use of HRG equipment. Survey activities would occur within the Lease Area and along an export cable route between the Lease Area and Falmouth, Massachusetts. Up to four (4) HRG survey vessels may operate concurrently as part of the proposed surveys and are anticipated to spend a total of 471 survey days at sea. One vessel would be operating primarily in the Lease Area and deep-water sections of the cable route (24 hr operations), with a second vessel operating primarily in the shallow water portion of the cable route and sometimes into the deep water portion of the cable route (either daylight only operations or 24 hour operations). Up to two (2) shallow-draft vessels would work in very shallow waters (daylight only operations). Up to four additional vessels may be used to conduct geotechnical sampling activities (vibracores, seabed core penetration tests (CPTs), and boreholes) during the same period as the geophysical surveys but these activities are not expected to result in the harassment of marine mammals and will not be discussed further in this analysis.

The proposed HRG survey activities are described below.

HRG Survey Activities

For assessing potential impacts to marine mammals, the survey has been divided into two areas. The Deep-water Survey Area shows the Lease Area where wind turbine generators (WTGs) and inter-array cables will be installed as well as the deep-water section of the export cable route. The proposed survey in this area will primarily consist of 24-hour vessel operations, with some 12-hour per day vessel operations possible. The Shallow-water Survey Area includes the rest of the export cable route in shallow waters and very shallow nearshore waters. Depending on vessel availability, survey operations in the shallow water area may occur only during daylight periods or involve 24-hour survey operations. In the very shallow water areas, one or two shallow-draft (<5 m) vessels will conduct nearshore surveys operating only during daylight hours.

The linear distance (survey tracklines) and number of active sound source days for the anticipated survey activity are summarized in Table 1. The number of active sound source days was calculated by dividing the total survey trackline lengths in each area by the approximate survey distance per day anticipated to be achieved in each of the three zones shown in Table 1. The range of estimates provided for the shallow-water area result from assuming either daylight only (12-hours per day) survey operations or 24-hr per day operations.

TABLE 1—ACTIVITY DETAILS FOR 2021 MAYFLOWER HRG SURVEYS FROM APRIL 1 THROUGH NOVEMBER 30

Location	Approximate survey trackline [1] (km)	Approximate survey distance per day (km)	Active sound source days
Lease Area and deep-water section of the cable route	7,000	80	88
Shallow-water section of the cable route	3,250	30–60	55–109
Very shallow cable route	4,100	15	274
Total	14,350	.....	417–471

Some of the sources used during the planned surveys produce sounds that are audible to marine mammals and, therefore, may be detected by marine mammals (MacGillivray *et al.* 2014). Multiple factors related to source signal characteristics (*e.g.,* beamwidth) determine the likelihood of detection and, given detection, the likelihood that receipt of the signal would elicit a response to the degree that Level B harassment occurs. A geophysical survey contractor(s) has not yet been selected to conduct this work, so the exact equipment to be used is currently unknown. However, potential contractors provided representative sound-generating equipment that may be used during the survey activities. The survey activities proposed by Mayflower with acoustic source types that could result in take of marine mammals include the following.

- Shallow penetration, non-impulsive, non-parametric sub-bottom profilers (SBPs, also known as CHIRPs) are used to map the near-surface stratigraphy (top 0 to 10 m) of sediment below seabed. A CHIRP system emits signals covering a frequency sweep from approximately 0.01 to 1.9 kHz over time. The frequency range can be adjusted to meet project variables.
- Medium penetration, impulsive sources (boomers, sparkers) are used to map deeper subsurface stratigraphy as needed. A boomer is a broad-band sound source operating in the 3.5 Hz to 10 kHz frequency range. Sparkers are used to map deeper subsurface stratigraphy as needed. Sparkers create acoustic pulses from 50 Hz to 4 kHz omni-directionally from the source.

Operation of the following survey equipment types is not reasonably expected to result in take of marine mammals for and will not be carried forward in the application analysis beyond the brief summaries provided below.

- Non-impulsive, parametric SBPs are used for providing high data density in sub-bottom profiles that are typically required for cable routes, very shallow water, and archaeological surveys. They have a narrow beamwidth which significantly reduces the impact range of the source while the high frequencies of the source are rapidly attenuated in sea water. Because of the high frequency of the source and narrow bandwidth, parametric SBPs produce small Level B harassment isopleths. No Level B harassment exposures should be reasonably expected from the operation of these sources.
- Ultra-short baseline (USBL) positioning systems are used to provide high accuracy ranges by measuring the time between the acoustic pulses transmitted by the vessel transceiver and a transponder (or beacon) necessary to produce the acoustic profile. USBLs have been shown to produce extremely small acoustic propagation distances in their typical operating configuration. Based on this information, no Level B harassment exposures should be reasonably expected from the operation of these sources.
- Multibeam echosounders (MBESs) are used to determine water depths and general bottom topography. The proposed MBESs all have operating frequencies >180 kHz, and are therefore outside the general hearing range of marine mammals likely to occur in the Project Area and are not likely to affect these species.
- Side scan sonars (SSS) are used for seabed sediment classification purposes and to identify natural and man-made acoustic targets on the seafloor. The proposed SSSs all have operating frequencies >180 kHz, and are therefore outside the general hearing range of marine mammals likely to occur in the Project Area and are not likely to affect these species.

Table 2 identifies the representative survey equipment that may be used in support of planned HRG survey activities that operate below 180 kilohertz (kHz) (*i.e.,* at frequencies that are audible to and therefore may be detected by marine mammals) and have the potential to cause acoustic harassment to marine mammals. The make and model of the listed geophysical equipment may vary depending on availability and the final equipment choices will vary depending upon the final survey design, vessel availability, and survey contractor selection. Geophysical surveys are expected to use several equipment types concurrently in order to collect multiple aspects of geophysical data along one transect. Selection of equipment combinations is based on specific

survey objectives. Source levels for all equipment listed in Table 2 came from Crocker and Fratantonio (2016). Detailed explanations of source specification are found in Table 7 in Appendix A in the IHA application.

TABLE 2—SUMMARY OF HRG SURVEY EQUIPMENT PROPOSED FOR USE THAT COULD RESULT IN TAKE OF MARINE MAMMALS

Specific HRG equipment	Operating frequency range (kHz)	Source level (dB rms)	Beamwidth (degrees)	Typical pulse duration (ms)	Pulse repetition rate (Hz)
Sparker:					
Geomarine Geo-Spark 400 tip 800 J system	0.01–1.9	203	180	3.4	2
Applied Acoustics Dura-Spark UHD 400 tips, up to 800 J	0.01–1.9	203	180	3.4	2
Boomer:					
Applied Acoustics S-Boom Triple Plate	0.01–5	205	61	0.6	3
Applied Acoustics S-Boom	0.01–5	195	98	0.9	3
Sub-bottom Profiler:					
Edgetech 3100 with SB–2–16S towfish	2–16	179	51	9.1	10
Edgetech DW–106	1–6	176	66	14.4	10
Teledyne Benthos Chirp III—towfish	2–7	199	82	5.8	10
Knudson Pinger SBP	15	180	71	4	2

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 3 lists all species or stocks for which take is expected and proposed to be authorized for this action, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, NMFS follows Committee on Taxonomy (2020). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS'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 Project Area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Atlantic SARs. All values presented in Table 3 are the most recent available at the time of publication and are available in the 2019 Atlantic and Gulf of Mexico Marine Mammal SARs (Hayes *et al.,* 2020), available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region* and draft 2020 Atlantic and Gulf of Mexico Marine Mammal SARs available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports.*

TABLE 3—MARINE MAMMALS LIKELY TO OCCUR IN THE PROJECT AREA THAT MAY BE AFFECTED BY MAYFLOWER'S PROPOSED ACTIVITY

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenidae:						
North Atlantic right whale	*Eubalaena glacialis*	Western North Atlantic	E/D; Y	412 (0; 408; 2018)	0.89	18.6
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae*	Gulf of Maine	-/-; Y	1,393 (0; 1,375; 2016)	22	58
Fin whale	*Balaenoptera physalus*	Western North Atlantic	E/D; Y	6,820 (0.24; 5,573; 2016)	12	2.35
Sei whale	*Balaenoptera borealis*	Nova Scotia	E/D; Y	6292 (1.02; 3,098; 2016)	6.2	1.2
Minke whale	*Balaenoptera acutorostrata*	Canadian East Coast	-/-; N	21,968 (0.31; 17,002; 2016)	170	10.6
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Physeteridae:						

TABLE 3—MARINE MAMMALS LIKELY TO OCCUR IN THE PROJECT AREA THAT MAY BE AFFECTED BY MAYFLOWER'S PROPOSED ACTIVITY—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [3]
Sperm whale	*Physeter macrocephalus*	NA	E; Y	4,349 (0.28; 3,451; See SAR)	3.9	0
Family Delphinidae:						
Long-finned pilot whale	*Globicephala melas*	Western North Atlantic	-/-; N	39,215 (0.3; 30,627; See SAR).	306	21
Bottlenose dolphin	*Tursiops spp.*	Western North Atlantic Offshore.	-/-; N	62,851 (0.213; 51,914; See SAR).	519	28
Common dolphin	*Delphinus delphis*	Western North Atlantic	-/-; N	172,897 (0.21; 145,216; 2016)	1,452	399
Atlantic white-sided dolphin.	*Lagenorhynchus acutus*	Western North Atlantic	-/-; N	92,233 (0.71; 54,433; See SAR).	544	26
Risso's dolphin	*Grampus griseus*	Western North Atlantic	-/-; N	35,493 (0.19; 30,289; See SAR).	303	54.3
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Gulf of Maine/Bay of Fundy	-/-; N	95,543 (0.31; 74,034; 2016)	851	217
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals):						
Gray seal [4]	*Halichoerus grypus*	Western North Atlantic	-/-; N	27,131 (0.19; 23,158, 2016)	1,389	4,729
Harbor seal	*Phoca vitulina*	Western North Atlantic	-/-; N	75,834 (0.15; 66,884, 2012)	2,006	350

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region/.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] Potential biological removal, 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 size (OSP). Annual M/SI, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI values often cannot be determined precisely and is in some cases presented as a minimum value.

[4] NMFS stock abundance estimate applies to U.S. population only, actual stock abundance is approximately 505,000.

As indicated above, all 14 species (with 14 managed stocks) in Table 3 temporally and spatially co-occur with the proposed activity to the degree that take is reasonably likely to occur, and NMFS has proposed authorizing it. All species that could potentially occur in the proposed survey areas are included in Table 5 of the IHA application. However, the temporal and/or spatial occurrence of several species listed in Table 5 in the IHA application is such that take of these species is not expected to occur. The blue whale (*Balaenoptera musculus*), Cuvier's beaked whale (*Ziphius cavirostris*), four species of Mesoplodont beaked whale (*Mesoplodon* spp.), dwarf and pygmy sperm whale (*Kogia sima* and *Kogia breviceps*), and striped dolphin (*Stenella coeruleoalba*), typically occur further offshore than the Project Area, while short-finned pilot whales (*Globicephala macrorhynchus*) and Atlantic spotted dolphins (*Stenella frontalis*) are typically found further south than the Project Area (Hayes *et al.,* 2020). There are stranding records of harp seals (*Pagophilus groenlandicus*) in Massachusetts, but the species typically occurs north of the Project Area and appearances in Massachusetts usually occur between January and May, outside of the proposed survey dates (Hayes *et al.,* 2020). As take of these species is not anticipated as a result of the proposed activities, these species are not analyzed further.

A description of the marine mammals for which take is likely to occur may be found in the documents supporting Mayflower's previous IHA covering the Lease Area and potential submarine cable routes (85 FR 45578; July 29, 2020), the same geographic areas where Mayflower has proposed activities for this IHA. The most recent draft SARs data has been included in Table 3. The only other notable changes from the previous IHA pertain to updated Unusual Mortality Event (UME) data for North Atlantic right whales, humpback whales, minke whales, and pinnipeds.

At the time of the issuance of the previous IHA to Mayflower 85 FR 45578; July 29, 2020), 30 North Atlantic right whales have been recorded as confirmed dead or stranded. As of January 21, 2021, the number has increased to 32. Humpback whale mortalities have increased from 111 to 145 and minke whale mortalities increased from 79 to 103 cases over the same time period. The number of recorded pinniped mortalities has not been updated since issuance of Mayflower's previous IHA and remains at 3,152 cases.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, in 2018 NMFS published a *Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing* which described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen

based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 4.

TABLE 4—MARINE MAMMAL HEARING GROUPS (NMFS, 2018)

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth *et al.,* 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Fourteen marine mammal species (12 cetacean and two pinniped (both phocid) species) have the reasonable potential to co-occur with the proposed survey activities. Of the cetacean species that may be present, six are classified as low-frequency cetaceans (*i.e.,* all mysticete species), five are classified as mid-frequency cetaceans (*i.e.,* all delphinid species and the sperm whale), and one is classified as high-frequency cetaceans (*i.e.,* harbor porpoise).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

A description of the potential effects of the specified activities on marine mammals and their habitat may be found in the documents supporting Mayflower's previous IHA covering the Lease Area and potential submarine cable routes (85 FR 45578; July 29, 2020). There is no new information on potential effects which would impact our analysis.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to HRG sources. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* exclusion zones and shutdown measures), discussed in detail below in Proposed Mitigation section, Level A harassment is neither anticipated nor proposed to be authorized even in the absence of mitigation.

As described previously, no mortality is anticipated or proposed to be authorized for this activity even without the employment of mitigation measures. Below NMFS describes how the take is estimated.

Generally speaking, NMFS 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. NMFS notes that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, NMFS describes the factors considered here in more detail and present the proposed take estimate.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur permanent threshold shift (PTS) of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner NMFS considers Level B 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. Mayflower's proposed activity includes the use of intermittent sources (geophysical survey equipment), and

therefore use of the 160 dB re 1 μPa (rms) threshold is 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). Mayflower's proposed activities that could result in take by harassment include the use of impulsive and non-impulsive sources.

Predicted distances to Level A harassment isopleths, which vary based on marine mammal functional hearing groups were calculated. The updated acoustic thresholds for impulsive and non-impulsive sounds (such as HRG survey equipment) contained in the Technical Guidance (NMFS, 2018) were presented as dual metric acoustic thresholds using both SEL_{cum} and peak sound pressure level metrics. As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.,* metric resulting in the largest isopleth). The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group.

These thresholds are provided in Table 5 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 5—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa²s. 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, NMFS describes 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 proposed survey activities would entail the use of HRG equipment. The distance to the isopleth corresponding to the threshold for Level B harassment was calculated for all HRG equipment with the potential to result in harassment of marine mammals. NMFS has developed methodology for determining the rms sound pressure level (SPL_{rms}) at the 160-dB isopleth for the purposes of estimating take by Level B harassment resulting from exposure to HRG survey equipment. This methodology incorporates frequency and some directionality to refine estimated ensonified zones. Mayflower used the methods specified in the interim methodology. For sources that operate with different beam widths, the maximum beam width was used. The lowest frequency of the source was used when calculating the absorption coefficient. The formulas used to apply the methodology are described in detail in Appendix A of the IHA application.

NMFS considers the data provided by Crocker and Fratantonio (2016) to represent the best available information on source levels associated with HRG equipment and therefore recommends that source levels provided by Crocker and Fratantonio (2016) be incorporated in the method described above to estimate isopleth distances to the Level B harassment threshold. Table 2 shows the HRG equipment types that may be used during the proposed surveys and the sound levels associated with those HRG equipment types.

TABLE 6—ESTIMATED DISTANCES TO LEVEL A AND LEVEL B HARASSMENT THRESHOLDS FOR THE PLANNED SURVEY EQUIPMENT

Representative system(s)	Distance (m) to Level A harassment threshold [1]					Distance to Level B harassment threshold (m)
	LFC	MFC	HFC	PPW	OPW	All marine mammals
Sparker:						
SIG ELC 820 @750 J	1	<1	[2] 4	<1	<1	141
Sub-bottom Profiler:						

TABLE 6—ESTIMATED DISTANCES TO LEVEL A AND LEVEL B HARASSMENT THRESHOLDS FOR THE PLANNED SURVEY EQUIPMENT—Continued

Representative system(s)	Distance (m) to Level A harassment threshold [1]					Distance to Level B harassment threshold (m)
	LFC	MFC	HFC	PPW	OPW	All marine mammals
Teledyne Benthos Chirp III	2	<1	57	1	<1	66
Boomer:						
Applied Acoustics S-boom @700 J ..	<1	<1	[2] 1	<1	<1	90

[1] Distances to the Level A harassment threshold based on the larger of the dual criteria (peak SPL and SEL_{cum}) are shown.
[2] Peak SPL pressure level resulted in larger isopleth than SEL_{cum}.

Modeling of distances to isopleths corresponding to the Level A harassment threshold was performed for all types of HRG equipment proposed for use with the potential to result in harassment of marine mammals. Mayflower used a model developed by JASCO to calculate distances to Level A harassment isopleths based on both the peak SPL and the SEL_{cum} metric. For the peak SPL metric, the model is a series of equations that accounts for both seawater absorption and HRG equipment beam patterns (for all HRG sources with beam widths larger than 90°, it was assumed these sources were omnidirectional). For the SEL_{cum} metric, a model was developed that accounts for the hearing sensitivity of the marine mammal group, seawater absorption, and beam width for downwards-facing transducers. Details of the modeling methodology for both the peak SPL and SEL_{cum} metrics are provided in Appendix A of the IHA application. This model entails the following steps:

1. Weighted broadband source levels were calculated by assuming a flat spectrum between the source minimum and maximum frequency, weighted the spectrum according to the marine mammal hearing group weighting function (NMFS 2018), and summed across frequency;

2. Propagation loss was modeled as a function of oblique range;

3. Per-pulse SEL was modeled for a stationary receiver at a fixed distance off a straight survey line, using a vessel transit speed of 3.5 knots and source-specific pulse length and repetition rate. The off-line distance is referred to as the closest point of approach (CPA) and was performed for CPA distances between 1 m and 10 km. The survey line length was modeled as 10 km long (analysis showed longer survey lines increased SEL by a negligible amount). SEL is calculated as $SPL + 10 \log_{10} T/15$ dB, where T is the pulse duration;

4. The SEL for each survey line was calculated to produce curves of weighted SEL as a function of CPA distance; and

5. The curves from Step 4 above were used to estimate the CPA distance to the impact criteria.

Note that in the modeling methods described above and in Appendix A of the IHA application, sources that operate with a repetition rate greater than 10 Hz were assessed with the non-impulsive (intermittent) source criteria while sources with a repetition rate equal to or less than 10 Hz were assessed with the impulsive source criteria. NMFS does not agree with this step in the modeling assessment, which results in nearly all HRG sources being classified as impulsive.

Modeled distances to isopleths corresponding to the Level A harassment threshold are very small (<1 m in most cases) for three of the four marine mammal functional hearing groups that may be impacted by the survey activities (*i.e.,* low frequency and mid frequency cetaceans, and phocid pinnipeds). Based on the extremely small Level A harassment zones for these functional hearing groups, the potential for species within these functional hearing groups to be taken by Level A harassment is considered so low as to be discountable. These three functional hearing groups encompass all but one of the marine mammal species that may be impacted by the planned activities, listed in Table 1. There is one species (harbor porpoise) within the high frequency functional hearing group that may be impacted by the planned activities. However, the largest modeled distance to the Level A harassment threshold for the high frequency functional hearing group was 57 m (Table 6) for the Chirp III. This is likely a conservative assessment given that the JASCO model treats all devices as impulsive and results in gross overestimates for non-impulsive devices. Level A harassment would also be more likely to occur at close approach to the sound source or as a result of longer duration exposure to the sound source, and mitigation measures—including a 100 m exclusion zone for harbor porpoises—are expected to minimize the potential for close approach or longer duration exposure to active HRG sources. In addition, harbor porpoises are a notoriously shy species which is known to avoid vessels. Harbor porpoises would also be expected to avoid a sound source prior to that source reaching a level that would result in injury (Level A harassment). Therefore, NMFS has determined that the potential for take by Level A harassment of harbor porpoises or any other species is so low as to be discountable and does not propose authorizing take by Level A harassment of any marine mammals.

The largest distance to the 160 dB SPL_{rms} Level B harassment threshold is expected to be 141 m from the sparkers. This distance was used as described in this section to estimate the area of water potentially exposed above the Level B harassment threshold by the planned activities.

As shown in Table 1, up to 14,350 km of survey activity may occur from April through November 2021, including turns between lines or occasional testing of equipment while not collecting geophysical data. For the purposes of calculating take, Mayflower's HRG survey activities have been split into two different areas, (1) the lease area plus the deep-water portion of the cable route, and (2) the shallow water portion of the cable route including very shallow water sections of the cable route.

Within the Lease Area and deep-water portion of the cable route, the vessel will conduct surveys at a speed of approximately 3 knots (5.6 km/hr) during mostly 24-hr operations. Allowing for weather and equipment downtime, the survey vessel is expected to collect geophysical data over an average distance of 80 km per day. Using a 160 dB SPL_{rms} threshold

distance of 141 m, the total daily ensonified area is estimated to be 22.6 km² within the Lease Area and deep-water portion of the cable route.

Along the shallow-water portion of the cable route, survey vessels will also conduct surveys at a speed of approximately 3 knots (5.6 km/hr) during either daylight only or 24-hour operations. Survey operations in very shallow water will occur only during daylight hours. Allowing for weather and equipment downtime, the survey vessels are expected to cover an average distance of approximately 30–60 km per day in shallow waters and only 15 km per day in very shallow waters. Assuming daylight only operations and 30 km per day of surveys in shallow waters results in slightly larger ensonified area estimates. Distributing the 3,250 km of survey data to be collected in shallow waters and the 4,100 km to be collected in very shallow waters across the 8-month period of anticipated activity results in approximately 13.5 and 34.2 survey days per month in shallow and very-shallow waters, respectively. Using a 160 dB SPL_{rms} threshold distance of 141 m, the total daily ensonified area in shallow waters is estimated to be 8.5 km², and in very-shallow waters 4.3 km².

Marine Mammal Occurrence

In this section NMFS provides the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Note that Mayflower submitted a marine mammal monitoring report under the previous IHA covering a period of 330 vessel days utilizing three survey vessels. A total of 415 individual marine mammals from six species were observed within the predicted Level B harassment zone while an HRG source was active. These observations included one humpback whale, two minke whales, two sei whales, three bottlenose dolphins and 405 common dolphins. There were also two unidentified seal observations. An additional 24 unidentified dolphins and one unidentified whale were observed inside the estimated Level B harassment zone but those observations could not be identified to the species level. All mitigation and monitoring requirements were followed and Mayflower did not exceed authorized take limits for any species.

Density estimates for all species within the two survey areas were derived from habitat-based density modeling results reported by Roberts *et al.* (2016, 2017, 2018, 2020). Those data provide abundance estimates for species or species guilds within 10 km x 10 km grid cells (100 km²) on a monthly or annual basis, depending on the species (but see North Atlantic right whale discussion below). The average monthly abundance for each species in each survey area was calculated as the mean value of the grid cells within each survey area in each month and then converted to density (individuals/1 km²) by dividing by 100 km² (Table 7, Table 8).The estimated monthly densities of North Atlantic right whales were based on updated model results from Roberts *et al.* (2020). These updated data for North Atlantic right whale are provided as densities (individuals/1 km²) within 5 km x 5 km grid cells (25 km²) on a monthly basis. The same GIS process described above was used to select the appropriate grid cells from each month and the monthly North Atlantic right whale density in each survey area was calculated as the mean value of the grid cells within each survey area as shown Table 7 and Table 8.

The estimated monthly density of seals provided in Roberts *et al.* (2018) includes all seal species present in the region as a single guild. Mayflower did not separate this guild into the individual species based on the proportion of sightings identified to each species within the dataset because so few of the total sightings used in the Roberts *et al.* (2018) analysis were actually identified to species (Table 7, Table 8).

For comparison purposes and to account for local variation not captured by the predicted densities provided by Roberts *et al.* (2016, 2017, 2018, 2020), Protected Species Observers (PSOs) data from Mayflower's 2020 HRG surveys were analyzed to assess the appropriateness of the density-based take calculations. To do this, the total number of individual marine mammals sighted by Protected Species Observers (PSOs) within 150 m of a sound source (rounding up from the 141-m Level B harassment distance) from April 19 through September 19, 2020, a period of 23 weeks, were summed by species or ''unidentified'' species group when sightings were not classified to the species level. As a conservative approach, all sightings were included in this calculation regardless of whether the source was operating at the time. In order to include the ''unidentified'' individuals in the species-specific calculations, the number of individuals in each unidentified species group (*e.g.,* unidentified whale) was then added to the sums of the known species within that group (*e.g.,* humpback whale, fin whale, etc.) according to the proportion of individuals within that group positively identified to the species level. With individuals from ''unidentified'' species sightings proportionally distributed among the species, Mayflower then divided the total number of individuals of each species by the number of survey weeks to calculate the average number of individuals of each species sighted within 150 m of the sound sources per week during the surveys. See section 6.4 in application for additional detail.

As described in the Dates and Duration section, Mayflower currently proposes for its survey activities to be concluded in November 2021. Note that if the proposed survey activities extend beyond November 2021, the monthly densities for the marine mammals listed below may change, potentially affecting take values. In that situation, Mayflower would need to contact NMFS to determine a path forward to ensure that they remain in compliance with the MMPA.

TABLE 7—AVERAGE MONTHLY DENSITIES FOR SPECIES THAT MAY OCCUR IN THE LEASE AREA AND ALONG THE DEEP-WATER SECTION OF THE CABLE ROUTE DURING THE PLANNED SURVEY PERIOD

Species	Estimated monthly densities (individuals/km²)							
	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
Mysticetes:								
Fin Whale *	0.0028	0.0031	0.0033	0.0033	0.0030	0.0025	0.0015	0.0013
Humpback Whale	0.0012	0.0013	0.0014	0.0011	0.0005	0.0011	0.0011	0.0005
Minke Whale	0.0016	0.0026	0.0025	0.0010	0.0007	0.0008	0.0008	0.0003
North Atlantic Right Whale *	0.0081	0.0038	0.0003	0.0000	0.0000	0.0000	0.0001	0.0006
Sei Whale *	0.0006	0.0005	0.0002	0.0001	0.0000	0.0001	0.0000	0.0000
Odontocetes:								

TABLE 7—AVERAGE MONTHLY DENSITIES FOR SPECIES THAT MAY OCCUR IN THE LEASE AREA AND ALONG THE DEEP-WATER SECTION OF THE CABLE ROUTE DURING THE PLANNED SURVEY PERIOD—Continued

Species	Estimated monthly densities (individuals/km^2)							
	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
Atlantic White-Sided Dolphin	0.0360	0.0685	0.0656	0.0465	0.0250	0.0256	0.0326	0.0357
Common Bottlenose Dolphin	0.0104	0.0118	0.0262	0.0541	0.0415	0.0517	0.0574	0.0278
Harbor Porpoise	0.0846	0.0404	0.0184	0.0122	0.0112	0.0091	0.0081	0.0197
Pilot Whales	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068
Risso's Dolphin	0.0001	0.0002	0.0002	0.0005	0.0010	0.0008	0.0003	0.0004
Short-Beaked Common Dolphin	0.0266	0.0462	0.0572	0.0623	0.1078	0.1715	0.1806	0.1214
Sperm Whale *	0.0001	0.0001	0.0001	0.0004	0.0004	0.0002	0.0002	0.0001
Pinnipeds:								
Seals (Harbor and Gray)	0.1491	0.1766	0.0262	0.0061	0.0033	0.0041	0.0059	0.0102

TABLE 8—AVERAGE MONTHLY DENSITIES FOR SPECIES THAT MAY OCCUR ALONG THE SHALLOW-WATER SECTION OF THE CABLE ROUTE DURING THE PLANNED SURVEY PERIOD

Species	Estimated monthly densities (individuals/km^2)							
	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
Mysticetes:								
Fin Whale *	0.0002	0.0003	0.0003	0.0003	0.0003	0.0003	0.0002	0.0001
Humpback Whale	0.0001	0.0000	0.0001	0.0001	0.0000	0.0001	0.0002	0.0001
Minke Whale	0.0003	0.0004	0.0002	0.0000	0.0000	0.0000	0.0000	0.0000
North Atlantic Right Whale *	0.0004	0.0001	0.0000	0.0000	0.0000	0.0000	0.0000	0.0001
Sei Whale *	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Odontocetes:								
Atlantic White-Sided Dolphin	0.0009	0.0012	0.0010	0.0006	0.0005	0.0008	0.0014	0.0011
Common Bottlenose Dolphin	0.0211	0.0377	0.2308	0.4199	0.3211	0.3077	0.1564	0.0813
Harbor Porpoise	0.0010	0.0013	0.0048	0.0023	0.0037	0.0036	0.0003	0.0214
Pilot Whales	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Risso's Dolphin	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Short-Beaked Common Dolphin	0.0003	0.0004	0.0003	0.0002	0.0006	0.0009	0.0008	0.0010
Sperm Whale *	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Pinnipeds:								
Seals (Harbor and Gray)	1.3897	1.0801	0.2496	0.0281	0.0120	0.0245	0.0826	0.5456

Take Calculation and Estimation

Here NMFS describes how the information provided above is brought together to produce a quantitative take estimate.

The potential numbers of takes by Level B harassment were calculated by multiplying the monthly density for each species in each survey area shown in Table 7 and Table 8 by the respective monthly ensonified area within each survey area. The results are shown in the ''Calculated Take'' columns of Table 9. The survey area estimates were then summed to produce the ''Total Density-based Calculated Take'' and then rounded up to arrive at the number of ''Density-based Takes'' for each species (Table 9).

To account for potential local variation in animal presence compared to the predicted densities, the average weekly number of individuals for each species observed within 150 m of the HRG survey sound sources in 2020, regardless of their operational status at the time were multiplied by the anticipated 35-week survey period in 2021. These results are shown in the ''Sightings-based Takes'' column of Table 9. The larger of the take estimates from the density-based and sightings-based methods are shown in the ''Requested Take'' column, except as noted below.

Based on the sightings data Mayflower requested authorization of 37 humpback whale, 15 minke whale, and 2,153 common dolphin takes by Level B harassment. Using the best available density data (Roberts *et al.* 2016, 2017, 2018, 2020), Mayflower requested 85 white-sided dolphin, 483 bottlenose dolphin, 61 harbor porpoise takes by Level B harassment. NMFS agrees with Mayflower requests and proposes to authorize take of these species in the numbers requested.

For five species, North Atlantic right whale, sei whale, pilot whales, Risso's dolphin, and sperm whale the Requested Take column reflects a rounding up of three times the mean group size calculated from survey data in this region (Kraus *et al.* 2016; Palka *et al.* 2017). Mayflower requested that three times the average group size be used rather than a single group size to account for more than one chance encounter with these species during the surveys. NFMS concurred with this assessment and, therefore, proposes the authorization of 9 North Atlantic right whale, 6 fin whale, 6 sei whale, 27 pilot whale, 18 Risso's dolphin, and 6 sperm whale takes by Level B harassment.

The requested number of takes by Level B harassment as a percentage of the ''best available'' abundance estimates provided in the NMFS Stock Assessment Reports (Hayes *et al.* 2020) are also provided in Table 9. For the seal guild, the estimated abundance for both gray and harbor seals was summed in Table 9. Mayflower requested and NMFS proposes to authorize 989 incidental takes of harbor and gray seal by Level B harassment.

Bottlenose dolphins encountered in the survey area would likely belong to the Western North Atlantic Offshore Stock (Hayes *et al.* 2020). However, it is possible that a few animals encountered during the surveys could be from the North Atlantic Northern Migratory Coastal Stock, but they generally do not

range farther north than New Jersey. Also, based on the distributions described in Hayes *et al.* (2020), pilot whale sightings in the survey area would most likely be long-finned pilot whales, although short-finned pilot whales could be encountered in the survey area during the summer months.

For North Atlantic right whales, the implementation of a 500 m exclusion zone means that the likelihood of an exposure to received sound levels greater than 160 dB SPL_{rms} is very low. In addition, most of the survey activity will take place during the time of year when right whales are unlikely to be present in this region. Nonetheless, it is possible that North Atlantic right whales could occur within 500 m of the vessel without first being detected by a PSO, so Mayflower requested and NMFS proposes to authorize take consistent with other species (*i.e.* three times average group size).

TABLE 9—NUMBER OF LEVEL B HARASSMENT TAKES PROPOSED AND PERCENTAGES OF EACH STOCK ABUNDANCE

Species	Density-based take by survey region		Total density-based calculated takes	Density-based takes	Sightings-based takes	Requested take	Abundance NMFS	Percent of NMFS stock abundance
	Lease area & deep water cable route	Shallow water cable						
Fin Whale *	5.1	0.5	5.7	6	2	6	3,006	0.2
Humpback Whale	2.0	0.2	2.2	3	37	37	1,396	2.7
Minke Whale	2.5	0.3	2.8	3	15	15	2,591	0.6
North Atlantic Right Whale*	3.2	0.2	3.4	4	0	9 [1]	428	2.1
Sei Whale *	0.4	0.0	0.4	1	0	6 [1]	28	21.4
Atlantic White-Sided Dolphin	83.0	2.0	85.0	85	0	85	31,912	0.3
Common Bottlenose Dolphin	69.5	413.0	482.5	483	64	483	62,851	0.8
Harbor Porpoise	50.4	10.1	60.5	61	0	61	75,079	0.1
Pilot Whales	13.4	0.0	13.5	14	18	27 [1]	68,139	0.0
Risso's Dolphin	0.8	0.0	0.8	1	0	18 [1]	35,493	0.1
Short-Beaked Common Dolphin	191.4	1.2	192.6	193	2,153	2,153	80,227	2.7
Sperm Whale *	0.4	0.0	0.4	1	0	6 [1]	4,349	0.1
Seals (Harbor and Gray)	94.4	894.2	988.6	989	154	989	102,965	1.0

* Denotes species listed under the Endangered Species Act.
[1] Value reflects a rounding up of three (3) times the mean group size calculated from survey data in this region.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS carefully considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, and impact on operations.

Marine Mammal Exclusion Zones and Harassment Zones

NMFS proposes the following mitigation measures be implemented during Mayflower's proposed marine site characterization surveys.

Marine mammal exclusion zones (EZ) would be established around the HRG survey equipment and monitored by PSOs during HRG surveys as follows:

- A 500-m EZ would be required for North Atlantic right whales during use of all acoustic sources; and
- 100 m EZ for all marine mammals, with certain exceptions specified below, during operation of impulsive acoustic sources (boomer and/or sparker).

If a marine mammal is detected approaching or entering the EZs during the HRG survey, the vessel operator would adhere to the shutdown procedures described below to minimize noise impacts on the animals. These stated requirements will be included in the site-specific training to be provided to the survey team.

Pre-Clearance of the Exclusion Zones

Mayflower would implement a 30-minute pre-clearance period of the exclusion zones prior to the initiation of ramp-up of HRG equipment. During this period, the exclusion zone will be monitored by the PSOs, using the appropriate visual technology. Ramp-up may not be initiated if any marine mammal(s) is within its respective exclusion zone. If a marine mammal is observed within an exclusion zone during the pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting its respective exclusion zone or until an additional time period has elapsed with no further sighting (*i.e.,* 15 minutes for small odontocetes and seals, and 30 minutes for all other species).

Ramp-Up of Survey Equipment

When technically feasible, a ramp-up procedure would be used for HRG survey equipment capable of adjusting energy levels at the start or restart of survey activities. The ramp-up procedure would be used at the beginning of HRG survey activities in order to provide additional protection to marine mammals near the Project Area by allowing them to vacate the area prior to the commencement of survey equipment operation at full power.

A ramp-up would begin with the powering up of the smallest acoustic HRG equipment at its lowest practical power output appropriate for the survey. When technically feasible, the power would then be gradually turned up and other acoustic sources would be added.

Ramp-up activities will be delayed if a marine mammal(s) enters its respective exclusion zone. Ramp-up will continue if the animal has been observed exiting its respective exclusion zone or until an additional time period has elapsed with no further sighting (*i.e,* 15 minutes for small odontocetes and seals and 30 minutes for all other species).

Activation of survey equipment through ramp-up procedures may not occur when visual observation of the pre-clearance zone is not expected to be effective (*i.e.,* during inclement conditions such as heavy rain or fog).

Shutdown Procedures

An immediate shutdown of the impulsive HRG survey equipment would be required if a marine mammal is sighted entering or within its respective exclusion zone. The vessel operator must comply immediately with any call for shutdown by the Lead PSO. Any disagreement between the Lead PSO and vessel operator should be discussed only after shutdown has occurred. Subsequent restart of the survey equipment can be initiated if the animal has been observed exiting its respective exclusion zone or until an additional time period has elapsed *(i.e.,* 30 minutes for all other species).

If a species for which authorization has not been granted, or, a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the Level B harassment zone (48 m, non-impulsive; 141 m impulsive), shutdown would occur.

If the acoustic source is shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for less than 30 minutes, it may be activated again without ramp-up if PSOs have maintained constant observation and no detections of any marine mammal have occurred within the respective exclusion zones. If the acoustic source is shut down for a period longer than 30 minutes and PSOs have maintained constant observation, then pre-clearance and ramp-up procedures will be initiated as described in the previous section.

The shutdown requirement would be waived for small delphinids of the following genera: *Delphinus, Lagenorhynchus, Stenella,* and *Tursiops* and seals. Specifically, if a delphinid from the specified genera or a pinniped is visually detected approaching the vessel (*i.e.,* to bow ride) or towed equipment, shutdown is not required. Furthermore, if there is uncertainty regarding identification of a marine mammal species (*i.e.,* whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived), PSOs must use best professional judgement in making the decision to call for a shutdown. Additionally, shutdown is required if a delphinid or pinniped detected in the exclusion zone and belongs to a genus other than those specified.

Vessel Strike Avoidance

Mayflower will ensure that vessel operators and crew maintain a vigilant watch for cetaceans and pinnipeds and slow down or stop their vessels to avoid striking these species. Survey vessel crew members responsible for navigation duties will receive site-specific training on marine mammals sighting/reporting and vessel strike avoidance measures. Vessel strike avoidance measures would include the following, except under circumstances when complying with these requirements would put the safety of the vessel or crew at risk.

- Vessel operators and crews must maintain a vigilant watch for all protected species and slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any protected species. A visual observer aboard the vessel must monitor a vessel strike avoidance zone based on the appropriate separation distance around the vessel (distances stated below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.,* PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to (1) distinguish protected species from other phenomena and (2) broadly to identify a marine mammal as a right whale, other whale (defined in this context as sperm whales or baleen whales other than right whales), or other marine mammal.
- All vessels (*e.g.,* source vessels, chase vessels, supply vessels), regardless of size, must observe a 10-knot speed restriction in specific areas designated by NMFS for the protection of North Atlantic right whales from vessel strikes including seasonal management areas (SMAs) and dynamic management areas (DMAs) when in effect;
- All vessels greater than or equal to 19.8 m in overall length operating from November 1 through April 30 will operate at speeds of 10 knots or less while transiting to and from Project Area;
- All vessels must reduce their speed to 10 knots or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel.
- All vessels must maintain a minimum separation distance of 500 m from right whales. If a whale is observed but cannot be confirmed as a species other than a right whale, the vessel operator must assume that it is a right whale and take appropriate action.
- All vessels must maintain a minimum separation distance of 100 m from sperm whales and all other baleen whales.
- All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an understanding that at times this may not be possible (*e.g.,* for animals that approach the vessel).
- When marine mammals are sighted while a vessel is underway, the vessel shall take action as necessary to avoid violating the relevant separation distance (*e.g.,* attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area). If marine mammals are sighted within the relevant separation distance, the vessel must reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This does not apply to any vessel towing gear or any vessel that is navigationally constrained.
- These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.
- Members of the monitoring team will consult NMFS North Atlantic right whale reporting system and Whale Alert, as able, for the presence of North Atlantic right whales throughout survey operations, and for the establishment of a DMA. If NMFS should establish a DMA in the Lease Areas during the survey, the vessels will abide by speed restrictions in the DMA.

Project-specific training will be conducted for all vessel crew prior to the start of a survey and during any changes in crew such that all survey personnel are fully aware and understand the mitigation, monitoring, and reporting requirements. Prior to implementation with vessel crews, the

training program will be provided to NMFS for review and approval. Confirmation of the training and understanding of the requirements will be documented on a training course log sheet. Signing the log sheet will certify that the crew member understands and will comply with the necessary requirements throughout the survey activities.

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

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

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

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Proposed Monitoring Measures

Visual monitoring will be performed by qualified, NMFS-approved PSOs, the resumes of whom will be provided to NMFS for review and approval prior to the start of survey activities. Mayflower would employ independent, dedicated, trained PSOs, meaning that the PSOs must (1) be employed by a third-party observer provider, (2) have no tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements (including brief alerts regarding maritime hazards), and (3) have successfully completed an approved PSO training course appropriate for their designated task. On a case-by-case basis, non-independent observers may be approved by NMFS for limited, specific duties in support of approved, independent PSOs on smaller vessels with limited crew capacity operating in nearshore waters.

The PSOs will be responsible for monitoring the waters surrounding each survey vessel to the farthest extent permitted by sighting conditions, including exclusion zones, during all HRG survey operations. PSOs will visually monitor and identify marine mammals, including those approaching or entering the established exclusion zones during survey activities. It will be the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate.

During all HRG survey operations (*e.g.,* any day on which use of an HRG source is planned to occur), a minimum of one PSO must be on duty during daylight operations on each survey vessel, conducting visual observations at all times on all active survey vessels during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset). Two PSOs will be on watch during nighttime operations. The PSO(s) would ensure 360° visual coverage around the vessel from the most appropriate observation posts and would conduct visual observations using binoculars and/or night vision goggles and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least two hours between watches and may conduct a maximum of 12 hours of observation per 24-hour period. In cases where multiple vessels are surveying concurrently, any observations of marine mammals would be communicated to PSOs on all nearby survey vessels.

Vessels conducting HRG survey activities in very-shallow waters using shallow-draft vessels are very limited in the number of personnel that can be onboard. In such cases, one visual PSO will be onboard and the vessel captain (or crew member on watch) will conduct observations when the PSO is on required breaks. All vessel crew conducting PSO watches will receive training in monitoring and mitigation requirements and species identification necessary to reliably carry out the mitigation requirements. Given the small size of these vessels, the PSO would effectively remain available to confirm sightings and any related mitigation measures while on break.

PSOs must be equipped with binoculars and have the ability to estimate distance and bearing to detect marine mammals, particularly in proximity to exclusion zones. Reticulated binoculars must also be available to PSOs for use as appropriate based on conditions and visibility to support the sighting and monitoring of marine mammals. During nighttime operations, night-vision goggles with thermal clip-ons and infrared technology would be used. Position data would be recorded using hand-held or vessel GPS units for each sighting.

During good conditions (*e.g.,* daylight hours; Beaufort sea state (BSS) 3 or less), to the maximum extent practicable, PSOs would also conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the active acoustic sources. Any observations of marine mammals by crew members aboard any vessel associated with the survey would be relayed to the PSO team.

Data on all PSO observations would be recorded based on standard PSO collection requirements. This would include dates, times, and locations of survey operations; dates and times of observations, location and weather;

details of marine mammal sightings (*e.g.,* species, numbers, behavior); and details of any observed marine mammal behavior that occurs (*e.g.,* noted behavioral disturbances).

Proposed Reporting Measures

Within 90 days after completion of survey activities or expiration of this IHA, whichever comes sooner, a final technical report will be provided to NMFS that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, summarizes the number of marine mammals observed during survey activities (by species, when known), summarizes the mitigation actions taken during surveys (including what type of mitigation and the species and number of animals that prompted the mitigation action, when known), and provides an interpretation of the results and effectiveness of all mitigation and monitoring. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS. All draft and final marine mammal and acoustic monitoring reports must be submitted to *PR.ITP.MonitoringReports@noaa.gov* and *ITP.Pauline@noaa.gov*. The report must contain, at minimum, the following:

- PSO names and affiliations;
- Dates of departures and returns to port with port name;
- Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
- Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts;
- Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon;
- Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.,* vessel traffic, equipment malfunctions); and
- Survey activity information, such as type of survey equipment in operation, acoustic source power output while in operation, and any other notes of significance (*i.e.,* pre-clearance survey, ramp-up, shutdown, end of operations, etc.). If a marine mammal is sighted, the following information should be recorded:
- Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
- PSO who sighted the animal;
- Time of sighting;
- Vessel location at time of sighting;
- Water depth;
- Direction of vessel's travel (compass direction);
- Direction of animal's travel relative to the vessel;
- Pace of the animal;
- Estimated distance to the animal and its heading relative to vessel at initial sighting;
- Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species;
- Estimated number of animals (high/low/best) ;
- Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);
- Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
- Detailed behavior observations (*e.g.,* number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);
- Animal's closest point of approach and/or closest distance from the center point of the acoustic source;
- Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, data acquisition, other); and
- Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up, speed or course alteration, etc.) and time and location of the action.

If a North Atlantic right whale is observed at any time by PSOs or personnel on any project vessels, during surveys or during vessel transit, Mayflower must immediately report sighting information to the NMFS North Atlantic Right Whale Sighting Advisory System: (866) 755–6622. North Atlantic right whale sightings in any location may also be reported to the U.S. Coast Guard via channel 16.

In the event that Mayflower personnel discover an injured or dead marine mammal, Mayflower would report the incident to the NMFS Office of Protected Resources (OPR) and the NMFS New England/Mid-Atlantic Stranding Coordinator as soon as feasible. The report would 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.

In the unanticipated event of a ship strike of a marine mammal by any vessel involved in the activities covered by the IHA, Mayflower would report the incident to the NMFS OPR and the NMFS New England/Mid-Atlantic Stranding Coordinator as soon as feasible. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Species identification (if known) or description of the animal(s) involved;
- Vessel's speed during and leading up to the incident;
- Vessel's course/heading and what operations were being conducted (if applicable);
- Status of all sound sources in use;
- Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
- Estimated size and length of animal that was struck;
- Description of the behavior of the marine mammal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;
- Estimated fate of the animal (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and
- To the extent practicable, photographs or video footage of the animal(s).

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on

annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. NMFS also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, our analysis applies to all the species listed in Table 9 given that NMFS expects the anticipated effects of the proposed survey to be similar in nature. Where there are meaningful differences between species or stocks, as in the case of the North Atlantic right whale, they are included as separate subsections below. NMFS does not anticipate that serious injury or mortality would occur as a result from HRG surveys, even in the absence of mitigation, and no serious injury or mortality is proposed to be authorized. As discussed in the Potential Effects section, non-auditory physical effects and vessel strike are not expected to occur. NMFS expects that all potential takes would be in the form of short-term Level B harassment behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity was occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007). Even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any significant realized decrease in viability for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. As described above, Level A harassment is not expected to occur given the nature of the operations, the estimated size of the Level A harassment zones, and the required shutdown zones for certain activities—and is not proposed to be authorized.

In addition to being temporary, the maximum expected harassment zone around a survey vessel is 141 m per vessel during use of sparkers. Therefore, the ensonified area surrounding each vessel is relatively small compared to the overall distribution of the animals in the area and their use of the habitat. Feeding behavior is not likely to be significantly impacted as prey species are mobile and are broadly distributed throughout the Project Area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

Furthermore, the proposed Project Area encompasses or is in close proximity to feeding biologically important areas (BIAs) for right whales (February-April), humpback whales (March-December), fin whales (March-October), and sei whales (May-November) which were discussed in the previous IHA (85 FR 45578; July 29, 2020) Most of these feeding BIAs are extensive and sufficiently large (705 km^2 and 3,149 km^2 for right whales; 47,701 km^2 for humpback whales; 2,933 km^2 for fin whales; and 56,609 km^2 for sei whales), and the acoustic footprint of the proposed survey is sufficiently small, such that feeding opportunities for these whales would not be reduced appreciably. Any whales temporarily displaced from the parts of the BIAs that overlap with the proposed Project Area would be expected to have sufficient remaining feeding habitat available to them, and would not be prevented from feeding in other areas within the biologically important feeding habitat. In addition, any displacement of whales from the BIA or interruption of foraging bouts would be expected to be temporary in nature. Therefore, NMFS does not expect impacts to whales within feeding BIAs to affect the fitness of any large whales. Accordingly, NMFS does not anticipate impacts from the proposed survey that would impact annual rates of recruitment or survival and any takes that occur would not result in population level impacts.

There are no rookeries, mating or calving grounds known to be biologically important to marine mammals within the proposed Project Area. Furthermore, there is no designated critical habitat for any ESA-listed marine mammals in the proposed Project Area.

North Atlantic Right Whales

The status of the North Atlantic right whale population is of heightened concern and, therefore, merits additional analysis. As noted previously, elevated North Atlantic right whale mortalities began in June 2017 and there is an active UME. Overall, preliminary findings support human interactions, specifically vessel strikes and entanglements, as the cause of death for the majority of right whales. In addition to the right whale feeding BIA noted above, the proposed Project Area overlaps a migratory corridor Biologically Important Area (BIA) for North Atlantic right whales (effective March-April and November-December) that extends from Massachusetts to Florida (LeBrecque *et al.,* 2015). Off the coast of Massachusetts, this migratory BIA extends from the coast to beyond the shelf break. Due to the fact that that the proposed survey activities are temporary and the spatial extent of sound produced by the survey would be very small relative to the spatial extent of the available migratory habitat in the BIA, right whale migration is not expected to be impacted by the proposed survey. Given the relatively small size of the ensonified area, it is unlikely that prey availability would be adversely affected by HRG survey operations. Required vessel strike avoidance measures will also decrease risk of ship strike during migration; no ship strike is expected to occur during Mayflower's proposed activities. Additionally, only very limited take by Level B harassment of North Atlantic right whales has been requested and is being proposed by NMFS as HRG survey operations are required to maintain a 500 m EZ and shutdown if a North Atlantic right whale is sighted at or within the EZ. The 500 m shutdown zone for right whales is conservative, considering the Level B harassment isopleth for the most impactful acoustic source (*i.e.,* GeoMarine Geo-Source 400 tip sparker) is estimated to be 141 m, and thereby minimizes the potential for behavioral harassment of this species. As noted previously, Level A harassment is not expected due to the small PTS zones associated with HRG equipment types proposed for use.

NMFS does not anticipate North Atlantic right whales takes that would result from Mayflower's proposed activities would impact annual rates of recruitment or survival. Thus, any takes that occur would not result in population level impacts for the species.

Other Marine Mammal Species With Active UMEs

As noted in the previous IHA, there are several active UMEs occurring in the vicinity of Mayflower's proposed Project Area. Elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through Florida since January 2016. Of the cases examined, approximately half had evidence of human interaction (ship strike or entanglement). The UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or distinct population segment (DPS)) remains stable at approximately 12,000 individuals.

Beginning in January 2017, elevated minke whale strandings have occurred along the Atlantic coast from Maine through South Carolina, with highest numbers in Massachusetts, Maine, and New York. This event does not provide cause for concern regarding population level impacts, as the population abundance is greater than 20,000 whales.

Elevated numbers of harbor seal and gray seal mortalities were first observed in July 2018 and have occurred across Maine, New Hampshire, and Massachusetts. Based on tests conducted so far, the main pathogen found in the seals is phocine distemper virus, although additional testing to identify other factors that may be involved in this UME are underway. The UME does not yet provide cause for concern regarding population-level impacts to any of these stocks. For harbor seals, the population abundance is over 75,000 and annual M/SI (350) is well below PBR (2,006) (Hayes *et al.,* 2020). The population abundance for gray seals in the United States is over 27,000, with an estimated abundance, including seals in Canada, of approximately 505,000. In addition, the abundance of gray seals is likely increasing in the U.S. Atlantic EEZ as well as in Canada (Hayes *et al.,* 2020).

The required mitigation measures are expected to reduce the number and/or severity of proposed takes for all species listed in Table 9, including those with active UME's to the level of least practicable adverse impact. In particular they would provide animals the opportunity to move away from the sound source throughout the Project Area before HRG survey equipment reaches full energy, thus preventing them from being exposed to sound levels that have the potential to cause injury (Level A harassment) or more severe Level B harassment. No Level A harassment is anticipated, even in the absence of mitigation measures, or proposed for authorization.

NMFS expects that takes would be in the form of short-term Level B harassment behavioral harassment by way of brief startling reactions and/or temporary vacating of the area, or decreased foraging (if such activity was occurring)—reactions that (at the scale and intensity anticipated here) are considered to be of low severity, with no lasting biological consequences. Since both the sources and marine mammals are mobile, animals would only be exposed briefly to a small ensonified area that might result in take. Additionally, required mitigation measures would further reduce exposure to sound that could result in more severe behavioral harassment.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality or serious injury is anticipated or proposed for authorization;
- No Level A harassment (PTS) is anticipated, even in the absence of mitigation measures, or proposed for authorization;
- Foraging success is not likely to be significantly impacted as effects on species that serve as prey species for marine mammals from the survey are expected to be minimal;
- Due to the relatively small footprint of the survey activities in relation to the size of feeding BIAs for right, humpback, fin, and sei whales, the survey activities would not affect foraging success of these whale species;
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the Project Area during the planned survey to avoid exposure to sounds from the activity;
- Take is anticipated to be limited to Level B behavioral harassment consisting of brief startling reactions and/or temporary avoidance of the Project Area;
- While the Project Area is within areas noted as a migratory BIA for North Atlantic right whales, the activities would occur in such a comparatively small area such that any avoidance of the Project Area due to activities would not affect migration. In addition, mitigation measures to shutdown at 500 m to minimize potential for Level B behavioral harassment would limit any take of the species; and
- The proposed mitigation measures, including visual monitoring and shutdowns, are expected to minimize potential impacts to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

NMFS proposes to authorize incidental take of 14 marine mammal species. The total amount of takes proposed for authorization is less than 3 percent for all species and stocks authorized for take except for sei whales (less than 22 percent), which NMFS preliminarily finds are small numbers of marine mammals relative to the estimated overall population abundances for those stocks. See Table 9. Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS Greater Atlantic Regional Fisheries Office (GARFO), whenever NMFS proposes to authorize take for endangered or threatened species.

The NMFS Office of Protected Resources is proposing to authorize the incidental take of four species of marine mammals listed under the ESA: the North Atlantic right, fin, sei, and sperm whale. The OPR has requested initiation of section 7 consultation with NMFS GARFO for the issuance of this IHA. NMFS will conclude the ESA section 7 consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Mayflower for conducting marine site characterization surveys offshore of Massachusetts in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0521) and along a potential submarine cable route to landfall at Falmouth, Massachusetts for a period of one year from the date of issuance, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

Request for Public Comments

NMFS requests comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed marine site characterization surveys. NMFS also requests at this time comment on the potential Renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent Renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, one-year Renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical, or nearly identical, activities as described in the Description of Proposed Activities section of this notice is planned or (2) the activities as described in the Description of Proposed Activities section of this notice would not be completed by the time the IHA expires and a Renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed Renewal IHA effective date (recognizing that the Renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA);
- The request for renewal must include the following:

1. An explanation that the activities to be conducted under the requested Renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take); and

2. A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: February 24, 2021.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–04161 Filed 2–26–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2021–0011]

Grant of Interim Extension of the Term of U.S. Patent No. 6,953,476; Reducer®

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of interim patent term extension.

SUMMARY: The United States Patent and Trademark Office has issued an order granting a one-year interim extension of the term of U.S. Patent No. 6,953,476.

FOR FURTHER INFORMATION CONTACT: Ali Salimi by telephone at 571–272–0909; by mail marked to his attention and addressed to the Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to his attention at 571–273–0909; or by email to *ali.salimi@uspto.gov.*

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On February 19, 2021, Neovasc Medical Ltd., the patent owner of record, timely filed an application under 35 U.S.C. 156(d)(5) for a second interim extension of the term of U.S. Patent No. 6,953,476. The patent claims a catheter delivered implantable device, Reducer®. The application for patent term extension indicates that a Premarket Approval Application (PMA) P190035 was submitted to the Food and Drug Administration (FDA) on December 31, 2019.

Review of the patent term extension application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for one year as required by 35 U.S.C. 156(d)(5)(B). Because the regulatory review period will continue beyond the extended expiration date of the patent, March 27, 2021, interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No.

6,953,476 is granted for a period of one year from the extended expiration date of the patent.

Robert Bahr,

Deputy Commissioner for Patents, United States Patent and Trademark Office.

[FR Doc. 2021–04168 Filed 2–26–21; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

[Transmittal No. 20–48]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–48 with attached Policy Justification and Sensitivity of Technology.

Dated: February 23, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

February 5, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-48 concerning the Army's proposed Letter(s) of Offer and Acceptance to the NATO Communications and Information Agency (NCIA) for defense articles and services estimated to cost $65 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 20–48

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* NATO Communications and Information Agency (NCIA)

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$38 million
Other	$27 million
TOTAL	$65 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Five hundred seventeen (517) AN/PRC–158 Manpack UHF SATCOM Radio Systems

Non-MDE: Also included are crypto fill devices, man-portable ancillaries, vehicular ancillaries, deployed Headquarter ancillaries, power support, and operator and maintenance training,

and other related elements of program, technical and logistics support.

(iv) *Military Department:* Army (K4–B–VAA)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* February 5, 2021

* As defined in Section 47(6) of the Arms Export Control Act.

Policy Justification

NATO Communications and Information Agency (NCIA)—UHF SATCOM Radio Systems

The NATO Communications and Information Agency (NCIA) has requested to buy five hundred seventeen (517) AN/PRC–158 Manpack UHF SATCOM radio systems. Also included are crypto fill devices, man-portable ancillaries, vehicular ancillaries, deployed Headquarter ancillaries, power support, and operator and maintenance training, and other related elements of program, technical and logistics support. The total estimated program cost is $65 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of NATO allies and partner nations that are an important force for ensuring peace and stability in Europe.

This proposed sale will ensure NATO warfighters have access to the latest C3I systems and technologies, and will be interoperable with U.S. forces. An updated UHF TACSAT radios in the hands of NATO allies and partners will offer significant C3I capabilities at all echelons, from the operational level down to the lowest small unit tactical formation. These capabilities increase secure communication effectiveness and efficiency and enhance military decision making. NCIA will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment will not alter the basic military balance in the region.

The prime contractor will be Collins Aerospace, Cedar Rapids, IA. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will require one (1) or two (2) contractor representatives to travel to the specified NATO country to conduct the Operator and Maintenance OCONUS for a period of two (2) months.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20–48

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The UHF SATCOM terminal provides voice or data connectivity. The device itself is CCI but is not classified until it is keyed with the proper keying material to enable secure communications.

2. The highest level of information required to furnish the equipment, training, and data associated with this proposed sale is UNCLASSIFIED.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the enclosed Policy Justification. A determination has been made that the NCIA can provide the same degree of protection for the sensitive technology being released as the U.S. Government.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the NCIA.

[FR Doc. 2021–04122 Filed 2–26–21; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

[Transmittal No. 20–81]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–81 with attached Policy Justification and Sensitivity of Technology.

Dated: February 23, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

FEB 16 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-81 concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Egypt for defense articles and services estimated to cost $197 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified document provided under separate cover)

Transmittal No. 20–81

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Egypt

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$182 million
Other	$ 15 million
TOTAL	$197 million

Funding Source: Foreign Military Financing (FMF)

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Up to one hundred sixty-eight (168) RIM-116C Rolling Airframe Missiles (RAM) Block 2 Tactical Missiles

Non-MDE:

Also included are RAM Guided Missile Round Pack Tri-Pack shipping and storage containers; operator manuals and technical documentation; U.S. Government and contractor engineering, technical and logistics

support services; and other related elements of logistical and program support.

(iv) *Military Department:* Navy (EG–P–ADJ)

(v) *Prior Related Cases, if any:* EG–P–GJG

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* February 16, 2021

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Egypt—Rolling Airframe Missiles (RAM) Block 2 Tactical Missiles

The Government of Egypt has requested to buy up to one hundred sixty-eight (168) RIM-116C Rolling Airframe Missiles (RAM) Block 2 tactical missiles. Also included are RAM Guided Missile Round Pack Tri-Pack shipping and storage containers; operator manuals and technical documentation; U.S. Government and contractor engineering, technical and logistics support services; and other related elements of logistical and program support. The estimated total program cost is $197 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a Major Non-NATO Ally country that continues to be an important strategic partner in the Middle East.

The proposed sale will support the Egyptian Navy's Fast Missile Craft ships and provide significantly enhanced area defense capabilities over Egypt's coastal areas and approaches to the Suez Canal. Egypt will have no difficulty absorbing this equipment into its armed forces since Egypt already operates previously procured RAM Block 1A missiles.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Raytheon Missiles & Defense (RMD), Tucson, AZ. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this sale will not require the assignment of any U.S. or contractor representatives to Egypt.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20–81

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The RIM-116C Rolling Airframe Missile (RAM) is an autonomous (*i.e.,* ''fire and forget'') lightweight, supersonic, surface-to-air tactical missile for ship self-defense against current and evolving anti-ship cruise missile threats. Advanced technology in the RIM-116C includes dual-mode RF/IR (radio frequency/infrared) guidance with IR all-the-way capability for non-emitting threats.

2. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Government of Egypt can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Egypt.

[FR Doc. 2021–04124 Filed 2–26–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–HA–0006]

Proposed Collection; Comment Request

AGENCY: The Office of the Assistant Secretary of Defense for Health Affairs, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Health Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 30, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: The 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, docket number and title 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: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Health Agency, 7700 Arlington Blvd., Falls Church, VA 22042, ATTN: Shane Pham, (703) 275–6249.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: TRICARE Plus Enrollment/Disenrollment Application; DD–2853 and DD–2854; OMB Control Number 0720–0028.

Needs and Uses: These collected instruments serve as an application for enrollment and disenrollment in the Department of Defense's TRICARE Plus Health Plan established in accordance with Title 10 U.S.C. 1099. The information hereby provides the TRICARE contractors with the necessary data to determine beneficiary eligibility and to identify the selection of a health care option.

Affected Public: Individuals or households.

Annual Burden Hours: 386.

Number of Respondents: 3,305.

Responses per Respondent: 1.

Annual Responses: 3,305.

Average Burden per Response: 7 minutes.

Frequency: On occasion.

Dated: February 18, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–04192 Filed 2–26–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–16]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 21–16 with attached Policy Justification and Sensitivity of Technology.

Dated: February 23, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

February 17, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 21-16 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Finland for defense articles and services estimated to cost $91.2 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 21–16

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Finland

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$81.0 million
Other	$10.2 million
TOTAL	$91.2 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Twenty-Five (25) M30A2 Extended Range Guided Multiple Launch Rocket System–Alternative Warhead (ER GMLRS–AW) Pods

Ten (10) M31A2 Extended Range Guided Multiple Launch Rocket Systems—Unitary (ER GMLRS–U) Pods

Non-MDE: Also included is an ER GMLRS Materiel Release Package; Stockpile Reliability Program (SRP) support; Quality Assurance Testing (QAT) services; technical publications; U.S. Government and contractor technical and logistics support services; and other related elements of program and logistics support.

(iv) *Military Department:* Army (FI–B–VBB)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress*: February 17, 2021

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Finland—Extended Range Guided Multiple Launch Rocket System

The Government of Finland has requested to buy twenty-five (25) M30A2 Extended Range Guided Multiple Launch Rocket Systems—Alternative Warhead (ER GMLRS–AW) Pods; and ten (10) M31A2 Extended Range Guided Multiple Launch Rocket Systems—Unitary (ER GMLRS–U) Pods. Also included is an ER GMLRS Materiel Release Package; Stockpile Reliability Program (SRP) support; Quality Assurance Testing (QAT) services; technical publications; U.S. Government and contractor technical and logistics support services; and other related element of program and logistics support. The total estimated cost is $91.2 million.

This proposed sale will support the foreign policy and national security of the United States by improving the security of a trusted partner which is an important force for political stability and economic progress in Europe. It is vital to the U.S. national interest to assist Finland in developing and maintaining a strong and ready self-defense capability.

Finland intends to use these defense articles and services to modernize its armed forces. Finland intends to expand its existing army architecture to counter potential threats. This will contribute to the Finland military's goal to upgrade its capability while enhancing interoperability between Finland, the United States, and other allies. Finland will have no difficulty absorbing these missiles into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin Corporation, Missile and Fire Control, Grand Prairie, TX. There are no known offsets associated with this potential sale.

Implementation of this proposed sale will not require the assignment of U.S. Government or contractor representatives to Finland.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 21–16

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(vii) *Sensitivity of Technology:*

1. The ER GMLRS provides a persistent, responsive, all-weather, rapidly deployed, long range, surface-to-surface, area- and point-precision strike capability. The AW variant (XM403, also referred to as M30A2) carries a 200-pound fragmentation assembly filled with high explosives which, upon detonation, accelerates two layers of preformed penetrators optimized for effectiveness against large area and imprecisely located targets. The Unitary variant (XM404, also referred to as M31A2) is a 200-pound class unitary with a steel blast-fragmentation case, designed for low collateral damage against point targets. The ER GMLRS maintains the accuracy and effectiveness demonstrated by the baseline GMLRS out to a maximum range of 150 km (double of GMLRS capability) while also including a new Height Of Burst (HOB) capability.

2. The highest level of classified information associated with the sale of this equipment is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Finland can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Finland.

[FR Doc. 2021–04125 Filed 2–26–21; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

[Transmittal No. 20–50]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–50 with attached Policy Justification.

Dated: February 23, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

FEB 1 1 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-50 concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Jordan for defense articles and services estimated to cost $60 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Regional Balance (Classified document provided under separate cover)

Transmittal No. 20–50

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

(i) *Prospective Purchaser:* Government of Jordan

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$ 0 million
Other	$60 million
Total	$60 million

Funding Source: Foreign Military Financing (FMF)

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Foreign Military Sales Case JO–D–QBN A2, implemented on January 22, 2018, for an F–16 Air Combat Training Center at $51.2 million, was at the time below congressional notification threshold. Jordan has requested the case be amended to include additional devices and support. This amendment will push the case above Jordan's current notification threshold and thus requires notification of the entire case.

Major Defense Equipment (MDE): None

Non-MDE: Includes an F–16 Air Combat Training Center and Devices comprised of full mission trainers, combat tactics trainers, instructor/operator stations, tactical environment simulators, brief/debrief stations,

scenario generation stations, database generation stations, mission observation centers, and other training center equipment and support; software and software support; publications and technical documentation; maintenance, spares and repair parts and services; U.S. and contractor engineering, technical, and logistical support services; and other related elements of program support.

(iv) *Military Department:* Air Force (JO–D–QBN A3)

(v) *Prior Related Cases, if any:* JO–D–QCU

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* February 11, 2021

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Jordan—F–16 Air Combat Training Center

The Government of Jordan has requested to buy an F–16 Air Combat Training Center and Devices including full mission trainers, combat tactics trainers, instructor/operator stations, tactical environment simulators, brief/debrief stations, scenario generation stations, database generation stations, mission observation centers, and other training center equipment and support; software and software support; publications and technical documentation; maintenance, spares and repair parts and services; U.S. and contractor engineering, technical, and logistical support services; and other related elements of program support. The estimated total cost is $60 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a Major Non-NATO Ally that is an important force for political stability and economic progress in the Middle East.

The proposed sale will improve Jordan's capability to meet current and future threats by ensuring Jordan's pilots are effectively trained, which will contribute to the U.S.-Jordan lasting partnership and ensure the country's stability, a critical element to broader U.S. regional policy goals. Jordan will use this asset to enhance training of pilots. Jordan will have no difficulty absorbing these training center assets and simulators into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin Corporation Rotary & Mission Systems, Orlando, FL. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of two U.S. Lockheed Martin contractor representatives to Jordan for a duration of 2 years to support training.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2021–04123 Filed 2–26–21; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–08]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 21–08 with attached Policy Justification and Sensitivity of Technology.

Dated: February 23, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

February 5, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 21-08 concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Chile for defense articles and services estimated to cost $85.0 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 21–08

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Chile

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$55.0 million
Other	$35.0 million
TOTAL	$85.0 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Up to sixteen (16) Standard Missile–2 (SM–2) Block IIIA Missiles (rail launched) (including two (2) missiles with manufacturer installed telemeter)

Two (2) MK 89 Mod 0 Guidance Sections

One (1) Target Detection Device Kit (including shroud), MK 45 Mod 14

Non-MDE: Also included is inert operational missile to support missile recertification at the Intermediate Level Maintenance Facility; spare parts and associated containers; personnel training and training equipment; publications and technical data; U.S. Government and contractor technical

assistance and other related logistics support including ordnance handling equipment; and other related elements of logistics and program support.

(iv) *Military Department:* Navy (CI–P–AFR)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* February 5, 2021

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Chile–Standard Missile–2 (SM–2) Block IIIA Missiles

The Government of Chile has requested to buy up to sixteen (16) Standard Missile–2 (SM–2) Block IIIA missiles (rail launched) (including two (2) missiles with manufacturer installed telemeter); two (2) MK 89 Mod 0 Guidance Sections; and one (1) Target Detection Device Kit (including shroud), MK 45 Mod 14. Intermediate Level Maintenance Facility; spare parts and associated containers; personnel training and training equipment; publications and technical data; U.S. Government and contractor technical assistance and other related logistics support including ordnance handling equipment; and other related elements of logistics and program support. The total estimated program cost is $85.0 million.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a strategic partner in South America.

This proposed sale would support Chile's anti-air warfare capabilities for the two recently transferred former Adelaide-class frigates to the Chilean Navy. Chile will have no difficulty absorbing the equipment and services into its armed forces.

The proposed sale of this equipment will not alter the basic military balance in the region.

The principal contractor will be Raytheon Missiles and Defense, Tucson, Arizona. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Chile.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 21–08

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The SM–2 missile targets threats closer to the water's surface, defending against anti-ship missiles and aircraft out to 90 nautical miles. The SM–2 IIIA variant provides enhanced area defense capabilities and includes radar seeker technologies in continuous wave and interrupted continuous wave guidance modes, tail controls and solid rocket motor propulsion to engage high-speed maneuvering threats and updated radar targeting and directional warheads.

2. The highest level of classification of information included in this potential sale is SECRET.

3. If a technologically-advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Chile can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to Chile.

[FR Doc. 2021–04126 Filed 2–26–21; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2020–HQ–0010]

Submission for OMB Review; Comment Request

AGENCY: United States Marine Corps, Department of the Navy, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by March 31, 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.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Navy Access Control Management System (NACMS) and the U.S. Marine Corps Biometric and Automated Access Control System (BAACS); the associated Form is SECNAV 5512/1 Department of the Navy Local Population ID Card/Base Access Pass Registration Form; OMB Control Number 0703–006.

Type of Request: Revision.

Number of Respondents: 4,900,000.

Responses per Respondent: 1.

Annual Responses: 4,900,000.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 816,667.

Needs and Uses: The information collection is required to control physical access to DOD, DON or U.S. Marine Corps installations/units controlled information, installations, facilities, or areas over which the DOD, DON or U.S. Marine Corps has security responsibilities by identifying or verifying an individual through the use of biometric databases and associated data processing/information services for designated populations for purposes of protecting U.S./Coalition/allied government/national security areas of responsibility and information; to issue badges, replace lost badges and retrieve passes upon separation; to maintain visitor statistics; collect information to adjudicate access to facility; and track the entry/exit of personnel.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title 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.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: February 18, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–04191 Filed 2–26–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Environmental Management Advisory Board

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 Advisory Board (EMAB). The Federal Advisory Committee Act requires that public notice of this conference call be announced in the **Federal Register**.

DATES: Wednesday, March 24, 2021; 2:00 p.m.–5:30 p.m. ET.

ADDRESSES: This meeting will be held virtually via Zoom. To attend, please contact Alyssa Harris by email, *Alyssa.Harris@em.doe.gov,* no later than 5:00 p.m. EDT on Wednesday, March 17, 2021.

To submit public comment: Public comments will be accepted via email prior to and after the meeting. Comments received no later than 5:00 p.m. EDT on Wednesday, March 17, 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. EDT on Friday, March 26, 2021. Please send comments to Alyssa Harris at *Alyssa.Harris@em.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Alyssa Harris, EMAB Federal Coordinator. U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. Phone (202) 430–9624 or Email: *Alyssa.Harris@em.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of EMAB is to provide the Assistant Secretary for Environmental Management (EM) with independent advice and recommendations on corporate issues confronting the EM program. EMAB's membership reflects a diversity of views, demographics, expertise, and professional and academic experience. Individuals are appointed by the Secretary of Energy to serve as either special Government employees or representatives of specific interests and/or entities.

Tentative Agenda:

- Remarks from EM leadership
- Vote on 2020 Regulatory Reform Recommendation
- Reading of Public Comment
- EM Waste Disposition Update
- EM Budget Update
- Board Business

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 by sending them to Alyssa Harris at the aforementioned email address. The Designated Federal Officer is empowered to conduct the conference call in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments should email them as directed above.

Minutes: Minutes will be available by writing or calling Alyssa Harris at the address or phone number listed above. Minutes will also be available at the following website: *https://www.energy.gov/em/listings/emab-meetings.*

Signed in Washington, DC, on February 23, 2021.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2021–04083 Filed 2–26–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. PP–481–1]

Application To Amend Presidential Permit; CHPE LLC

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of application.

SUMMARY: CHPE LLC (Applicant or CHPE) has filed a supplement to its application to amend Presidential Permit No. PP–481. CHPE LLC seeks to further amend its permit application to allow for certain modifications to the previously permitted project.

DATES: Comments, protests, or motions to intervene must be submitted on or before March 31, 2021.

ADDRESSES: Comments or motions to intervene should be addressed to Christopher Lawrence, *Christopher.Lawrence@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence (Program Office) at 202–586–5260 or by email to *Christopher.Lawrence@hq.doe.gov,* or Christopher Drake (Attorney-Adviser) at 202–586–2919 or by email to *Christopher.Drake@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The construction, operation, maintenance, and connection of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (E.O.) 10485, as amended by E.O. 12038.

On September 25, 2020, CHPE filed an application with the Office of Electricity of the Department of Energy (DOE), as required by regulations at 10 CFR 205.320 *et seq.,* requesting that DOE amend Presidential Permit No. PP–481 to allow for changes in the route previously permitted (Amendment Application). Notice of that application was published in the **Federal Register** on October 5, 2020 (85 FR 62,721).

On January 15, 2021, CHPE filed a supplement to its Amendment Application asking DOE to amend Presidential Permit No. PP–481 to increase the capacity of the proposed Project from 1,000 megawatts (MW) to 1,250 MW. Since the filing of the Amendment Application last September, the New York Independent System Operator (NYISO) completed a System Reliability Impact Study (SRIS) that assessed the potential impact of increasing the Project's transmission capacity from 1,000 MW to 1,250 MW. The SRIS determined that the Project can interconnect and operate at 1,250 MW without adversely affecting the reliability of the interstate transmission grid. In addition to the completed SRIS, an expert retained by CHPE completed an analysis of the potential impacts of operating a 1,250 MW transmission line. This analysis, which addressed magnetic fields, compass deviations, and thermal cable losses, determined that there would be no material change in impacts beyond those identified for the permitted 1,000 MW project.

Procedural Matters: Any person may comment on this application by filing such comment at the address provided above. Any person seeking to become a party to this proceeding must file a motion to intervene at the address provided above in accordance with Rule 214 of the Federal Energy Regulatory

Commission's Rules of Practice and Procedure (18 CFR 385.214). Each comment or motion to intervene should be filed with DOE on or before the date listed above.

Comments and other filings concerning this application should be clearly marked with OE Docket No. PP–481–1. Additional copies are to be provided directly to Mr. Donald Jessome, Chief Executive Officer, Transmission Developers Inc., Pieter Schuyler Building, 600 Broadway, Albany, New York 12207–2283, *donald.jessome@transmissiondevelopers.com* and Jay Ryan, Baker Botts LLP, 700 K Street NW, Washington, DC 20001, *jay.ryan@bakerbotts.com.*

Before a Presidential permit may be issued or amended, DOE must determine that the proposed action is in the public interest. In making that determination, DOE will consider the environmental impacts of the proposed action (*i.e.,* granting the Presidential permit or amendment, with any conditions and limitations, or denying the permit), determine the proposed project's impact on electric reliability by ascertaining whether the proposed project would adversely affect the operation of the U.S. electric power supply system under normal and contingency conditions, and weigh any other factors that DOE may also consider relevant to the public interest. DOE also must obtain the favorable recommendation of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

This application may be reviewed or downloaded electronically at *http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/international-electricity-regulatio-2.* Upon reaching the home page, select ''Pending Applications.''

Signed in Washington, DC, on February 23, 2021.

Christopher Lawrence,

Management and Program Analyst, Energy Resilience Division, Office of Electricity.

[FR Doc. 2021–04078 Filed 2–26–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Case Number 2019–011; EERE–2019–BT–WAV–0038]

Energy Conservation Program: Notification of Petition for Waiver of Vinotheque From the Department of Energy Walk-In Coolers and Walk-In Freezers Test Procedure and Notification of Grant of Interim Waiver

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

ACTION: Notification of petition for waiver and grant of an interim waiver; request for comments.

SUMMARY: This document announces receipt of and publishes a petition for waiver and interim waiver from Vinotheque Wine Cellars DBA WhisperKOOL Corp. DBA CellarCool (''Vinotheque''), which seeks a waiver for specified walk-in cooler refrigeration system basic models from the U.S. Department of Energy (''DOE'') test procedure used to determine the efficiency and energy consumption of walk-in coolers and walk-in freezers. DOE also gives notice of an Interim Waiver Order that requires Vinotheque to test and rate the specified walk-in cooler refrigeration system basic models in accordance with the alternate test procedure set forth in the Interim Waiver Order, which modifies the alternate test procedure suggested by Vinotheque. DOE solicits comments, data, and information concerning Vinotheque's petition, its suggested alternate test procedure, and the alternate test procedure specified in the Interim Waiver Order so as to inform DOE's final decision on Vinotheque's waiver request.

DATES: The Interim Waiver Order is effective on March 1, 2021. Written comments and information will be accepted on or before March 31, 2021.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, interested persons may submit comments, identified by case number ''2019–011'', and Docket number ''EERE–2019–BT–WAV–0038,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: WhisperKOOL2019WAV0038@ee.doe.gov.* Include Case No. 2019–011 in the subject line of the message.
- *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mail Stop EE–5B, Petition for Waiver Case No. 2019–011, 1000 Independence Avenue SW, Washington, DC 20585–0121. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, 6th Floor, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a ''CD'', in which case it is not necessary to include printed copies.

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

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

The docket web page can be found at *https://www.regulations.gov/docket?D=EERE-2019-BT-WAV-0038.* The docket web page contains instruction on how to access all documents, including public comments, in the docket. See the **SUPPLEMENTARY INFORMATION** section for information on how to submit comments through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *AS_Waiver_Request@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE is publishing Vinotheque's petition for waiver in its entirety appendix 1 to this document, pursuant to 10 CFR 431.401(b)(1)(iv), absent information for which the petitioner requested treatment as confidential business

information. DOE invites all interested parties to submit in writing by March 31, 2021, comments and information on all aspects of the petition, including the alternate test procedure. Pursuant to 10 CFR 431.401(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is: Christian Bromme, *cbromme@vinotheque.com,* 1738 East Alpine Avenue, Stockton, CA 95205.

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

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

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

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

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

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. Faxes will not be accepted.

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

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

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

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

Case Number 2019–011

Interim Waiver Order

I. Background and Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes the U.S. Department of Energy (''DOE'') to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C[2] of EPCA, added by the National Energy Conservation Policy Act, Public Law 95–619, sec. 441 (Nov. 9, 1978), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve the energy efficiency for certain types of industrial equipment. Through amendments brought about by the Energy Independence and Security Act of 2007, Public Law 110–140, sec. 312 (Dec. 19, 2007), this equipment includes walk-in coolers and walk-in freezers, the subject of this Interim Waiver Order. (42 U.S.C. 6311(1)(G))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316)

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s))

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or

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

[2] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated as Part A–1.

amending test procedures for covered equipment. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect the energy efficiency, energy use or estimated annual operating cost of covered products and equipment during a representative average use cycle and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)) The test procedure used to determine the net capacity and annual walk-in energy factor (''AWEF'') of walk-in cooler and walk-in freezer refrigeration systems is contained in the Code of Federal Regulations (''CFR'') at 10 CFR part 431, subpart R, appendix C, *Uniform Test Method for the Measurement of Net Capacity and AWEF of Walk-in Cooler and Walk-in Freezer Refrigeration Systems* (''Appendix C'').

Under 10 CFR 431.401, any interested person may submit a petition for waiver from DOE's test procedure requirements. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. *See* 10 CFR 431.401(f)(2). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the performance of the equipment type in a manner representative of its energy consumption characteristics of the basic model. *See* 10 CFR 431.401(b)(1)(iii). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *See* 10 CFR 431.401(f)(2).

As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. *See* 10 CFR 431.401(1). As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule to that effect. *Id.*

The waiver process also provides that DOE may grant an interim waiver if it appears likely that the underlying petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the underlying petition for waiver. *See* 10 CFR 431.401(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) Publish in the **Federal Register** a determination on the petition for waiver; or (ii) publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver. *See* 10 CFR 431.401(h)(1).

When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. *See* 10 CFR 431.401(h)(2).

II. Vinotheque's Petition for Waiver and Application for Interim Waiver

DOE received correspondence, docketed on December 2, 2019, from Vinotheque seeking an interim waiver from the test procedure for walk-in cooler and walk-in freezer refrigeration systems set forth at Appendix C (Vinotheque, No. 1).[3] The waiver process under 10 CFR 431.401 requires that a petitioner must request a waiver for there to be consideration of a petition for an interim waiver. Vinotheque later confirmed in a May 26, 2020 email that its petition should also be considered as a petition for waiver (Vinotheque, No. 4). Vinotheque later submitted an updated petition, docketed on December 11, 2020, providing maximum external static pressure (''ESP'') values for specified basic models and clarifying that the specified basic models cannot operate below 45 °F (Vinotheque, No. 6). Due to two discrepancies in Vinotheque's petition for waiver (the ''Platinum 4000 Ducted'' model is listed in the basic model list but is not listed in the table containing ESP values; the ''SL2500'' model is listed in the basic model list, but only appears as ''SL'' in the table containing ESP values), Vinotheque provided a maximum ESP for the ''Platinum 4000 Ducted'', and confirmed the model number and maximum ESP for ''SL2500'' (Vinotheque, No. 9).

The primary assertion in the petition, absent an interim waiver, is that the prescribed test procedure would evaluate the specified basic models in a manner so unrepresentative of their true energy consumption as to provide materially inaccurate comparative data. As presented in Vinotheque's petition, the specified basic models of walk-in cooler refrigeration systems operate at a temperature range of 45–65 °F; higher than that of a typical walk-in cooler refrigeration system. Thus, the 35 °F temperature specified in the DOE test procedure for medium-temperature walk-in refrigeration systems would result in the prescribed test procedures evaluating the specified basic models in a manner so unrepresentative of their true energy consumption characteristics as to provide materially inaccurate comparative data. Vinotheque also states that the specified basic models are ''wine cellar cooling systems'' that operate at temperature and relative humidity ranges optimized for the long-term storage of wine and are usually located in air-conditioned spaces. Vinotheque contends that because of these characteristics, wine cellar walk-in refrigeration systems differ in their walk-in box temperature setpoint, walk-in box relative humidity, low/high load split,[4] and compressor efficiency from other walk-in cooler refrigeration systems.

Vinotheque states that the specified basic models are designed to provide a cold environment at a temperature range between 45–65 °F with 50–70 percent relative humidity (''RH''), and typically are kept at 55 °F and 55 percent RH rather than the 35 °F and <50 percent RH test condition prescribed by the DOE test procedure. Vinotheque states that these temperature and RH conditions are optimized for the purpose of long-term wine storage to mimic the temperature and humidity of natural caves. Vinotheque also asserts that operating a wine cellar at the 35 °F condition would adversely mechanically alter the intended performance of the system, which would include icing of the evaporator coil that could potentially damage the compressor, and would not result in an accurate representation of the performance of the cooling unit.

Additionally, the basic models of walk-in refrigeration systems—identified in Vinotheque's waiver petition by the heading in the basic models list as ''Single-Packaged''—are single-package systems. Although not

[3] A notation in the form ''Vinotheque, No. 1'' identifies a written submission: (1) Made by Vinotheque; and (2) recorded in document number 1 that is filed in the docket of this petition for waiver (Docket No. EERE–2019–BT–WAV–0038) and available at *http://www.regulations.gov.*

[4] The DOE test procedure incorporates by reference Air-Conditioning, Heating, and Refrigeration Institute (''AHRI'') Test Standard 1250–2009, ''Standard for Performance Rating of Walk-in Coolers and Freezers'' (including Errata sheet dated December 2015) (''AHRI 1250–2009''). Section 6 of that standard defines walk-in box thermal loads as a function of refrigeration system net capacity for both high-load and low-load periods. The waiver petition asserts that wine cellars do not have distinct high and low load periods, and that the box load levels in the test standard are not representative for wine cellar refrigeration systems.

explicitly identified by Vinotheque, DOE recognizes that because of their single-package design, these basic models have insufficient space within the units and insufficient lengths of liquid line and evaporator outlet line for the dual mass flow meters and the dual temperature and pressure measurements required by the test procedure's refrigerant enthalpy method. AHRI 1250–2009 does not include specific provisions for testing single-package systems and testing these basic models using the refrigerant enthalpy method as required by Appendix C would require extensive additional piping to route the pipes out of the system where the components can be installed, and then back in.[5] This additional piping would impact unit performance, likely be inconsistent between test labs, and result in unrepresentative test values for the unit under test. AHRI has published a revised version of the test standard that provides provisions for single-package systems without requiring extensive additional piping (AHRI 1250–2020, *2020 Standard for Performance Rating of Walk-in Coolers and Freezers*). As discussed below, the interim waiver alternative test procedure presented for comment in this notification adopts the new test methods included in AHRI 1250–2020 for single-package units.

DOE has received multiple requests from wine cellar manufacturers for waiver and interim waiver from Appendix C. In light of these requests, DOE met with both AHRI and the wine cellar walk-in refrigeration system manufacturers to develop a consistent and representative alternate test procedure that would be relevant to each waiver request. Ultimately, AHRI sent a letter to DOE on August 18, 2020, summarizing the industry's position on several issues (''AHRI August 2020 Letter'').[6] This letter documents industry support for specific wine cellar walk-in refrigeration system test procedure requirements, allowing the provisions to apply only to refrigeration systems with a minimum operating temperature of 45 °F, since wine cellar system controls and unit design specifications prevent these walk-ins from reaching a temperature below 45 °F. A provision for testing walk-in wine cellar refrigeration systems at an external static pressure (''ESP'')[7] of 50 percent of the maximum ESP to be specified by manufacturers for each basic model (''AHRI August 2020 Letter'') is also included.

Vinotheque's updated petition, docketed on December 11, 2020, states that all basic models listed in the petition for waiver and interim waiver have a minimum operating temperature of 45 °F and provides maximum ESP values for specified ducted single-packaged and ducted matched-pair basic models.[8] (Vinotheque, No. 6)

Vinotheque requests an interim waiver from the existing DOE test procedure. DOE will grant an interim waiver if it appears likely that the petition for waiver will be granted, and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. See 10 CFR 431.401(e)(2).

III. Requested Alternate Test Procedure

EPCA requires that manufacturers use the applicable DOE test procedures when making representations about the energy consumption and energy consumption costs of covered equipment. (42 U.S.C. 6314(d)). Consistency is important when making representations about the energy efficiency of products and equipment, including when demonstrating compliance with applicable DOE energy conservation standards. Pursuant to its regulations at 10 CFR 431.401, and after consideration of public comments on the petition, DOE may establish in a subsequent Decision and Order an alternate test procedure for the basic models addressed by the Interim Waiver Order.

Vinotheque seeks to use an approach that would test and rate specific wine cellar walk-in refrigeration system basic models. The company's suggested approach specifies using an air-return temperature of 55 °F, as opposed to the 35 °F requirement prescribed in the current DOE test procedure. Vinotheque also suggests using an air-return relative humidity of 55 percent RH, as opposed to <50 percent RH. Additionally, Vinotheque requests that a correction factor of 0.55 be applied to the final AWEF calculation to account for the different use and load patterns of the specified basic models as compared to walk-in cooler refrigeration systems generally. Vinotheque cited the use of such a correction factor for coolers[9] and combination cooler refrigeration products under DOE's test procedure for miscellaneous refrigeration products at 10 CFR part 430, subpart B, appendix A.

IV. Interim Waiver Order

DOE has reviewed Vinotheque's application, its suggested testing approach, representations of the specified basic models on the website for the WhisperKOOL and CellarCool brands, related product catalogs, and information provided by Vinotheque and other wine cellar walk-in refrigeration system manufacturers in meetings with DOE. Based on this review, DOE is granting an interim waiver that requires testing with a modified version of the testing approach suggested by Vinotheque.

The modified testing approach would apply to the models specified in Vinotheque's waiver petition that include two categories of WICF refrigeration systems, *i.e.,* single-packaged and matched-pair (split) systems. The systems that are single-package are identified by a ''Single-Packaged'' heading in the waiver petition. All of the single-package basic models are capable of some ducting; those that are specifically identified in their basic model name as ''fully ducted'' are designed to be ducted on both the evaporator and condenser sides. This enables the option of installing the unit cooler remotely by circulating air through ducts from the wine cellar to the unit cooler and back, and from the condenser to the outside (or another conditioned space). The single-package basic models that are not identified in their basic model name as ''fully ducted'' are designed for installation through the wall or ceiling of the wine cellar, with optional ducting connecting the condenser side of the unit to the outside or another

[5] In a waiver granted to Store It Cold for certain models of single-package units, DOE acknowledged a similar issue in which the additional piping necessary to install the required testing components would affect performance of the units, rendering the results unrepresentative. See 84 FR 39286 (Aug. 9, 2019). In the case of the waiver granted to Store It Cold, the refrigerant enthalpy method yielded inaccurate data for the specified basic models compared to the basic models' true performance characteristics because of the additional piping required to attach the testing components required by the refrigerant enthalpy test. The same issues are present for the specified Single-Packaged basic models included in Vinotheque's waiver petition.

[6] DOE's meetings with Vinotheque and other wine cellar refrigeration systems were conducted consistent with the Department's *ex parte* meeting guidance (74 FR 52795; October 14, 2009). The AHRI August 2020 letter memorializes this communication and is provided in Docket No. EERE–2019–BT–WAV–0038–0005.

[7] External static pressure is the sum of all the pressure resisting the fans, in this case chiefly the resistance generated by the air moving through ductwork.

[8] Vinotheque has stated that the maximum ESP values included in its updated petition for waiver are confidential business information. These values have been redacted from the publicly-available petition and email correspondence.

[9] A *cooler* is a cabinet, used with one or more doors, that has a source of refrigeration capable of operating on single-phase, alternating current and is capable of maintaining compartment temperatures either: (1) No lower than 39 °F (3.9 °C); or (2) In a range that extends no lower than 37 °F (2.8 °C) but at least as high as 60 °F (15.6 °C). 10 CFR 430.2.

conditioned space. The basic models that are identified by the ''Matched-Pair'' heading in the waiver petition are matched-pair (split) systems, in which refrigerant circulates between the ''evaporator unit'' (unit cooler) portion of the unit and the ''condensing unit.'' The refrigerant cools the wine cellar air in the evaporator unit, while the condensing unit rejects heat from the refrigeration system in a remote location, often outside. The evaporator unit of the ''Fully Ducted'' (Platinum 4000 Fully Ducted, Platinum 8000 Fully Ducted, and Platinum Twin Fully Ducted) matched-pair system basic models circulates air through ducts from the wine cellar to the evaporator unit and back to provide cooling, while the evaporator unit of the remaining matched-pair systems is installed either partially or entirely in the wine cellar, allowing direct cooling. The capacity range of the specified basic models is from 1,453 Btu/h to 12,530 Btu/h at the specified operating conditions for each of the models (Vinotheque, No. 7).[10]

DOE considers the operating temperature range of the specified basic models to be integral to its analysis of whether such models require a test procedure waiver. Grant of the interim waiver and its alternative test procedure to Vinotheque for the specified basic models listed in the petition is based upon Vinotheque's representation that the operating range for the basic models listed in the interim waiver does not extend below 45 °F.

The alternate test procedure specified in the Interim Waiver Order requires testing the specified basic models according to Appendix C with the following changes. The required alternate test procedure specifies an air entering dry-bulb temperature of 55 °F and a relative humidity of 55 percent. The alternate test procedure also specifies that the capacity measurement for the specified basic models that are single-package systems (identified by the ''Single-Packaged'' heading in the basic models list) be conducted using a primary and a secondary capacity measurement method as specified in AHRI 1250–2020, using two of the following: The indoor air enthalpy method; the outdoor air enthalpy method; the compressor calibration method; the indoor room calorimeter method; the outdoor room calorimeter method; or the balanced ambient room calorimeter method.

The required alternate test procedure also includes the following additional modifications to Vinotheque's suggested approach: For systems that can be installed with (1) ducted evaporator air, (2) with or without ducted evaporator air, (3) ducted condenser air, or (4) with or without ducted condenser air, testing would be conducted at 50 percent of the maximum ESP, consistent with the AHRI August 2020 Letter recommendations, subject to a tolerance of −0.00/+0.05 in. wc.[11] DOE understands that maximum ESP is generally not published in available literature such as installation instructions, but manufacturers do generally specify the size and maximum length of ductwork that is acceptable for any given unit in such literature. The duct specifications determine what ESP would be imposed on the unit in field operation.[12] The provision of allowable duct dimensions is more convenient for installers than maximum ESP, since it relieves the installer from having to perform duct pressure drop calculations to determine ESP. DOE independently calculated the maximum pressure drop over a range of common duct roughness values[13] using duct lengths and diameters published in Vinotheque's installation manuals (Vinotheque, No. 7).[14] DOE's calculations show reasonable agreement with the maximum ESP values provided by Vinotheque for the specified basic models. Given that the number and degree of duct bends and duct type will vary by installation, DOE found the maximum ESP values provided by Vinotheque to be sufficiently representative.

Selection of a representative ESP equal to half the maximum ESP is based on the expectation that most installations will require less than the maximum allowable duct length. In the absence of field data, DOE expects that a range of duct lengths from the minimal length to the maximum allowable length would be used; thus, DOE believes that half of the maximum ESP would be representative of most installations. For basic models with condensing or evaporator units that are not designed for the ducting of air, this design characteristic must be clearly stated.

Additionally, if there are multiple condenser or evaporator unit fan speed settings, the speed setting used would be as instructed in the unit's installation instructions. However, if the installation instructions do not specify a fan speed setting for ducted installation, systems that can be installed with ducts would be tested with the highest available fan speed. The ESP would be set for testing either by symmetrically restricting the outlet duct[15] or, if using the indoor air enthalpy method, by adjusting the airflow measurement apparatus blower.

The alternate test procedure also describes the requirements for measurement of ESP consistent with provisions provided in AHRI 1250–2020 when using the indoor air enthalpy method with unit coolers.

According to Vinotheque's petition, the specified walk-in refrigeration system basic models that are matched-pair systems are sold as full systems (*i.e.,* split systems) rather than as individual unit cooler and condensing unit components. This Interim Waiver Order provides no direction regarding refrigerant line connection operating conditions, and as such is inapplicable to testing the basic models as individual components. Consequently, the Interim Waiver Order addresses only matched-pair testing of the specified basic models that are split-systems.

DOE notes that, despite the request from Vinotheque, it is not including a 0.55 correction factor in the alternate test procedure required by the Interim Waiver Order. In its petition for waiver, Vinotheque observed that the test procedure in appendix A to subpart B of 10 CFR part 430 (''Appendix A'') includes such a factor to account for the difference in use and loading patterns of coolers (*e.g.,* single-packaged wine chiller cabinets) as compared to other residential refrigeration products and sought to include a factor as part of its petition. Coolers, like other residential refrigeration products, are tested in a 90 °F room without door openings (section 2.1.1 of Appendix A). The

[10] The specified operating conditions are 55 °F cold-side air entering conditions and 85 °F warm-side air entering temperature. WhisperKOOL and CellarCool specification sheets and installation manuals do not specify a cold side relative humidity. An example series of specified models with capacity information based upon these conditions can be found in the Vinotheque owner's manual at the associated docket number.

[11] Inches of water column (''in. wc'') is a unit of pressure conventionally used for measurement of pressure differentials.

[12] The duct material, length, diameter, shape, and configuration are used to calculate the ESP generated in the duct, along with the temperature and flow rate of the air passing through the duct. The conditions during normal operation that result in a maximum ESP are used to calculate the reported maximum ESP values, which are dependent on individual unit design and represent manufacturer-recommended installation and use.

[13] Calculations were conducted over an absolute roughness range of 1.0–4.6 mm for flexible duct as defined in pages 1–2 of an OSTI Journal Article on pressure loss in flexible HVAC ducts at *https://www.osti.gov/servlets/purl/836654* (Docket No. EERE–2019–BT–WAV–0038–0008) and available at *http://www.regulations.gov.*

[14] A representative example of duct lengths and diameters can be found in the Vinotheque owner's manual at the associated docket number.

[15] This approach is used for testing of furnace fans, as described in Section 8.6.1.1 of 10 CFR part 430, appendix AA to subpart B.

intent of the energy test procedure for residential refrigeration products is to simulate operation in typical room conditions (72 °F) with door openings by testing at 90 °F ambient temperature without door openings. 10 CFR 430.23(ff)(7). In section 5.2.1.1 of Appendix A, a correction factor of 0.55 is applied to the measured energy consumption of coolers so that measuring energy consumption at 90 °F ambient temperature without door openings provides test results that are representative of consumer usage at 72 °F ambient temperature with door openings. Specifically, the 0.55 correction factor reflects that (1) closed-door operation of single-packaged coolers in typical 72 °F room conditions results in an average energy consumption 0.46 times the value measured at the 90 °F ambient temperature specified by the test procedure; and (2) expected door openings of a single-packaged wine chiller would add an additional 20% thermal load. Multiplying 0.46 by 1.2 results in the overall correction factor of 0.55. See 81 FR 46768, 46782 (July 18, 2016) (final rule for miscellaneous refrigeration products).

In contrast, these same closed-door conditions on which the miscellaneous refrigeration correction factor is based are not present in the test procedure for walk-in cooler refrigeration systems. The WICF test procedure does not provide for closed-door testing at elevated ambient temperatures as the test procedure for residential refrigeration products does because walk-ins are tested and rated by component, with a walk-in refrigeration system tested and rated separately from a walk-in enclosure (panels and doors). See 76 FR 21580. Walk-in refrigeration load is set by using a representative ratio of box load to capacity (see discussion below). As a result, applying the 0.55 correction factor as suggested by Vinotheque is not appropriate for the specified basic models.

While not specifically addressed in the request for waiver submitted by Vinotheque, waivers submitted by other manufacturers have suggested that the 0.55 correction factor also addresses the differences in run time and compressor inefficiency of wine cellar refrigeration systems as compared to walk-in cooler refrigeration systems more generally and have suggested that the run time for wine cellar walk-in refrigeration systems ranges from 50 to 75 percent. AHRI 1250–2009 accounts for percent run time in the AWEF calculation by setting walk-in box load equal to specific fractions of refrigeration system net capacity—the fractions are defined based on whether the refrigeration system is for cooler or freezer applications, and whether it is designed for indoor or outdoor installation (see sections 6.2 (applicable to coolers) and 6.3 (applicable to freezers) of AHRI 1250–2009). The alternate test procedure provided by this interim waiver requires calculating AWEF based on setting the walk-in box load equal to half of the refrigeration system net capacity, without variation according to high and low load periods and without variation with outdoor air temperature for outdoor refrigeration systems. Setting the walk-in box load equal to half the refrigeration system net capacity results in a refrigeration system run time fraction slightly above 50 percent. As previously discussed, walk-in energy consumption is determined by component, with separate test procedures for walk-in refrigeration systems, doors, and panels. Section 6 of AHRI 1250–2009 provides equations for determining refrigeration box load as a function of refrigeration system capacity. Using these equations with an assumed load factor of 50 percent maintains consistency with Appendix C while providing an appropriate load fraction for wine cellar refrigeration systems. Accordingly, DOE has declined to adopt a correction factor for the equipment at issue.

Based on DOE's review of Vinotheque's petition, the required alternate test procedure laid out in the Interim Waiver Order appears to allow for the accurate measurement of energy efficiency of the specified basic models, while alleviating the testing issues associated with Vinotheque's implementation of wine cellar walk-in refrigeration system testing for these basic models. Consequently, DOE has determined that Vinotheque's petition for waiver will likely be granted. Furthermore, DOE has determined that it is desirable for public policy reasons to grant Vinotheque immediate relief pending a determination of the petition for waiver.

For the reasons stated, it is *ordered* that:

(1) Vinotheque must test and rate the following single-packaged and matched-pair WhisperKOOL- and CellarCool-branded wine cellar walk-in refrigeration system basic models with the alternate test procedure set forth in paragraph (2).

Basic model	Brand name
Single-Packaged	
SC Pro 2000	WhisperKOOL.
SC Pro 3000	WhisperKOOL.
SC Pro 4000	WhisperKOOL.
SC Pro 8000	WhisperKOOL.
Extreme 3500 ti	WhisperKOOL.
Extreme 5000 ti	WhisperKOOL
Extreme 8000 ti	WhisperKOOL.
Extreme 3500 tiR	WhisperKOOL.
Extreme 5000 tiR	WhisperKOOL.
Extreme 8000 tiR	WhisperKOOL.
Extreme 3500 tiR Fully Ducted	WhisperKOOL.
Extreme 5000 tiR Fully Ducted	WhisperKOOL.
Extreme 8000 tiR Fully Ducted	WhisperKOOL.
Phantom 3500	WhisperKOOL.
Phantom 5000	WhisperKOOL.
Phantom 8000	WhisperKOOL.
Slimline LS	WhisperKOOL.
Optimum 2200	CellarCool.
Optimum 3300	CellarCool.
Optimum 4400	CellarCool.
Optimum 8800	CellarCool.
CX2200	CellarCool.
CX3300	CellarCool
CX4400	CellarCool.
CX8800	CellarCool.
SL2500	CellarCool.
Ultimate 3300	CellarCool.
Ultimate 4400	CellarCool.
Ultimate 8800	CellarCool.
Ultimate 3300–R	CellarCool
Ultimate 4400–R	CellarCool.
Ultimate 8800–R	CellarCool.
Ultimate FD 3300	CellarCool.
Ultimate FD 4400	CellarCool.
Ultimate FD 8800	CellarCool.
Ultimate PLUS Fully Ducted 3300.	CellarCool.
Ultimate PLUS Fully Ducted 4400.	CellarCool.
Ultimate PLUS Fully Ducted 8800.	CellarCool.
Matched-Pair	
Platinum Mini	WhisperKOOL.
Platinum 4000	WhisperKOOL.
Platinum 8000	WhisperKOOL.
Platinum Twin	WhisperKOOL.
Platinum 4000 Fully Ducted	WhisperKOOL.
Platinum 8000 Fully Ducted	WhisperKOOL.
Platinum Twin Fully Ducted	WhisperKOOL.
Platinum 4000 Ducted	WhisperKOOL.
Platinum 8000 Ducted	WhisperKOOL.
Platinum Twin Ducted	WhisperKOOL.
Ceiling Mount Mini	WhisperKOOL.
Ceiling Mount 4000	WhisperKOOL.
Ceiling Mount 8000	WhisperKOOL.
Ceiling Mount Twin	WhisperKOOL.
Quantum 9000	WhisperKOOL.
Quantum 12000	WhisperKOOL.
Magnum 9000	CellarCool.
Magnum 12000	CellarCool.
CM2500–S	CellarCool.
CM3500–S	CellarCool.
CM5000–S	CellarCool.
CM9000 Twin Split	CellarCool.
WM2500–S	CellarCool.
WM3500–S	CellarCool.
WM5000–S	CellarCool.
WM9000 Twin-S	CellarCool.
FD3500–S	CellarCool.
FD5000–S	CellarCool.
FD9000 Twin-S	CellarCool.

(2) The alternate test procedure for the Vinotheque basic models identified in paragraph (1) of this Interim Waiver Order is the test procedure for Walk-in Cooler Refrigeration Systems prescribed by DOE at 10 CFR part 431, subpart R, appendix C (''Appendix C to Subpart R''), except as detailed below. All other requirements of Appendix C to Subpart R, and DOE's regulations remain applicable.

In Appendix C to Subpart R, revise section 3.1.1 (which specifies modifications to AHRI 1250–2009 (incorporated by reference; see § 431.303)) to read:

3.1.1. In Table 1, Instrumentation Accuracy, refrigerant temperature measurements shall have an accuracy of ±0.5 °F for unit cooler in/out. Measurements used to determine temperature or water vapor content of the air (*i.e.,* wet bulb or dew point) shall be accurate to within ±0.25 °F; all other temperature measurements shall be accurate to within ±1.0 °F.

In Appendix C to Subpart R, revise section 3.1.4 (which specifies modifications to AHRI 1250–2009) and add modifications of AHRI 1250–2009 Tables 3 and 4 to read:

3.1.4. In Tables 3 and 4 of AHRI 1250–2009, Section 5, the Condenser Air Entering Wet-Bulb Temperature requirement applies only to single-packaged dedicated systems. Tables 3 and 4 shall be modified to read:

TABLE 3—FIXED CAPACITY MATCHED REFRIGERATOR SYSTEM AND SINGLE-PACKAGED DEDICATED SYSTEM, CONDENSING UNIT LOCATED INDOOR

Test description	Unit cooler air entering dry-bulb, °F	Unit cooler air entering relative humidity, %[1]	Condenser air entering dry-bulb, °F	Maximum condenser air entering wet-bulb, °F	Compressor status	Test objective
Evaporator Fan Power ..	55	55	.....	.....	.....	Measure fan input wattage.[2]
Refrigeration Capacity ..	55	55	90	[3]65	Compressor On	Determine Net Refrigeration Capacity of Unit Cooler, input power, and EER at Rating Condition.

Notes:
[1] The test condition tolerance (maximum permissible variation of the average value of the measurement from the specified test condition) for relative humidity is 3%.
[2] Measure fan input wattage either by measuring total system power when the compressor and condenser are turned off or by separately submetering the evaporator fan.
[3] Maximum allowable value for Single-Packaged Systems that do not use evaporative Dedicated Condensing Units, where all or part of the equipment is located in the outdoor room.

TABLE 4—FIXED CAPACITY MATCHED REFRIGERATOR SYSTEM AND SINGLE-PACKAGED DEDICATED SYSTEM, CONDENSING UNIT LOCATED OUTDOOR

Test description	Unit cooler air entering dry-bulb, °F	Unit cooler air entering relative humidity, %[1]	Condenser air entering dry-bulb, °F	Maximum condenser air entering wet-bulb, °F	Compressor status	Test objective
Evaporator Fan Power ..	55	55	.....	.....	.....	Measure fan input wattage.[2]
Refrigeration Capacity A	55	55	95	[3]68	Compressor On	Determine Net Refrigeration Capacity of Unit Cooler, input power, and EER at Rating Condition.
Refrigeration Capacity B	55	55	59	[3]46	Compressor On	Determine Net Refrigeration Capacity of Unit Cooler and system input power at moderate condition.
Refrigeration Capacity C	55	55	35	[3]29	Compressor On	Determine Net Refrigeration Capacity of Unit Cooler and system input power at cold condition.

Notes:
[1] The test condition tolerance (maximum permissible variation of the average value of the measurement from the specified test condition) for relative humidity is 3%.
[2] Measure fan input wattage either by measuring total system power when the compressor and condenser are turned off or by separately submetering the evaporator fan.
[3] Maximum allowable value for Single-Packaged Dedicated Systems that do not use evaporative Dedicated Condensing Units, where all or part of the equipment is located in the outdoor room.

In Appendix C to Subpart R, following section 3.2.5 (instructions regarding modifications to AHRI 1250–2009), add sections 3.2.6 and 3.2.7 to read:

3.2.6 The purpose in section C1 of appendix C is modified by extending it to include Single-Packaged Dedicated Systems.

3.2.7 For general test conditions and data recording (appendix C, section C7), the test acceptance criteria in Table 2 and the data to be recorded in Table C2 apply to the Dual Instrumentation and Calibrated Box methods of test.

In Appendix C to Subpart R, revise section 3.3 to read:

3.3. *Matched systems, single-packaged dedicated systems, and unit coolers tested alone:* Test any split system wine cellar walk-in refrigeration system as a matched pair. Any condensing unit or unit cooler component must be matched with a corresponding counterpart for testing. Use the test method in AHRI 1250–2009 (incorporated by reference; see § 431.303), appendix C as the method of test for matched refrigeration systems, single-packaged dedicated systems, or unit coolers tested alone, with the following modifications:

* * * * *

In Appendix C to Subpart R, revise sections 3.3.3 through 3.3.3.2 to read:

3.3.3 *Evaporator fan power.*

3.3.3.1 The unit cooler fan power consumption shall be measured in accordance with the requirements in Section C3.5 of AHRI 1250–2009. This measurement shall be made with the fan operating at full speed, either measuring unit cooler or total system power input upon the completion of the steady state test when the compressors and condenser fan of the walk-in system is turned off, or by submetered measurement of the evaporator fan power during the steady state test.

Section C3.5 of AHRI 1250–2009 is revised to read:

Unit Cooler Fan Power Measurement. The following shall be measured and recorded during a fan power test.

$EF_{comp,on}$	Total electrical power input to fan motor(s) of Unit Cooler, W.
FS	Fan speed (s), rpm.
N	Number of motors.
P_b	Barometric pressure, in. Hg.

T_{db} ..... Dry-bulb temperature of air at inlet, °F.
T_{wb} ..... Wet-bulb temperature of air at inlet, °F.
V ..... Voltage of each phase, V.

For a given motor winding configuration, the total power input shall be measured at the highest nameplated voltage. For three-phase power, voltage imbalance shall be no more than 2%.

3.3.3.2 Evaporator fan power for the off-cycle is equal to the on-cycle evaporator fan power with a run time of ten percent of the off-cycle time.

$EF_{comp,off} = 0.1 \times EF_{comp,on}$

In Appendix C to Subpart R, following section 3.3.7.2, add new sections 3.3.8, 3.3.9, and 3.3.10 to read:

3.3.8. Measure power and capacity of single-packaged dedicated systems as described in sections C4.1.2 and C9 of AHRI 1250–2020. The third and fourth sentences of Section C9.1.1.1 of AHRI 1250–2020 (''Entering air is to be sufficiently dry as to not produce frost on the Unit Cooler coil. Therefore, only sensible capacity measured by dry bulb change shall be used to calculate capacity.'') shall not apply.

3.3.9. For systems with ducted evaporator air, or that can be installed with or without ducted evaporator air: Connect ductwork on both the inlet and outlet connections and determine external static pressure as described in ASHRAE 37–2009, sections 6.4 and 6.5. Use pressure measurement instrumentation as described in ASHRAE 37–2009 section 5.3.2. Test at the fan speed specified in manufacturer installation instructions—if there is more than one fan speed setting and the installation instructions do not specify which speed to use, test at the highest speed. Conduct tests with the external static pressure equal to 50 percent of the maximum external static pressure allowed by the manufacturer for system installation within a tolerance of −0.00/+0.05 in. wc. If testing with the indoor air enthalpy method, adjust the airflow measurement apparatus fan to set the external static pressure—otherwise, set the external static pressure by symmetrically restricting the outlet of the test duct. In case of conflict, these requirements for setting evaporator airflow take precedence over airflow values specified in manufacturer installation instructions or product literature.

3.3.10. For systems with ducted condenser air, or that can be installed with or without ducted condenser air: Connect ductwork on both the inlet and outlet connections and determine external static pressure as described in ASHRAE 37–2009, sections 6.4 and 6.5. Use pressure measurement instrumentation as described in ASHRAE 37–2009, section 5.3.2. Test at the fan speed specified in manufacturer installation instructions—if there is more than one fan speed setting and the installation instructions do not specify which speed to use, test at the highest speed. Conduct tests with the external static pressure equal to 50 percent of the maximum external static pressure allowed by the manufacturer for system installation within a tolerance of −0.00/+0.05 in. wc. If testing with the outdoor enthalpy method, adjust the airflow measurement apparatus fan to set the external static pressure—otherwise, set the external static pressure by symmetrically restricting the outlet of the test duct. In case of conflict, these requirements for setting condenser airflow take precedence over airflow values specified in manufacturer installation instructions or product literature. If testing using the outdoor air enthalpy method, the requirements of section 8.6 of ASHRAE 37–2009 are not applicable.

In Appendix C to Subpart R, revise section 3.3.6 (which specifies modifications to AHRI 1250–2009) to read:

3.3.6. AWEF is calculated on the basis that walk-in box load is equal to half of the system net capacity, without variation according to high and low load periods and without variation with outdoor air temperature for outdoor refrigeration systems, and the test must be done as a matched or single-package refrigeration system, as follows:

For Indoor Condensing Units:

For Indoor Condensing Units:

$$\dot{B}L = 0.5 \cdot \dot{q}_{ss}(90\,^{\circ}F)$$

$$LF = \frac{\dot{B}L + 3.412 \cdot \dot{E}F_{comp,off}}{\dot{q}_{ss}(90\,^{\circ}F) + 3.412 \cdot \dot{E}F_{comp,off}}$$

$$AWEF = \frac{\dot{B}L}{\dot{E}_{ss}(90\,^{\circ}F) \cdot LF + \dot{E}F_{comp,off} \cdot (1 - LF)}$$

For Outdoor Condensing Units:

$$\dot{B}L = 0.5 \cdot \dot{q}_{ss}(95\,^{\circ}F)$$

$$LF(t_j) = \frac{\dot{B}L + 3.412 \cdot \dot{E}F_{comp,off}}{\dot{q}_{ss}(t_j) + 3.412 \cdot \dot{E}F_{comp,off}}$$

$$AWEF = \frac{\sum_{j=1}^{n} BL(t_j)}{\sum_{j=1}^{n} E(t_j)}$$

$$BL(t_j) = \dot{B}L \cdot n_j$$

$$E(t_j) = \left[\dot{E}_{ss}(t_j) \cdot LF(t_j) + \dot{E}F_{comp,off} \cdot \left(1 - LF(t_j)\right)\right] \cdot n_j$$

Where: $\dot{B}L$ is the non-equipment-related box load
LF is the load factor
And other symbols are as defined in AHRI 1250-2009.

(3) *Representations.* Vinotheque may not make representations about the efficiency of a basic model listed in paragraph (1) of this Interim Waiver Order for compliance, marketing, or other purposes unless that basic model has been tested in accordance with the provisions set forth above and such representations fairly disclose the results of such testing.

(4) This interim waiver shall remain in effect according to the provisions of 10 CFR 431.401.

(5) This Interim Waiver Order is issued on the condition that the statements and representations provided by Vinotheque are valid. If Vinotheque makes any modifications to the controls or configurations of a basic model subject to this Interim Waiver Order, such modifications will render the waiver invalid with respect to that basic model, and Vinotheque will either be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may rescind or modify this waiver at any time if it determines the factual basis underlying the petition for the Interim Waiver Order is incorrect, or the results from the alternate test procedure are unrepresentative of a basic model's true energy consumption characteristics. 10 CFR 431.401(k)(1). Likewise, Vinotheque may request that DOE rescind or modify the Interim Waiver Order if Vinotheque discovers an error in the information provided to DOE as part of its petition, determines that the interim waiver is no longer needed, or for other appropriate reasons. 10 CFR 431.401(k)(2).

(6) Issuance of this Interim Waiver Order does not release Vinotheque from the certification requirements set forth at 10 CFR part 429.

DOE makes decisions on waivers and interim waivers for only those basic models specifically set out in the petition, not future models that may be manufactured by the petitioner. Vinotheque may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional basic models of Walk-in Cooler Refrigeration Systems. Alternatively, if appropriate, Vinotheque may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition consistent with 10 CFR 431.401(g).

Signing Authority

This document of the Department of Energy was signed on February 23, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Acting Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of

the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

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

Treena V. Garrett,

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

Appendix 1

Petition for Waiver and Interim Waiver

Vinotheque Wine Cellars DBA WhisperKOOL Corp. DBA CellarCool is requesting for Interim Waiver from a DOE test procedure pursuant to provisions described in 10 CFR 431.401 for the following products on the grounds that ''either the basic model contains one or more design characteristics that prevent testing of the basic model according to the prescribed test procedures or the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data.''

[Product images provided with petition may be found at Docket No. EERE–2019–BT–WAV–0038–0006 and at *http://www.regulations.gov*]

The Design Characteristics Constituting the Grounds for the Interim Waiver Application

AHRI 1250–2009 is silent on the definition of single packaged and matched pair refrigeration systems, however, as seen in Section 3.12 of the public comment version of soon to be published revision of AHRI 1250, these types of products are defined as follows:

3.12 Refrigeration System. The mechanism (including all controls and other components integral to the system's operation) used to create the refrigerated environment in the interior of a walk-in cooler or walk-in freezer, consisting of:

A Dedicated Condensing Unit; or A Unit Cooler.

3.12.1 Matched Refrigeration System (Matched-pair). A combination of a Dedicated Condensing Unit and one or more Unit Coolers specified by the Dedicated Condensing Unit manufacturer which are all distributed in commerce together. Single-Packaged Dedicated Systems are a subset of Matched Refrigeration Systems.

3.12.2 Single-packaged Refrigeration System (Single-packaged). A Matched Refrigeration System that is a Single-packaged assembly that includes one or more compressors, a condenser, a means for forced circulation of refrigerated air, and elements by which heat is transferred from air to refrigerant, without any element external to the system imposing resistance to flow of the refrigerated air.

Self-Contained Cooling Systems for Walk-In Wine Cellars (Refer to Single-Packaged Walk-In Cooler Refrigeration Systems in AHRI 1250)

- Self-contained cooling systems are designed to provide cold environment between 45~65 °F and maintain relative humidity within the range of 50~70% for properly insulated and sized wine cellars.
- These temperature and relative humidity ranges are optimized for long term storage of wine like that in natural caves.
- These cooling systems are all-in-one ready for use and no more refrigerant piping is required in the field.
- These cooling systems are factory-built, critically charged and tested, and only require through-the-wall installation on walk-in wine cellars in the field.
- These systems are available as indoor or outdoor uses with automatic off-cycle air defrost.
- Wine cellars are usually located in air-conditioned spaces.

Split Cooling Systems for Walk–In Wine Cellars (Refer to Matched-Pair Walk-In Cooler Refrigeration Systems in AHRI 1250)

- Split cooling systems are designed to provide cold environment between 45~65 °F and maintain relative humidity range within 50~70% for properly insulated wine cellars.
- These temperature and relative humidity ranges are optimized for long term storage of wine like that in natural caves.
- These cooling systems consist of a remote condensing unit and an evaporator unit, which are connected by a liquid line and an insulated suction line.
- These systems must be charged properly with refrigerant in the field.
- These systems are available as indoor or outdoor uses with automatic off-cycle air defrost.
- Wine cellars are usually located in air-conditioned spaces.
- As opposed to utilize large compressors, large surface area coils, multiple fans, and large volumes of refrigerant, these systems employ fractional compressors and automatic expansion valves to maintain 50~70% relative humidity.

DOE uniform test method for the measurement of energy consumption of walk-in coolers and walk-in freezers (WICF) described in 10 CFR 431.304 adopts the test standard set forth in AHRI 1250–2009. Both 10 CFR part 431 and AHRI 1250 define WICF products as ''. . . an enclosed storage space refrigerated to temperatures, respectively, above, and at or below 32 degrees Fahrenheit that can be walked into, and has a total chilled storage area of less than 3,000 square feet . . .'' Walk-in wine cellar cooling systems meet this definition. Therefore, WICF products are subject to the test method and minimum energy requirements as described in 10 CFR 431.401.

AHRI 1250 specifies that for walk-in coolers, the refrigeration system is to be rated at a cooler air-return temperature of 35 °F (box setpoint) than is typically seen in a wine cellar application. Operating a wine cellar at this condition would adversely mechanically alter the intended performance of the system including icing of the evaporator coil, potential damage to the compressor, and will not result in an accurate representation of the performance of the cooling unit. Wine cellars generally are kept at 55 °F, with 55% relative humidity.

The calculation of the Annual Walk-in Energy Factor (AWEF) found in AHRI 1250 accounts for typical usage of WICF products with high and low load periods. Wine cellars see a constant load, no highs or lows, that does not resemble the use patterns that are representative of typical WICF products.

Therefore, the AWEF calculation described in 10 CFR 431.304 and AHRI 1250 does not match the applications of wine cellar cooling systems.

The compressors used in wine cellar cooling systems are predominately fractional horsepower, which are inherently less efficient than larger compressors used in walk-in cooler refrigeration systems.

Therefore, we do not believe there is technology on the market that will provide the needed energy efficiency in wine cellar cooling systems to meet the minimum AWEF value for commercial walk-in cooler refrigeration systems set forth in 10 CFR 431.306.

The prescribed test procedure is unrepresentative of the products' true energy characteristics.

One or more design characteristics that prevent testing of the basic model according to the prescribed test procedures or cause the prescribed test procedures to evaluate the basic model in a manner so unrepresentative of its true energy or water consumption characteristics as to provide materially inaccurate comparative data.

Basic Models on which the Interim Waiver is being requested: All models listed cannot operate at box temperature below 45 °F. Due to controller set point limitations, the operating range is set from 70 °F to 50 °F.

Basic model	Brand name
Single-Packaged	
SC Pro 2000	WhisperKOOL.
SC Pro 3000	WhisperKOOL.
SC Pro 4000	WhisperKOOL.
SC Pro 8000	WhisperKOOL.
Extreme 3500 ti	WhisperKOOL.
Extreme 5000 ti	WhisperKOOL.
Extreme 8000 ti	WhisperKOOL.
Extreme 3500 tiR	WhisperKOOL.
Extreme 5000 tiR	WhisperKOOL.
Extreme 8000 tiR	WhisperKOOL.
Extreme 3500 tiR Fully Ducted	WhisperKOOL.
Extreme 5000 tiR Fully Ducted	WhisperKOOL.
Extreme 8000 tiR Fully Ducted	WhisperKOOL.
Phantom 3500	WhisperKOOL.
Phantom 5000	WhisperKOOL.
Phantom 8000	WhisperKOOL.
Slimline LS	WhisperKOOL.
Optimum 2200	CellarCool.
Optimum 3300	CellarCool.
Optimum 4400	CellarCool.
Optimum 8800	CellarCool.
CX2200	CellarCool.
CX3300	CellarCool.
CX4400	CellarCool.
CX8800	CellarCool.
SL2500 [16]	CellarCool.
Ultimate 3300	CellarCool.
Ultimate 4400	CellarCool.
Ultimate 8800	CellarCool.
Ultimate 3300–R	CellarCool.
Ultimate 4400–R	CellarCool.

Basic model	Brand name
Ultimate 8800–R	CellarCool.
Ultimate FD 3300	CellarCool.
Ultimate FD 4400	CellarCool.
Ultimate FD 8800	CellarCool.
Ultimate PLUS Fully Ducted 3300.	CellarCool.
Ultimate PLUS Fully Ducted 4400.	CellarCool.
Ultimate PLUS Fully Ducted 8800.	CellarCool.
Matched-Pair	
Platinum Mini	WhisperKOOL.
Platinum 4000	WhisperKOOL.
Platinum 8000	WhisperKOOL.
Platinum Twin	WhisperKOOL.
Platinum 4000 Fully Ducted	WhisperKOOL.
Platinum 8000 Fully Ducted	WhisperKOOL.
Platinum Twin Fully Ducted	WhisperKOOL.
Platinum 4000 Ducted	WhisperKOOL.
Platinum 8000 Ducted	WhisperKOOL.
Platinum Twin Ducted	WhisperKOOL.
Ceiling Mount Mini	WhisperKOOL.
Ceiling Mount 4000	WhisperKOOL.
Ceiling Mount 8000	WhisperKOOL.
Ceiling Mount Twin	WhisperKOOL.
Quantum 9000	WhisperKOOL.
Quantum 12000	WhisperKOOL.
Magnum 9000	CellarCool.
Magnum 12000	CellarCool.
CM2500–S	CellarCool.
CM3500–S	CellarCool.
CM5000–S	CellarCool.
CM9000 Twin Split	CellarCool.
WM2500–S	CellarCool.
WM3500–S	CellarCool.
WM5000–S	CellarCool.
WM9000 Twin-S	CellarCool.
FD3500–S	CellarCool.
FD5000–S	CellarCool.
FD9000 Twin-S	CellarCool.

MAXIMUM EXTERNAL STATIC PRESSURE (ESP) FOR EACH BASIC MODEL

Basic model	Brand name	ESP (in H_2O)
Single-Packaged		
SC Pro 2000	WhisperKOOL	
SC Pro 3000	WhisperKOOL	
SC Pro 4000	WhisperKOOL	
SC Pro 8000	WhisperKOOL	
Extreme 3500 ti	WhisperKOOL	
Extreme 5000 ti	WhisperKOOL	
Extreme 8000 ti	WhisperKOOL	
Extreme 3500 tiR	WhisperKOOL	
Extreme 5000 tiR	WhisperKOOL	
Extreme 8000 tiR	WhisperKOOL	
Extreme 3500 tiR Fully Ducted.	WhisperKOOL	
Extreme 5000 tiR Fully Ducted.	WhisperKOOL	
Extreme 8000 tiR Fully Ducted.	WhisperKOOL	
Phantom 3500	WhisperKOOL	
Phantom 5000	WhisperKOOL	
Phantom 8000	WhisperKOOL	
Slimline LS	WhisperKOOL	
Optimum Series 2200.	CellarCool	
Optimum 3300	CellarCool	
Optimum 4400	CellarCool	
Optimum 8800	CellarCool	
CX2200	CellarCool	
CX3300	CellarCool	
CX4400	CellarCool	
CX8800	CellarCool	
SL	CellarCool	
Ultimate 3300	CellarCool	
Ultimate 4400	CellarCool	
Ultimate 8800	CellarCool	
Ultimate 3300–R	CellarCool	
Ultimate 4400–R	CellarCool	
Ultimate 8800–R	CellarCool	
Ultimate FD 3300	CellarCool	
Ultimate FD 4400	CellarCool	
Ultimate FD 8800	CellarCool	
Ultimate PLUS Fully Ducted 3300.	CellarCool	
Ultimate PLUS Fully Ducted 4400.	CellarCool	
Ultimate PLUS Fully Ducted 8800.	CellarCool	
Matched-Pair [17]		
Platinum Mini	WhisperKOOL	
Platinum 4000	WhisperKOOL	
Platinum 8000	WhisperKOOL	
Platinum Twin	WhisperKOOL	
Platinum 4000 Fully Ducted.	WhisperKOOL	
Platinum 8000 Fully Ducted.	WhisperKOOL	
Platinum Twin Fully Ducted.	WhisperKOOL	
Platinum 8000 Ducted.	WhisperKOOL	
Platinum Twin Ducted.	WhisperKOOL	
Ceiling Mount Mini	WhisperKOOL	
Ceiling Mount 4000	WhisperKOOL	
Ceiling Mount 8000	WhisperKOOL	
Ceiling Mount Twin	WhisperKOOL	
Quantum 9000	WhisperKOOL	
Quantum 12000	WhisperKOOL	
Magnum 9000	CellarCool	
Magnum 12000	CellarCool	
CM2500–S	CellarCool	
CM3500–S	CellarCool	
CM5000–S	CellarCool	
CM9000 Twin Split-S	CellarCool	
WM2500–S	CellarCool	
WM3500–S	CellarCool	
WM5000–S	CellarCool	
WM9000 Twin-S	CellarCool	
FD3500–S	CellarCool	
FD5000–S	CellarCool	
FD9000 Twin-S	CellarCool	

Specific Requirements Sought To Be Waived

Petitioning for a waiver to exempt wine cellar walk-in cooler systems from being tested to the current test procedures, specifically the requirement for the refrigeration system to be rated at an air-return temperature of 35 °F.

The petition also includes a correction factor of 0.55 to be applied to final AWEF calculations for wine cellar products to allow the unit to pass minimum efficiency as delineated by 10 CFR 431 Subpart R. There is precedent for wine cooling products receiving a correction factor of 0.55 from Appendix A to Subpart B of 10 CFR 430 and DOE Direct Final Rule EERE–2011–BT–STD–0043–0122.

List of manufacturers of all other basic models marketing in the United States and known to the petitioner to incorporate similar design characteristics—

11. Vinotheque
21. Bacchus
31. BreezAire
41. CellarPro
51. Vinotemp
61. WhisperKool
71. Emerson-Copeland (Stand alone condensing units for split systems)
81. Danfoss (Stand alone condensing units for split systems)
91. Tecumseh (Stand alone condensing units for split systems)

Proposed Alternate Test Procedure

AHRI 1250 test procedure will be followed, but with the following modifications:

1. Temperature of the air returning to the walk-in cooling unit shall be 55 °F.

2. Relative humidity of the air returning to the walk-in cooling unit shall be 55%RH.

3. The AWEF calculations shall include a correction factor of 0.55 to inflate the final AWEF value for wine-related products to meet minimum efficiency standards.

Technical Justifications for the Alternate Test Procedure

1. The request to change box setpoint from 35 °F to 55 °F is since this is the optimal temperature for wine to be aged. WhisperKOOL designs cooling units to meet this condition and operating at a lower box setpoint would result in adverse conditions in the unit. For example, at such a low return temperature, WhisperKOOL evaporator coils will ice over. This would then require additional energy to be expended to operate a defrost system or would result in adverse air flow through the coil during performance testing—leading to lower overall performance.

2. The same as above can be said with regards to the request to change the box humidity setpoint to 55%RH. This condition is ideal for helping wine to age as it maintains cork moisture and prevents damage to labels on the bottles, leading to damaged investments. Since WhisperKOOL cooling units are designed to age fine wines as ideally as possible, the unit will perform best during a performance test at the conditions which the unit attempts to maintain for the end-user.

3. Furthermore, WhisperKOOL is requesting a 0.55 correction factor to be applied to all cooling units in order to meet minimum energy efficiency requirements. In addition to there being precedent for a correction factor like this, WhisperKOOL is unable to achieve the required energy efficiency for a few reasons, most being related to the availability of technology and nuances specific to the wine cellar cooling industry.

[16] As indicated in Vinotheque's email (EERE–2019–BT–WAV–0038–0009), in the Single-Packaged table in the ''Maximum External Static Pressure (ESP) for Each Basic Model'' section of the petition, the ''SL'' basic model is the same as the ''SL2500 basic model listed here.

[17] As indicated in Vinotheque's email (EERE–2019–BT–WAV–0038–0009), the ''Platinum 4000 Ducted'' basic model is not included in the Matched-Pair table in the ''Maximum External Static Pressure (ESP) for Each Basic Model'' section of the petition, but it is a ducted unit that has an external static pressure identified by Vinotheque in the email, and redacted accordingly.

a. First and foremost, due to the size of a refrigeration system designed for a wine cellar, WhisperKOOL uses fractional-horsepower reciprocating compressors, which are fundamentally more limited in space and design, and are inherently less efficient than larger compressors. For example, WhisperKOOL's most-sold cooling unit uses an Embraco-brand compressor which, at wine cellar conditions has an EER of about 9.85 BTU/Wh. At the same conditions, by comparison, a more-modern scroll compressor rated at 1.8 HP has an EER closer to 11 BTU/Wh. This is the case across the board with WhisperKOOL fractional-horsepower compressors (Embraco brand).

b. Additionally, some installs are difficult and require the use of a duct-able unit. This leads to the need for higher-wattage fans being used in WhisperKOOL products, further to the detriment of the overall energy efficiency.

c. Some of the most efficient modern compressors which operate in the fractional-horsepower range use R290 as the refrigerant (Propane). However, an R290 charging station retrofit would be excessively invasive to WhisperKOOL's facility as well as too costly to redesign all products in such a manner.

Success of the Application for Interim Waiver Will

Success of the application for Interim Waiver will ensure that manufacturers of walk-in wine cellar cooling systems can continue to participate in the market.

What Economic Hardship and/or Competitive Disadvantage is Likely To Result Absent a Favorable Determination on the Application for Interim Waiver

Economic hardship will be loss of sales due to not meeting the DOE energy conservation standards set forth in 10 CFR 431.306 if the existing products were altered in order to test per current requirements set forth in 10 CFR 431.304 and AHRI 1250, it would add significant cost and increase energy consumption.

Conclusion

WhisperKOOL seeks an Interim Waiver from DOE's current test method for the measurement of energy consumption of walk-in wine cellar Self-contained and Split cooling systems.

Signed By:/s/ MChristian Bromme

Date: 12/1/2020

Title: Engineering Manager

[FR Doc. 2021–04112 Filed 2–26–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Case Number 2019–009; EERE–2019–BT–WAV–0028]

Energy Conservation Program: Notification of Petition for Waiver of CellarPro From the Department of Energy Walk-In Coolers and Walk-in Freezers Test Procedure and Notification of Grant of Interim Waiver

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

ACTION: Notification of petition for waiver and grant of an interim waiver; request for comments.

SUMMARY: This document announces receipt of and publishes a petition for waiver and interim waiver from CellarPro, which seeks a waiver for specified walk-in cooler refrigeration system basic models from the U.S. Department of Energy (''DOE'') test procedure used to determine the efficiency and energy consumption of walk-in coolers and walk-in freezers. DOE also gives notice of an Interim Waiver Order that requires CellarPro to test and rate the specified walk-in cooler refrigeration system basic models in accordance with the alternate test procedure set forth in the Interim Waiver Order, which modifies the alternate test procedure suggested by CellarPro. DOE solicits comments, data, and information concerning CellarPro's petition, its suggested alternate test procedure, and the alternate test procedure specified in the Interim Waiver Order so as to inform DOE's final decision on CellarPro's waiver request.

DATES: The Interim Waiver Order is effective on March 1, 2021. Written comments and information will be accepted on or before March 31, 2021.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, interested persons may submit comments, identified by case number ''2019–009'', and Docket number ''EERE–2019–BT–WAV–0028,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: CellarPro2019WAV0028@ee.doe.gov.* Include Case No. 2019–009 in the subject line of the message.
- *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mail Stop EE–5B, Petition for Waiver Case No. 2019–009, 1000 Independence Avenue SW, Washington, DC 20585–0121. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, 6th floor, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a ''CD'', in which case it is not necessary to include printed copies.

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

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

The docket web page can be found at *https://www.regulations.gov/docket?D=EERE-2019-BT-WAV-0028.* The docket web page contains instruction on how to access all documents, including public comments, in the docket. See the **SUPPLEMENTARY INFORMATION** section for information on how to submit comments through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *AS_Waiver_Request@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE is publishing CellarPro's petition for waiver in its entirety in appendix 1 to this document, pursuant to 10 CFR 431.401(b)(1)(iv).[1] DOE invites all interested parties to submit in writing by March 31, 2021, comments and

[1] The petition did not identify any of the information contained therein as confidential business information.

information on all aspects of the petition, including the alternate test procedure. Pursuant to 10 CFR 431.401(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is: Keith Sedwick, *keith@cellarprocoolingsystems.com*, 1445 N McDowell Blvd., Petaluma, CA 94954.

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

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

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

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

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

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. Faxes will not be accepted.

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

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

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

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

Case Number 2019–009

Interim Waiver Order

I. Background and Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[2] authorizes the U.S. Department of Energy (''DOE'') to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C[3] of EPCA, added by the National Energy Conservation Policy Act, Public Law 95–619, sec. 441 (Nov. 9, 1978), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve the energy efficiency for certain types of industrial equipment. Through amendments brought about by the Energy Independence and Security Act of 2007, Public Law 110–140, sec. 312 (Dec. 19, 2007), this equipment includes walk-in coolers and walk-in freezers, the subject of this Interim Waiver Order. (42 U.S.C. 6311(1)(G))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s))

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered equipment. EPCA requires that any test

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

[3] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated as Part A–1.

procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect the energy efficiency, energy use or estimated annual operating cost of covered products and equipment during a representative average use cycle and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)) The test procedure used to determine the net capacity and annual walk-in energy factor (''AWEF'') of walk-in cooler and walk-in freezer refrigeration systems is contained in the Code of Federal Regulations (''CFR'') at 10 CFR part 431, subpart R, appendix C, *Uniform Test Method for the Measurement of Net Capacity and AWEF of Walk-in Cooler and Walk-in Freezer Refrigeration Systems* (''Appendix C'').

Under 10 CFR 431.401, any interested person may submit a petition for waiver from DOE's test procedure requirements. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. *See* 10 CFR 431.401(f)(2). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the performance of the equipment type in a manner representative of its energy consumption characteristics of the basic model. *See* 10 CFR 431.401(b)(1)(iii). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *See* 10 CFR 431.401(f)(2).

As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. *See* 10 CFR 431.401(1). As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule to that effect. *Id.*

The waiver process also provides that DOE may grant an interim waiver if it appears likely that the underlying petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the underlying petition for waiver. *See* 10 CFR 431.401(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) Publish in the **Federal Register** a determination on the petition for waiver; or (ii) publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver. *See* 10 CFR 431.401(h)(1).

When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. *See* 10 CFR 431.401(h)(2).

II. CellarPro's Petition for Waiver and Application for Interim Waiver

DOE received a petition from CellarPro dated September 13, 2019 seeking an interim waiver from the test procedure for walk-in cooler and walk-in freezer refrigeration systems set forth at Appendix C (CellarPro, No. 1 at p. 1).[4] The waiver process under 10 CFR 431.401 requires that a petitioner must request a waiver for there to be consideration of a petition for an interim waiver. CellarPro later confirmed in a May 22, 2020 email that its petition should also be considered as a petition for waiver (CellarPro, No. 4).

The primary assertion in the petition, absent an interim waiver, is that the prescribed test procedure would evaluate the specified basic models in a manner so unrepresentative of their true energy consumption as to provide materially inaccurate comparative data. As presented in CellarPro's petition, the specified basic models of walk-in cooler refrigeration systems operate at a temperature range of 45–65 °F; higher than that of a typical walk-in cooler refrigeration system. Thus, the 35 °F temperature specified in the DOE test procedure for medium-temperature walk-in refrigeration systems would result in the prescribed test procedures evaluating the specified basic models in a manner so unrepresentative of their true energy consumption characteristics as to provide materially inaccurate comparative data. CellarPro also states that the specified basic models are ''wine cellar cooling systems'' that operate at temperature and relative humidity ranges optimized for the long-term storage of wine and are usually located in air-conditioned spaces. CellarPro contends that because of these characteristics, wine cellar walk-in refrigeration systems differ in their walk-in box temperature setpoint, walk-in box relative humidity, low/high load split,[5] and compressor efficiency from other walk-in cooler refrigeration systems.

CellarPro states that the specified basic models are designed to provide a cold environment at a temperature range between 45–65 °F with 50–70 percent relative humidity (''RH''), and typically are kept at 55 °F rather than the 35 °F and <50 percent RH test condition prescribed by the DOE test procedure. CellarPro states that the refrigeration systems are designed solely for the purpose of long-term cooling and storage of wine. CellarPro also asserts that operating a wine cellar at the 35 °F condition would adversely mechanically alter the intended performance of the system, which would include icing of the evaporator coil that could potentially damage the compressor, and would not result in an accurate representation of the performance of the cooling unit.

Additionally, a number of the basic models of walk-in refrigeration systems identified in CellarPro's waiver petition are ''self-contained'' or single-package systems. In its request for waiver, CellarPro states that these systems have a small footprint and that testing these systems using the refrigerant enthalpy method in AHRI 1250–2009 is complex since mass flow meters would need to be installed in parts of the system with minimal space. DOE recognizes that because of their single-package design, these basic models have insufficient space within the units and insufficient lengths of liquid line and evaporator outlet line for the dual mass flow meters and the dual temperature and pressure measurements required by the test procedure's refrigerant enthalpy method. As noted by CellarPro, AHRI 1250–2009 does not include specific provisions for testing single-package systems and testing these basic models using the refrigerant enthalpy method as required by Appendix C would require extensive additional piping to route the pipes out of the system where the components can be installed, and then to route them back in to enable the

[4] A notation in the form ''CellarPro, No. 1'' identifies a written submission: (1) Made by CellarPro; and (2) recorded in document number 1 that is filed in the docket of this petition for waiver (Docket No. EERE–2019–BT–WAV–0028) and available at *http://www.regulations.gov.*

[5] The DOE test procedure incorporates by reference Air-Conditioning, Heating, and Refrigeration Institute (''AHRI'') Test Standard 1250–2009, ''Standard for Performance Rating of Walk-in Coolers and Freezers'' (including Errata sheet dated December 2015) (''AHRI 1250–2009''). Section 6 of that standard defines walk-in box thermal loads as a function of refrigeration system net capacity for both high-load and low-load periods. The waiver petition asserts that wine cellars do not have distinct high and low load periods, and that the box load levels in the test standard are not representative for wine cellar refrigeration systems.

system to operate during testing.[6] This additional piping would impact unit performance, likely be inconsistent between test labs, and result in unrepresentative test values for the unit under test. AHRI has published a revised version of the test standard that provides provisions for single-package systems without requiring extensive additional piping (AHRI 1250–2020, *2020 Standard for Performance Rating of Walk-in Coolers and Freezers*). As discussed below, the interim waiver alternative test procedure presented for comment in this notification adopts the new test methods included in AHRI 1250–2020 for single-package units.

DOE has received multiple waiver and interim waiver requests from wine cellar manufacturers regarding the limitations of Appendix C. In light of these requests, DOE met with the AHRI and wine cellar walk-in refrigeration system manufacturers to develop a consistent and representative alternate test procedure that would be relevant to each waiver request. Ultimately, AHRI sent a letter to DOE on August 18, 2020, summarizing the industry's position on several issues (''AHRI August 2020 Letter'').[7] This letter documents industry support for specific wine cellar walk-in refrigeration system test procedure requirements, allowing the provisions to apply only to refrigeration systems with a minimum operating temperature of 45 °F, since wine cellar system controls and unit design specifications prevent these walk-ins from reaching a temperature below 45 °F. A provision for testing walk-in wine cellar refrigeration systems at an external static pressure (''ESP'') [8] of 50 percent of the maximum ESP to be specified by manufacturers for each basic model (AHRI August 2020 Letter) is also included.

Accordingly, CellarPro submitted an updated petition for waiver and interim waiver on October 2, 2020 (CellarPro, No. 6). The updated petition states that all basic models listed in the petition for waiver and interim waiver have a minimum operating temperature of 45 °F and provides maximum ESP values for specified ducted self-contained and ducted split system basic models.

CellarPro requests an interim waiver from the existing DOE test procedure. DOE will grant an interim waiver if it appears likely that the petition for waiver will be granted, and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. See 10 CFR 431.401(e)(2).

III. Requested Alternate Test Procedure

EPCA requires that manufacturers use the applicable DOE test procedures when making representations about the energy consumption and energy consumption costs of covered equipment. (42 U.S.C. 6314(d)). Consistency is important when making representations about the energy efficiency of products and equipment, including when demonstrating compliance with applicable DOE energy conservation standards. Pursuant to its regulations at 10 CFR 431.401, and after consideration of public comments on the petition, DOE may establish in a subsequent Decision and Order an alternate test procedure for the basic models addressed by the Interim Waiver Order.

CellarPro seeks to use an approach that would test and rate specific wine cellar walk-in refrigeration system basic models. The company's suggested approach specifies using an air-return temperature of 55 °F, as opposed to the 35 °F requirement prescribed in the current DOE test procedure. CellarPro does not specify air return relative humidity in their petition, though they do state that the subject basic models are designed to maintain relative humidity between 50 and 70 percent. Additionally, CellarPro requests that a correction factor of 0.55 be applied to the final AWEF calculation to account for the different use and load patterns of the specified basic models as compared to walk-in cooler refrigeration systems generally. CellarPro cited the use of such a correction factor for coolers [9] and combination cooler refrigeration products under DOE's test procedure for miscellaneous refrigeration products at 10 CFR part 430, subpart B, appendix A.

IV. Interim Waiver Order

DOE has reviewed CellarPro's application, its suggested testing approach, representations of the specified basic models on the website for the CellarPro brand, related product catalogs, and information provided by CellarPro and other wine cellar walk-in refrigeration system manufacturers in meetings with DOE. Based on this review, DOE is granting an interim waiver that requires testing with a modified version of the testing approach suggested by CellarPro.

The modified testing approach would apply to the models specified in CellarPro's waiver petition that include two categories of WICF refrigeration systems, *i.e.,* single package and split (matched) systems. The first 17 basic models listed in CellarPro's table (1800QTL through 8200VS) are single-package systems. All of the single package basic models can be installed either through the wall of a wine cellar or on top of a wine cellar, and the VS series basic models can additionally be ducted to the wine cellar. The ducted configuration is designed to be installed remotely from the wine cellar and provide cooling by circulating air through ducts from the wine cellar to the unit and back. The remaining basic models (3000S through AH24Sx) are split (matched) systems, in which refrigerant circulates between the ''evaporator unit'' (unit cooler) portion of the unit and the ''condensing unit.'' The refrigerant cools the wine cellar air in the evaporator unit, while the condensing unit rejects heat from the refrigeration system in a remote location, often outside. The evaporator coil of the ducted split (matched) system circulates air through ducts from the wine cellar to the evaporator coil and back to provide cooling, while the evaporator coil of the ductless split (matched) systems is installed either partially or entirely in the wine cellar, allowing direct cooling. The capacity range of the specified basic models is from 1,065 Btu/h to 17,500 Btu/h for the specified operating conditions for each of the models (CellarPro, No.8).[10]

[6] In a waiver granted to Store It Cold for certain models of single-package units, DOE acknowledged a similar issue in which the additional piping necessary to install the required testing components would affect performance of the units, rendering the results unrepresentative. See 84 FR 39286 (Aug. 9, 2019). In the case of the waiver granted to Store It Cold, the refrigerant enthalpy method yielded inaccurate data for the specified basic models compared to the basic models' true performance characteristics because of the additional piping required to attach the testing components required by the refrigerant enthalpy test. The same issues are present for the specified single package system basic models included in CellarPro's waiver petition.

[7] DOE's meetings with CellarPro and other wine cellar refrigeration systems were conducted consistent with the Department's *ex parte* meeting guidance (74 FR 52795; October 14, 2009). The AHRI August 2020 letter memorializes this communication and is provided in Docket No. EERE–2019–BT–WAV–0028–0005.

[8] External static pressure is the sum of all the pressure resisting the fans. Here, this is chiefly the resistance generated by the air moving through ductwork.

[9] A *cooler* is a cabinet, used with one or more doors, that has a source of refrigeration capable of operating on single-phase, alternating current and is capable of maintaining compartment temperatures either: (1) No lower than 39 °F (3.9 °C); or (2) In a range that extends no lower than 37 °F (2.8 °C) but at least as high as 60 °F (15.6 °C). 10 CFR 430.2.

[10] The specified operating temperatures are 55 °F cold-side air entering and 85 °F warm-side air entering. Capacities at specified operating conditions are included in the ''2020 CellarPro

Continued

DOE considers the operating temperature range of the specified basic models to be integral to its analysis of whether such models require a test procedure waiver. Grant of the interim waiver and its alternative test procedure to CellarPro for the specified basic models listed in the petition is based upon CellarPro's representation that the operating range for the basic models listed in the interim waiver does not extend below 45 °F.

The alternate test procedure specified in the Interim Waiver Order requires testing the specified basic models according to Appendix C with the following changes. The required alternate test procedure specifies an air entering dry-bulb temperature of 55 °F and a relative humidity of 55 percent. The alternate test procedure also specifies that the capacity measurement for the specified basic models that are single-package systems (17 basic models 1800QTL through 8200VS) be conducted using a primary and a secondary capacity measurement method as specified in AHRI 1250–2020, using two of the following: The indoor air enthalpy method; the outdoor air enthalpy method; the compressor calibration method; the indoor room calorimeter method; the outdoor room calorimeter method; or the balanced ambient room calorimeter method.

The required alternate test procedure also includes the following additional modifications to CellarPro's suggested approach: For systems that can be installed with (1) ducted evaporator air, (2) with or without ducted evaporator air, (3) ducted condenser air, or (4) with or without ducted condenser air, testing would be conducted at 50 percent of the maximum ESP, consistent with the AHRI August 2020 Letter recommendations, subject to a tolerance of −0.00/+0.05 in. wc.[11] DOE understands that maximum ESP is generally not published in available literature such as installation instructions, but manufacturers do generally specify the size and maximum length of ductwork that is acceptable for any given unit in such literature. The duct specifications determine what ESP would be imposed on the unit in field operation.[12] The provision of allowable duct dimensions is more convenient for installers than maximum ESP, since it relieves the installer from having to perform duct pressure drop calculations to determine ESP. DOE independently calculated the maximum pressure drop over a range of common duct roughness values[13] using duct lengths and diameters published in CellarPro's installation manuals (CellarPro, No. 11). DOE's calculations show reasonable agreement with the maximum ESP values provided by CellarPro for the specified basic models. Given that the number and degree of duct bends and duct type will vary by installation, DOE found the maximum ESP values provided by CellarPro to be sufficiently representative.

Selection of a representative ESP equal to half the maximum ESP is based on the expectation that most installations will require less than the maximum allowable duct length. In the absence of field data, DOE expects that a range of duct lengths from the minimal length to the maximum allowable length would be used; thus, DOE believes that half of the maximum ESP would be representative of most installations. For basic models with condensing or evaporator units that are not designed for the ducting of air, this design characteristic must be clearly stated.

Additionally, if there are multiple condenser or evaporator unit fan speed settings, the speed setting used would be as instructed in the unit's installation instructions. However, if the installation instructions do not specify a fan speed setting for ducted installation, systems that can be installed with ducts would be tested with the highest available fan speed. The ESP would be set for testing either by symmetrically restricting the outlet duct[14] or, if using the indoor air enthalpy method, by adjusting the airflow measurement apparatus blower.

The alternate test procedure also describes the requirements for measurement of ESP consistent with provisions provided in AHRI 1250–2020 when using the indoor air enthalpy method with unit coolers.

Additionally, the alternate test procedure indicates that specified basic models that are split systems must be tested as matched pairs. According to CellarPro's petition, the walk-in refrigeration system basic models that are split-systems are sold as full systems (*i.e.,* matched pairs) rather than as individual unit cooler and condensing unit components. This Interim Waiver Order provides no direction regarding refrigerant line connection operating conditions, and as such is inapplicable to testing the basic models as individual components. Consequently, the Interim Waiver Order addresses only matched-pair testing of the specified basic models that are split-systems.

DOE notes that, despite the request from CellarPro, it is not including a 0.55 correction factor in the alternate test procedure required by the Interim Waiver Order. The company claimed that such a factor would correct for differences in wine cellar refrigeration system fan power, compressor efficiency, and run time and load conditions. CellarPro also observed that the test procedure in appendix A to subpart B of 10 CFR part 430 (''Appendix A''), includes such a factor to account for the difference in use and loading patterns of coolers (*e.g.,* self-contained wine chiller cabinets) as compared to other residential refrigeration products and sought to include a factor as part of its petition. Coolers, like other residential refrigeration products, are tested in a 90 °F room without door openings (section 2.1.1 of Appendix A). The intent of the energy test procedure for residential refrigeration products is to simulate operation in typical room conditions (72 °F) with door openings by testing at 90 °F ambient temperature without door openings. 10 CFR 430.23(ff)(7). In section 5.2.1.1 of Appendix A, a correction factor of 0.55 is applied to the measured energy consumption of coolers so that measuring energy consumption at 90 °F ambient temperature without door openings provides test results that are representative of consumer usage at 72 °F ambient temperature with door openings. Specifically, the 0.55 correction factor reflects that (1) closed-door operation of self-contained coolers in typical 72 °F room conditions results in an average energy consumption 0.46 times the value measured at the 90 °F ambient temperature specified by the test procedure; and (2) expected door openings of a self-contained wine chiller would add an additional 20% thermal load. Multiplying 0.46 by 1.2 results in the overall correction factor of 0.55. See 81 FR 46768, 46782 (July 18, 2016) (final rule for miscellaneous refrigeration products).

Product Performance List'' provided in docket No. EERE–2019–BT–WAV–0028.

[11] Inches of water column (''in. wc'') is a unit of pressure conventionally used for measurement of pressure differentials.

[12] The duct material, length, diameter, shape, and configuration are used to calculate the ESP generated in the duct, along with the temperature and flow rate of the air passing through the duct. The conditions during normal operation that result in a maximum ESP are used to calculate the reported maximum ESP values, which are dependent on individual unit design and represent manufacturer-recommended installation and use.

[13] Calculations were conducted over an absolute roughness range of 1.0–4.6 mm for flexible duct as defined in pages 1–2 of an OSTI Journal Article on pressure loss in flexible HVAC ducts at *https://www.osti.gov/servlets/purl/836654* (Docket No. EERE–2019–BT–WAV–0028–0013) and available at *http://www.regulations.gov.*

[14] This approach is used for testing of furnace fans, as described in Section 8.6.1.1 of 10 CFR part 430, appendix AA to subpart B.

In contrast, these same closed-door conditions on which the miscellaneous refrigeration correction factor is based are not present in the test procedure for walk-in cooler refrigeration systems. The WICF test procedure does not provide for closed-door testing at elevated ambient temperatures as the test procedure for residential refrigeration products does because walk-ins are tested and rated by component, with a walk-in refrigeration system tested and rated separately from a walk-in enclosure (panels and doors). See 76 FR 21580. Walk-in refrigeration load is set by using a representative ratio of box load to capacity (see discussion below). As a result, applying the 0.55 correction factor as suggested by CellarPro is not appropriate for the specified basic models.

Further, CellarPro asserted that the suggested 0.55 correction factor was to address the differences in run time and compressor inefficiency of the specified basic models as compared to walk-in cooler refrigeration systems more generally. It suggested that the run time for wine cellar walk-in refrigeration systems ranges from 50 to 75 percent. AHRI 1250–2009 accounts for percent run time in the AWEF calculation by setting walk-in box load equal to specific fractions of refrigeration system net capacity—the fractions are defined based on whether the refrigeration system is for cooler or freezer applications, and whether it is designed for indoor or outdoor installation (see sections 6.2 (applicable to coolers) and 6.3 (applicable to freezers) of AHRI 1250–2009). The alternate test procedure provided by this interim waiver requires calculating AWEF based on setting the walk-in box load equal to half of the refrigeration system net capacity, without variation according to high and low load periods and without variation with outdoor air temperature for outdoor refrigeration systems. Setting the walk-in box load equal to half the refrigeration system net capacity results in a refrigeration system run time fraction slightly above 50 percent, which is in the range suggested by CellarPro as being representative for the specified basic models. As previously discussed, walk-in energy consumption is determined by component, with separate test procedures for walk-in refrigeration systems, doors, and panels. Section 6 of AHRI 1250–2009 provides equations for determining refrigeration box load as a function of refrigeration system capacity. Using these equations with an assumed load factor of 50 percent maintains consistency with Appendix C while providing an appropriate load fraction for wine cellar refrigeration systems. Accordingly, DOE has declined to adopt a correction factor for the equipment at issue.

Based on DOE's review of CellarPro's petition, the required alternate test procedure laid out in the Interim Waiver Order appears to allow for the accurate measurement of energy efficiency of the specified basic models, while alleviating the testing issues associated with CellarPro's implementation of wine cellar walk-in refrigeration system testing for these basic models. Consequently, DOE has determined that CellarPro's petition for waiver will likely be granted. Furthermore, DOE has determined that it is desirable for public policy reasons to grant CellarPro immediate relief pending a determination of the petition for waiver.

For the reasons stated, it is *ordered* that:

(1) CellarPro must test and rate the following CellarPro-branded wine cellar walk-in refrigeration system basic models [15] with the alternate test procedure set forth in paragraph (2).

CELLARPRO BASIC MODELS

Basic model	Catalog models under basic model group	Minimum operating temperature (°F)	Maximum operating temperature (°F)	Maximum evaporator fan external static pressure (inwg)	Maximum condenser fan external static pressure (inwg)
1800QTL	1800QTL, 1800QTL–L	45	65	0.00	0.00
1800QT	Same	45	65	0.00	0.00
1800XT	Same	45	65	0.00	0.00
1800XTS	1800XTS, 1800XTS–B	45	65	0.00	0.00
1800XTSx	Same	45	65	0.00	0.00
1800XT 220V	Same	45	65	0.00	0.00
1800XTS 220V	Same	45	65	0.00	0.00
1800XTx 220V	Same	45	65	0.00	0.00
1800H	Same	51	65	0.09	0.09
1800H 220V	Same	51	65	0.09	0.09
2000VS	2000VSi, 2000VSx	45	65	0.19	0.19
2000VS 220V	2000VSi 220V, 2000VSx 220V	45	65	0.19	0.19
3200VS	3200VSi, 3200VSx	45	65	0.25	0.25
4200VS	4200VSi, 4200VSx, 4200VSi-B, 4200VSi-L.	45	65	0.25	0.25
4200VS 220V	4200VSi 220V, 4200VSx 220V	45	65	0.25	0.25
6200VS	6200VSi, 6200VSx	45	65	0.25	0.25
8200VS	8200VSi, 8200VSx	45	65	0.25	0.25
3000S	3000S, 3000Sqc	45	65	0.25	0.00
3000Scm	Same	47	65	0.00	0.00
3000Scmr	Same	45	65	0.25	0.00
3000Sh	3000Sh, 3000Shqc	45	65	0.25	0.00
4000S	4000S, 4000Sqc	45	65	0.25	0.00
4000S 220V	Same	45	65	0.25	0.00
4000Scm	Same	47	65	0.00	0.00
4000Scmr	Same	45	65	0.25	0.00
4000Sh	4000Sh, 4000Shqc	45	65	0.25	0.00

[15] Basic model 2000VS was initially included twice in CellarPro's petition, prior to a clarifying email on October 26, 2020 from CellarPro stating that this repeated model was intended to be basic model 2000VS 220V (CellarPro, No. 7).

CELLARPRO BASIC MODELS—Continued

Basic model	Catalog models under basic model group	Minimum operating temperature (°F)	Maximum operating temperature (°F)	Maximum evaporator fan external static pressure (inwg)	Maximum condenser fan external static pressure (inwg)
4000Shwc	Same	45	65	0.25	0.00
4000Swc	Same	45	65	0.25	0.00
6000S	Same	45	65	0.25	0.00

(2) The alternate test procedure for the CellarPro basic models identified in paragraph (1) of this Interim Waiver Order is the test procedure for Walk-in Cooler Refrigeration Systems prescribed by DOE at 10 CFR part 431, subpart R, appendix C (''Appendix C to Subpart R''), except as detailed below. All other requirements of Appendix C to Subpart R, and DOE's regulations remain applicable.

In Appendix C to Subpart R, revise section 3.1.1 (which specifies modifications to AHRI 1250–2009 (incorporated by reference; see § 431.303)) to read:

3.1.1. In Table 1, Instrumentation Accuracy, refrigerant temperature measurements shall have an accuracy of ±0.5 °F for unit cooler in/out. Measurements used to determine temperature or water vapor content of the air (*i.e.,* wet bulb or dew point) shall be accurate to within ±0.25 °F; all other temperature measurements shall be accurate to within ±1.0 °F.

In Appendix C to Subpart R, revise section 3.1.4 (which specifies modifications to AHRI 1250–2009) and add modifications of AHRI 1250–2009 Tables 3 and 4 to read:

3.1.4. In Tables 3 and 4 of AHRI 1250–2009, Section 5, the Condenser Air Entering Wet-Bulb Temperature requirement applies only to single-packaged dedicated systems. Tables 3 and 4 shall be modified to read:

TABLE 3—FIXED CAPACITY MATCHED REFRIGERATOR SYSTEM AND SINGLE-PACKAGED DEDICATED SYSTEM, CONDENSING UNIT LOCATED INDOOR

Test description	Unit cooler air entering dry-bulb, °F	Unit cooler air entering relative humidity, % [1]	Condenser air entering dry-bulb, °F	Maximum condenser air entering wet-bulb, °F	Compressor status	Test objective
Evaporator Fan Power	55	55	.....	.....	.....	Measure fan input wattage.[2]
Refrigeration Capacity	55	55	90	[3] 65	Compressor On	Determine Net Refrigeration Capacity of Unit Cooler, input power, and EER at Rating Condition.

Notes:

[1] The test condition tolerance (maximum permissible variation of the average value of the measurement from the specified test condition) for relative humidity is 3%.

[2] Measure fan input wattage either by measuring total system power when the compressor and condenser are turned off or by separately sub-metering the evaporator fan.

[3] Maximum allowable value for Single-Packaged Systems that do not use evaporative Dedicated Condensing Units, where all or part of the equipment is located in the outdoor room.

TABLE 4—FIXED CAPACITY MATCHED REFRIGERATOR SYSTEM AND SINGLE-PACKAGED DEDICATED SYSTEM, CONDENSING UNIT LOCATED OUTDOOR

Test description	Unit cooler air entering dry-bulb, °F	Unit cooler air entering relative humidity, % [1]	Condenser air entering dry-bulb, °F	Maximum condenser air entering wet-bulb, °F	Compressor status	Test objective
Evaporator Fan Power	55	55	.....	.....	.....	Measure fan input wattage.[2]
Refrigeration Capacity A	55	55	95	[3] 68	Compressor On	Determine Net Refrigeration Capacity of Unit Cooler, input power, and EER at Rating Condition.
Refrigeration Capacity B	55	55	59	[3] 46	Compressor On	Determine Net Refrigeration Capacity of Unit Cooler and system input power at moderate condition.

TABLE 4—FIXED CAPACITY MATCHED REFRIGERATOR SYSTEM AND SINGLE-PACKAGED DEDICATED SYSTEM, CONDENSING UNIT LOCATED OUTDOOR—Continued

Test description	Unit cooler air entering dry-bulb, °F	Unit cooler air entering relative humidity, % [1]	Condenser air entering dry-bulb, °F	Maximum condenser air entering wet-bulb, °F	Compressor status	Test objective
Refrigeration Capacity C	55	55	35	[3] 29	Compressor On	Determine Net Refrigeration Capacity of Unit Cooler and system input power at cold condition.

Notes:
[1] The test condition tolerance (maximum permissible variation of the average value of the measurement from the specified test condition) for relative humidity is 3%.
[2] Measure fan input wattage either by measuring total system power when the compressor and condenser are turned off or by separately submetering the evaporator fan.
[3] Maximum allowable value for Single-Packaged Dedicated Systems that do not use evaporative Dedicated Condensing Units, where all or part of the equipment is located in the outdoor room.

In Appendix C to Subpart R, following section 3.2.5 (instructions regarding modifications to AHRI 1250–2009), add sections 3.2.6 and 3.2.7 to read:

3.2.6 The purpose in section C1 of appendix C is modified by extending it to include Single-Packaged Dedicated Systems.

3.2.7 For general test conditions and data recording (appendix C, section C7), the test acceptance criteria in Table 2 and the data to be recorded in Table C2 apply to the Dual Instrumentation and Calibrated Box methods of test.

In Appendix C to Subpart R, revise section 3.3 to read:

3.3. *Matched systems, single-packaged dedicated systems, and unit coolers tested alone:* Test any split system wine cellar walk-in refrigeration system as a matched pair. Any condensing unit or unit cooler component must be matched with a corresponding counterpart for testing. Use the test method in AHRI 1250–2009 (incorporated by reference; see § 431.303), appendix C as the method of test for matched refrigeration systems, single-packaged dedicated systems, or unit coolers tested alone, with the following modifications:

* * * * *

In Appendix C to Subpart R, revise sections 3.3.3 through 3.3.3.2 to read:

3.3.3 *Evaporator fan power.*

3.3.3.1. The unit cooler fan power consumption shall be measured in accordance with the requirements in Section C3.5 of AHRI 1250–2009. This measurement shall be made with the fan operating at full speed, either measuring unit cooler or total system power input upon the completion of the steady state test when the compressors and condenser fan of the walk-in system is turned off, or by submetered measurement of the evaporator fan power during the steady state test.

Section C3.5 of AHRI 1250–2009 is revised to read:

Unit Cooler Fan Power Measurement. The following shall be measured and recorded during a fan power test.

$EF_{comp,on}$ Total electrical power input to fan motor(s) of Unit Cooler, W
FS Fan speed (s), rpm
N Number of motors
P_b Barometric pressure, in. Hg
T_{db} Dry-bulb temperature of air at inlet, °F
T_{wb} Wet-bulb temperature of air at inlet, °F
V Voltage of each phase, V

For a given motor winding configuration, the total power input shall be measured at the highest nameplated voltage. For three-phase power, voltage imbalance shall be no more than 2%.

3.3.3.2. Evaporator fan power for the off cycle is equal to the on-cycle evaporator fan power with a run time of ten percent of the off-cycle time.

$EF_{comp,off} = 0.1 \times EF_{comp,on}$

In Appendix C to Subpart R, following section 3.3.7.2, add new sections 3.3.8, 3.3.9, and 3.3.10 to read:

3.3.8. Measure power and capacity of single-packaged dedicated systems as described in sections C4.1.2 and C9 of AHRI 1250–2020. The third and fourth sentences of Section C9.1.1.1 of AHRI 1250–2020 (''Entering air is to be sufficiently dry as to not produce frost on the Unit Cooler coil. Therefore, only sensible capacity measured by dry bulb change shall be used to calculate capacity.'') shall not apply.

3.3.9. For systems with ducted evaporator air, or that can be installed with or without ducted evaporator air: Connect ductwork on both the inlet and outlet connections and determine external static pressure as described in ASHRAE 37–2009, sections 6.4 and 6.5. Use pressure measurement instrumentation as described in ASHRAE 37–2009, section 5.3.2. Test at the fan speed specified in manufacturer installation instructions—if there is more than one fan speed setting and the installation instructions do not specify which speed to use, test at the highest speed. Conduct tests with the external static pressure equal to 50 percent of the maximum external static pressure allowed by the manufacturer for system installation within a tolerance of −0.00/+0.05 in. wc. If testing with the indoor air enthalpy method, adjust the airflow measurement apparatus fan to set the external static pressure—otherwise, set the external static pressure by symmetrically restricting the outlet of the test duct. In case of conflict, these requirements for setting evaporator airflow take precedence over airflow values specified in manufacturer installation instructions or product literature.

3.3.10. For systems with ducted condenser air, or that can be installed with or without ducted condenser air: Connect ductwork on both the inlet and outlet connections and determine external static pressure as described in ASHRAE 37–2009, sections 6.4 and 6.5. Use pressure measurement instrumentation as described in ASHRAE 37–2009, section 5.3.2. Test at the fan speed specified in manufacturer installation instructions—if there is more than one fan speed setting and the installation instructions do not specify which speed to use, test at the highest speed. Conduct tests with the external static pressure equal to 50 percent of the maximum external static pressure allowed by the manufacturer for system installation within a tolerance of −0.00/+0.05 in. wc. If testing with the outdoor

enthalpy method, adjust the airflow measurement apparatus fan to set the external static pressure—otherwise, set the external static pressure by symmetrically restricting the outlet of the test duct. In case of conflict, these requirements for setting condenser airflow take precedence over airflow values specified in manufacturer installation instructions or product literature. If testing using the outdoor air enthalpy method, the requirements of section 8.6 of ASHRAE 37–2009 are not applicable.

In Appendix C to Subpart R, revise section 3.3.6 (which specifies modifications to AHRI 1250–2009) to read:

3.3.6. AWEF is calculated on the basis that walk-in box load is equal to half of the system net capacity, without variation according to high and low load periods and without variation with outdoor air temperature for outdoor refrigeration systems, and the test must be done as a matched or single-package refrigeration system, as follows:

For Indoor Condensing Units:

For Indoor Condensing Units:

$$\dot{B}L = 0.5 \cdot \dot{q}_{ss}(90\,^{\circ}F)$$

$$LF = \frac{\dot{B}L + 3.412 \cdot \dot{E}F_{comp,off}}{\dot{q}_{ss}(90\,^{\circ}F) + 3.412 \cdot \dot{E}F_{comp,off}}$$

$$AWEF = \frac{\dot{B}L}{\dot{E}_{ss}(90\,^{\circ}F) \cdot LF + \dot{E}F_{comp,off} \cdot (1 - LF)}$$

For Outdoor Condensing Units:

$$\dot{B}L = 0.5 \cdot \dot{q}_{ss}(95\,^{\circ}F)$$

$$LF(t_j) = \frac{\dot{B}L + 3.412 \cdot \dot{E}F_{comp,off}}{\dot{q}_{ss}(t_j) + 3.412 \cdot \dot{E}F_{comp,off}}$$

$$AWEF = \frac{\sum_{j=1}^{n} BL(t_j)}{\sum_{j=1}^{n} E(t_j)}$$

$$BL(t_j) = \dot{B}L \cdot n_j$$

$$E(t_j) = \left[\dot{E}_{ss}(t_j) \cdot LF(t_j) + \dot{E}F_{comp,off} \cdot \left(1 - LF(t_j)\right)\right] \cdot n_j$$

Where: $\dot{B}L$ is the non-equipment-related box load
LF is the load factor
And other symbols are as defined in AHRI 1250-2009.

(3) Representations. CellarPro may not make representations about the efficiency of a basic model listed in paragraph (1) of this Interim Waiver Order for compliance, marketing, or other purposes unless that basic model has been tested in accordance with the provisions set forth above and such representations fairly disclose the results of such testing.

(4) This interim waiver shall remain in effect according to the provisions of 10 CFR 431.401.

(5) This Interim Waiver Order is issued on the condition that the statements and representations provided by CellarPro are valid. If CellarPro makes any modifications to the controls or configurations of a basic model subject to this Interim Waiver Order, such modifications will render the waiver invalid with respect to that basic model, and CellarPro will either be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may rescind or modify this waiver at any time if it determines the factual basis underlying the petition for the Interim Waiver Order is incorrect, or the results from the alternate test procedure are unrepresentative of a basic model's true energy consumption characteristics. 10 CFR 431.401(k)(1). Likewise, CellarPro may request that DOE rescind or modify the Interim Waiver Order if CellarPro discovers an error in the information provided to DOE as part of its petition, determines that the interim waiver is no longer needed, or for other appropriate reasons. 10 CFR 431.401(k)(2).

(6) Issuance of this Interim Waiver Order does not release CellarPro from the certification requirements set forth at 10 CFR part 429.

DOE makes decisions on waivers and interim waivers for only those basic models specifically set out in the petition, not future models that may be manufactured by the petitioner. CellarPro may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional basic models of Walk-in Cooler Refrigeration Systems. Alternatively, if appropriate, CellarPro may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition consistent with 10 CFR 431.401(g).

Signing Authority

This document of the Department of Energy was signed on February 22, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Acting Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on February 23, 2021.

Treena V. Garrett,

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

BILLING CODE 6450–01–P

Appendix 1

AS_Waiver_Requests@ee.doe.gov
U.S. Department of Energy
Building Technologies Program
Test Procedure Waiver
1000 Independence Avenue SW.
Mailstop EE-5B
Washington, DC 20585-0121

Date: 10/02/20

Revision: Updated Basic Models table as requested by Lucy deButts on 10/2/20 (pages 4-5). Removed discussion related to EC motors, all products will comply with requirement for EC evaporator fan motors.

Subject: Application for Interim Waiver

Dear U.S. Department of Energy,

CellarPro is requesting for Interim Waiver from a DOE test procedure pursuant to provisions described in 10 CFR 431.401 for the following products on the grounds that "either the basic model contains one or more design characteristics that prevent testing of the basic model according to the prescribed test procedures or the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data."

DOE uniform test method for the measurement of energy consumption of walk-in coolers and walk-in freezers (WICF) described in 10 CFR 431.304 adopts the test standard set forth in AHRI 1250-2009. Both 10 CFR 431 and AHRI 1250 define WICF products as "...an enclosed storage space refrigerated to temperatures, respectively, above, and at or below 32 degrees Fahrenheit that can be walked into, and has a total chilled storage area of less than 3,000 square feet...". Wine cellar cooling systems meet this definition. Therefore, WICF products are subject to the test method and minimum energy requirements as described in 10 CFR 431.401. We do not feel that this was the original intent. The calculations for AWEF do not accurately reflect the conditions that wine cellar cooling products operate at. As a result, the current minimum AWEF values cannot be met.

The design characteristics constituting the grounds for the Interim Waiver Application:

The Wine Cellar application definition is unique from Walk-In Coolers and Freezers (WICF). A Wine Cellar is defined as an enclosed storage space designed for the long term cooling and storing of wine at a temperature range of 45°F to 65°F, and a relative humidity range of 50%-70%RH.

Wine Cellar Coolers are primarily for residential enclosures. Key market demands are small footprint cooling units, optional airflow ducting for hot and cold sides, low noise, and high sensible heat ratios.

These criteria add to the energy demands impacting the DOE AWEF minimums compared to a commercial WICF as outlined in the Technical Justifications section.

AHRI 1250-2009 does not contain a definition of single packaged and matched pair refrigeration systems, however, as seen in Section 3.12 of the public comment version of soon to be published revision of AHRI 1250, these types of products are defined as follows:

3.12 Refrigeration System. The mechanism (including all controls and other components integral to the system's operation) used to create the refrigerated environment in the interior of a walk-in cooler or walk-in freezer, consisting of:

A Dedicated Condensing Unit; or

A Unit Cooler.

3.12.1 Matched Refrigeration System (Matched-pair). A combination of a Dedicated Condensing Unit and one or more Unit Coolers specified by the Dedicated Condensing Unit manufacturer which are all distributed in commerce together. Single-Packaged Dedicated Systems are a subset of Matched Refrigeration Systems.

3.12.2 Single-packaged Refrigeration System (Single-packaged). A Matched Refrigeration System that is a Single-packaged assembly that includes one or more compressors, a condenser, a means for forced circulation of refrigerated air, and elements by which heat is transferred from air to refrigerant, without any element external to the system imposing resistance to flow of the refrigerated air.

SELF-CONTAINED COOLING SYSTEMS FOR WINE CELLAR ENCLOSURES (refer to single-packaged walk-in cooler refrigeration systems in AHRI 1250)

- Self-contained cooling systems are designed to provide cold environment between 45~65 °F and maintain relative humidity within the range of 50~70% for properly insulated and sized wine cellars.
- These temperature and relative humidity ranges are optimized for long term storage of wine as opposed to chilling for serving applications.
- These cooling systems are all-in-one ready for use and no more refrigerant piping is required in the field.
- These cooling systems are factory-built, critically charged and tested, and only require through-the-wall or remote mount ducted installation on wine cellars.
- These systems are available as indoor or outdoor uses with automatic off-cycle air defrost.
- Wine cellar enclosures are usually located in air-conditioned spaces.

SPLIT COOLING SYSTEMS FOR WINE CELLAR ENCLOSURES (refer to matched-pair walk-in cooler refrigeration systems in AHRI 1250)

- Split cooling systems are designed to provide cold environment between 45~65 °F and maintain relative humidity range within 50~70% for properly insulated wine cellars.
- These temperature and relative humidity ranges are optimized for long term storage of wine as opposed to chilling for serving applications.
- These cooling systems consist of a remote condensing unit and an evaporator unit, which are connected by a liquid line and an insulated suction line.

- These systems must be charged properly with refrigerant in the field.
- The evaporator portion of the split system may be located in the wine cellar, or remote mounted and ducted to the cellar.

- These systems are available as indoor or outdoor uses with automatic off-cycle air defrost.
- Wine cellars are usually located in air-conditioned spaces.

AHRI 1250 specifies that for walk-in coolers, the refrigeration system is to be rated at an air-return temperature of 35°F (box setpoint). This is below the minimum temperature range for wine cellar cooler applications. Operating a wine cellar at this condition would adversely mechanically alter the intended performance of the system including icing of the evaporator coil, potential damage to the compressor, and will not result in an accurate representation of the performance of the cooling unit. Wine cellars generally are kept at 55°F.

There are three areas impacting energy consumption where the design of wine cellar cooling systems differs from walk-in cooler refrigeration systems. These are outlined below and described in detail in the Technical Justifications section:

1. Run Time and Load Conditions: The calculation of the Annual Walk-in Energy Factor (AWEF) found in AHRI 1250 accounts for typical usage of WICF products with high and low load periods. Wine cellars are loaded with wine bottles for long term storage, and remain relatively undisturbed. These load conditions do not resemble the use patterns that are representative of typical WICF products. Therefore, the AWEF calculation described in 10 CFR 431.304 and AHRI 1250 does not match the applications of wine cellar cooling systems which are designed to operate at 100% low load conditions.
2. Compressor Efficiencies: The compressors used in wine cellar cooling systems are predominately fractional horsepower, which are inherently less efficient than larger compressors used in walk-in cooler refrigeration systems. Therefore, there is currently no technology on the market that will provide the needed energy efficiency in wine cellar cooling systems to meet the minimum AWEF value for commercial walk-in cooler refrigeration systems set forth in 10 CFR 431.306.
3. Fan Power: As defined in 10 CFR 431.301(c)2(ii) for medium temperature system fans: EFcomp,on (W) = 0.013 (W/BTUH) * qmix,cd(BTUH). The design of wine cellar cooling systems requires higher fan power than is allowed for in this calculation for WCIF systems.

The prescribed test procedure is unrepresentative of the product's true energy characteristics. The characteristics described above prevent testing of the basic model according to the prescribed test procedures or cause the prescribed test procedures to evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data.

Basic Models on which the Interim Waiver is being requested. The brand name for all models is "CellarPro":

CellarPro Basic Models					
Basic Model	Catalog Models Under Basic Model Group	Minimum Operating Temperature (°F)	Maximum Operating Temperature (°F)	Maximum Evaporator Fan External Static Pressure (inwg)	Maximum Condenser Fan External Static Pressure (inwg)
1800QTL	1800QTL, 1800QTL-L	45	65	0.00	0.00
1800QT	Same	45	65	0.00	0.00
1800XT	Same	45	65	0.00	0.00
1800XTS	1800XTS, 1800XTS-B	45	65	0.00	0.00
1800XTSx	Same	45	65	0.00	0.00
1800XT 220V	Same	45	65	0.00	0.00
1800XTS 220V	Same	45	65	0.00	0.00
1800XTx 220V	Same	45	65	0.00	0.00
1800H	Same	51	65	0.09	0.09
1800H 220V	Same	51	65	0.09	0.09
2000VS	2000VSi, 2000VSx	45	65	0.19	0.19
2000VS 220V	2000VSi 220V, 2000VSx 220V	45	65	0.19	0.19
3200VS	3200VSi, 3200VSx	45	65	0.25	0.25
4200VS	4200VSi, 4200VSx, 4200VSi-B, 4200VSi-L	45	65	0.25	0.25
4200VS 220V	4200VSi 220V, 4200VSx 220V	45	65	0.25	0.25
6200VS	6200VSi, 6200VSx	45	65	0.25	0.25
8200VS	8200VSi, 8200VSx	45	65	0.25	0.25
3000S	3000S, 3000Sqc	45	65	0.25	0.00
3000Scm	Same	47	65	0.00	0.00
3000Scmr	Same	45	65	0.25	0.00
3000Sh	3000Sh, 3000Shqc	45	65	0.25	0.00
4000S	4000S, 4000Sqc	45	65	0.25	0.00
4000S 220V	Same	45	65	0.25	0.00
4000Scm	Same	47	65	0.00	0.00
4000Scmr	Same	45	65	0.25	0.00
4000Sh	4000Sh, 4000Shqc	45	65	0.25	0.00
4000Shwc	Same	45	65	0.25	0.00
4000Swc	Same	45	65	0.25	0.00
6000S	Same	45	65	0.25	0.00

6000S 220V	Same	45	65	0.25	0.00
6000Scm	Same	47	65	0.00	0.00
6000Scmr	Same	45	65	0.25	0.00
8000S	Same	45	65	0.25	0.00
8000Scm	Same	47	65	0.00	0.00
8000Scmr	Same	45	65	0.25	0.00
8000Swc	Same	45	65	0.25	0.00
AH6500S	AH6500SCv, AH6500SCh, AH6500Si, AH6500Sx	45	65	0.25	0.25
AH8500S	AH8500SCv, AH8500SCh, AH8500Si, AH8500Sx	45	65	0.25	0.25
AH12Sx	Same	45	65	0.30	0.00
AH18Sx	Same	45	65	0.30	0.00
AH24Sx	Same	45	65	0.30	0.00

Specific Requirements sought to be waived

Petitioning for a waiver to exempt wine cellar cooler systems from being tested to the current test procedures, specifically the requirement for the refrigeration system to be rated at an air-return temperature of 35°F.

The petition also includes a correction factor of 0.55 to be applied to final AWEF calculations for wine cellar products to allow the unit to pass minimum efficiency as delineated by 10 CFR §431 Subpart R. This is based on a precedent: Appendix A to Subpart B of 10 CFR §430 - Uniform Test Method for Measuring the Energy Consumption of Refrigerators, Refrigerator-Freezers, and Miscellaneous Refrigeration Products

- 55° F rating point
- 0.55 K factor (DOE Direct Final Rule EERE-2011-BT-STD-0043-0122)

The Technical Justifications section details the variations in energy use to support the above mentioned precedent.

We also request allowance for an alternate test procedure. The test method in AHRI 1250-2009 does not allow the option to test refrigeration capacity and power consumption using air enthalpy, only refrigerant enthalpy utilizing mass flow meters. Due to the complexity of installing mass flow meters in small footprint, low refrigerant charge systems, we would like the option to test to the pending revision detailed in AHRI 1250-2019 section C4.1.2 and Table C4, which allows air enthalpy data. This method of testing is currently referenced in ANSI/ASHRAE Standard 16-2016 used for Room Air Conditioners ANSI/AHAM RAC-1-2015, and is already documented as relevant to the WCIF group as indicated by the AHRI 1250-2019 draft.

Since wine cellar cooling units are designed with a high sensible heat ratio and passive humidity management (meaning humidity is not added to the cellar during unit operation through the cooling unit), we believe the current test method requiring measurement of sensible cooling capacity only is consistent with the design and operation of the cooling units.

List of manufacturers of all other basic models marketing in the United States and known to the petitioner to incorporate similar design characteristics –

a) Air Innovations
b) BreezAire
c) CellarPro
d) Vinotemp
e) WhisperKool

Proposed alternate test procedure

AHRI 1250 test procedure will be followed, but with the following modifications:

1. Temperature of the air returning to the walk-in cooling unit shall be 55°F.
2. The AWEF calculations shall include a correction factor of 0.55 to adjust the final AWEF value for wine-related products to meet minimum efficiency standards.
3. Option to test using air enthalpy data to determine cooling capacity.

Technical Justifications for the alternate test procedure:

Three areas are considered for Technical Justifications: Run Time, Compressor, and Fans. The differences between wine cellar coolers and WCIF are indicated by a correction factor, which is combined using the formula CF = Run Time CF * Compressor CF * Fan CF to justify the recommended 0.55 AWEF correction factor.

1. Run Time and Load Conditions

AHRI 1250-2009 assumes an 80% run time that rolls up into the AWEF, 70% low load, and 10% high load. Due to the humidity management requirements for wine cellars, it is preferable to limit the total run time between 50-75% to minimize the dehumidification effect of the refrigeration cycle. In addition, wine cellars are designed to operate under low load conditions only. We are requesting a correction factor of 0.95 to compensate for these differences.

Recommendation: AWEF correction factor for run time: Run Time CF = 0.95

2. Compressor Efficiencies

The compressor technologies available for wine cellar applications have an impact on Energy Efficiency Minimums:

- Variable Speed Compressors: AHRI 1250-2009 allows for the benefit of variable speed compressors by use of capacity modulation during high and low load conditions. Forwine

cellars designed to operate under low load conditions only, we cannot take advantage of capacity modulation to reduce energy consumption.

- Wine Cellar Coolers in the 1500BTUH to 4000BTUH range are the most typical, and the compressor technologies available on the market in those sizes cannot meet the EER targets expected for compressors in AHRI 1250-2009. This is detailed below by comparing compressor efficiencies for a 4000BTUH compressor common for wine cellars, to an 8000BTUH compressor common to walk-in refrigerators. The compressor selections shown are for compressors representative of the those available on the market in this BTUH range.
  (1) Evaluating a reciprocating compressor selection at Wine Cellar rating conditions and 4000 BTUH results in a compressor EER of 7.84.
  (2) Evaluating a reciprocating compressor selection at Wine Cellar rating conditions and 8000 BTUH showing a compressor EER of 9.39.
  (3) Comparing the ratio of compressor EERs at 4000BTUH@7.84EER vs 8000BTUH@9.39EER results in the following ratio: 7.84/9.39 = 0.835. This demonstrates the issues with compressor efficiencies available in the smaller BTUH sizes compared to compressor sizes more common in the WICF products.

Recommendation: AWEF correction factor for compressors: Compressor CF =0.835

3. Fan Power

As defined in 10 CFR 431.301(c)2(ii) for medium temperature system fans:

EFcomp,on (W) = 0.013 (W/BTUH) * qmix,cd(BTUH)

For a 4000BTUH unit, the maximum fan power assumption is 0.013*4000=52W. This is lower than fan motors typically applied to CellarPro Wine Cooling Units for the following reasons:

- Since the application is largely residential cellars, small footprint cooling units with low noise are key market drivers. As a result of the small footprint and the need for high sensible heat ratios to maintain cellar humidity, the coils have higher fin densities (FPI=Fins Per Inch): 10-14 FPI for wine cellar coolers compared to 6-8 FPI for walk-in cooler air defrost units. High fin density coils create higher static pressure requirements on the evaporator fan compared to WICF.

- Installations are typically ducted, either cold side, hot side, or both. As a result, the fans need to be capable of delivering rated CFM with external static pressures typical of ducting runs.

The combination of the static pressure fan load, footprint constraints, and low noise requirements described above results in fan designs that require higher shaft power motors and low noise fan configurations than a typical WICF axial fan. CellarPro Wine Cellar Coolers utilize a mix of axial fans with deep blade pitch and tight venturi tolerances, forward curved centrifugal blowers, or reverse inclined centrifugal fans.

The following AWEF calculations compare the 10 CFR 431.301(c)2(ii) fan power to a typical CellarPro Wine Cellar Cooler fan power.

I. Reference AWEF calculation for CellarPro model 4200VSi as manufactured with a forward curved centrifugal fan/motor combination and an EFcomp,on value of 158 W. The resulting AWEF = 4.01.

AWEF for Indoor Fixed Capacity Matched Systems
Per AHRI 1250P (I-P)-2009 Adjusted for Final Rule

CU Model		4200VSi	
Application		Refrigerator	
Defrost Method		Air	
Recommended Defrosts per Day		0	
Adaptive Defrost Available		No	
Frost Load Test Run		No	
Steady State Refrigeration Capacity	**qss (90°F) (Btu/h)**	3892	From test
Steady State Power Consumption	**Ess (90°F) (W)**	843.5	From test
On-cycle evaporator fan power	**$EF_{comp,on}$ (W)**	158	From test
Off-cycle evaporator fan power	**$EF_{comp,off}$ (W)**	31.6	From test
Dry Coil Defrost Cycle Energy Input	**DF_d (W-h)**	0	From test
Frost Coil Defrost Cycle Energy Input	**DF_f (W-h)**	0	From test
Gross Refrigeration Capacity	**$q_{mix,evap}$ (90°F) (Btu/h)**	4431	AHRI 1250P-2009 [106]
Frost Coil Defrost Cycle Energy Input	**DF_f (W-h)**	0	10 CFR 431.304(c)(10)(ix)
Number of Defrosts per Day	**N_{DF}**	0.0	10 CFR 431.304(c)(10)(ix) & (x) & (xii)
Daily Defrost Energy	**DF (W-h)**	0	AHRI 1250P-2009 [C13] & 10 CFR 431.304(c)(10)(xii)
Daily Defrost Heat Load Contribution	**Q_{DF} (Btu)**	0	10 CFR 431.304(c)(10)(xi) & 10 CFR 431.304(c)(10)(xii)
Defrost Power Consumption	**DFdot (W)**	0	AHRI 1250P-2009 [C15]
Defrost Power Consumption Contributed to Box Load	**Q_{DF}dot (Btu/h)**	0	AHRI 1250P-2009 [C16]
Box Load High	**BLH (Btu/h)**	2724	AHRI 1250P-2009 [1] or [5]
Box Load Low	**BLL (Btu/h)**	389	AHRI 1250P-2009 [2] or [6]
Load Factor High	**LFH**	0.71	AHRI 1250P-2009 [97]
Load Factor Low	**LFL**	0.12	AHRI 1250P-2009 [98]
Box Load Sum	**BL (Btu)**	1.0E+07	AHRI 1250P-2009 [16]
Power Consumption Sum	**E (W-h)**	2.5E+06	AHRI 1250P-2009 [17]
	AWEF (Btu/Wh)	4.01	AHRI 1250P-2009 [15] or [99]
	Class	DC.M.I.	
	Minimum AWEF (Btu/Wh)	5.61	10 CFR 431.306(e)
	Meets Requirements	No	

Notes:
Values in [xx] refer to equation numbers in AHRI 1250.
In general, these calculations are described in 7.4 & 7.7.

DOE-AHRI 1250 Calculator Full (04-08-15).xlsx DC.x.I (MATCH) 6/13/2019 Page 1 of 1

II. Reference AWEF calculation for CellarPro 4200VSi assuming the DOE default evaporator fan motor rating of 0.013 W/BTUH. In this case EFcomp,on (W) = 0.013*3892 = 51 W. The resulting AWEF = 5.85.

AWEF for Indoor Fixed Capacity Matched Systems
Per AHRI 1250P (I-P)-2009 Adjusted for Final Rule

CU Model		4200VSi w/0.013W/BTUH fan	
Application		Refrigerator	
Defrost Method		Air	
Recommended Defrosts per Day		0	
Adaptive Defrost Available		No	
Frost Load Test Run		No	
Steady State Refrigeration Capacity	**qss (90°F) (Btu/h)**	3892	From test
Steady State Power Consumption	**Ess (90°F) (W)**	628.69	From test
On-cycle evaporator fan power	**$EF_{comp,on}$ (W)**	51	From test
Off-cycle evaporator fan power	**$EF_{comp,off}$ (W)**	10.12	From test
Dry Coil Defrost Cycle Energy Input	**DF_d (W-h)**	0	From test
Frost Coil Defrost Cycle Energy Input	**DF_f (W-h)**	0	From test
Gross Refrigeration Capacity	**$q_{mix,evap}$ (90°F) (Btu/h)**	4065	AHRI 1250P-2009 [106]
Frost Coil Defrost Cycle Energy Input	**DF_f (W-h)**	0	10 CFR 431.304(c)(10)(ix)
Number of Defrosts per Day	**N_{DF}**	0.0	10 CFR 431.304(c)(10)(ix) & (x) & (xii)
Daily Defrost Energy	**DF (W-h)**	0	AHRI 1250P-2009 [C13] & 10 CFR 431.304(c)(10)(xii)
Daily Defrost Heat Load Contribution	**Q_{DF} (Btu)**	0	10 CFR 431.304(c)(10)(xi) & 10 CFR 431.304(c)(10)(xii)
Defrost Power Consumption	**DFdot (W)**	0	AHRI 1250P-2009 [C15]
Defrost Power Consumption Contributed to Box Load	**Q_{DF}dot (Btu/h)**	0	AHRI 1250P-2009 [C16]
Box Load High	**BLH (Btu/h)**	2724	AHRI 1250P-2009 [1] or [5]
Box Load Low	**BLL (Btu/h)**	389	AHRI 1250P-2009 [2] or [6]
Load Factor High	**LFH**	0.70	AHRI 1250P-2009 [97]
Load Factor Low	**LFL**	0.11	AHRI 1250P-2009 [98]
Box Load Sum	**BL (Btu)**	1.0E+07	AHRI 1250P-2009 [16]
Power Consumption Sum	**E (W-h)**	1.7E+06	AHRI 1250P-2009 [17]
	AWEF (Btu/Wh)	5.85	AHRI 1250P-2009 [15] or [99]
	Class	DC.M.I.	
	Minimum AWEF (Btu/Wh)	5.61	10 CFR 431.306(e)
	Meets Requirements	Yes	

Notes:
Values in [xx] refer to equation numbers in AHRI 1250.
In general, these calculations are described in 7.4 & 7.7.

DOE-AHRI 1250 Calculator Full (04-08-15).xlsx DC.x.I (MATCH) 6/13/2019 Page 1 of 1

III. The ratios of the two AWEF calculations is: 4.01/5.85 = 0.685

Recommendation: AWEF correction factor for fans: FAN CF = 0.685

Conclusion for Technical Justifications Section:

Combining the results from sections 1, 2, and 3 above results in a final recommended AWEF correction factor to support the requested 0.55 correction factor to the final AWEF calculation:

Run Time CF * Compressor CF * Fan CF = 0.950*0.835*0.685 = 0.543, which is approximately equal to the 0.55 K factor (DOE Direct Final Rule EERE-2011-BT-STD-0043-0122).

Success of the application for Interim Waiver will:

Success of the application for Interim Waiver will ensure that manufacturers of wine cellar cooling systems can continue to participate in the market.

What economic hardship and/or competitive disadvantage is likely to result absent a favorable determination on the Application for Interim Waiver

If existing CellarPro products were altered in order to test per current requirements set forth in 10 CFR 431.304 and AHRI 1250, the economic hardship will be loss of sales due to not being able to meet the DOE energy conservation standards set forth in 10 CFR 431.306 due to the technical and application constraints described in this document.

Regards,

Date: 10/2/20

/s/

Keith Sedwick

Owner

-

[FR Doc. 2021–04062 Filed 2–26–21; 8:45 am]

BILLING CODE 6450–01–C

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), U.S. Department of Energy (DOE).

ACTION: Notice.

SUMMARY: EIA submitted an information collection request for extension as required by the Paperwork Reduction Act of 1995. The information collection requests a three-year extension with changes of its Uranium Data Program (UDP), OMB Control Number 1905–0160. The UDP consists of three surveys. Form EIA–851A *Domestic Uranium Production Report (Annual)* collects annual data from the U.S. uranium industry on uranium milling and processing, uranium feed sources, uranium mining, employment, drilling, expenditures, and uranium reserves. Form EIA–851Q *Domestic Uranium Production Report (Quarterly)* collects monthly data on uranium production that is reported on a quarterly basis. Form EIA–858 *Uranium Marketing Annual Survey* collects annual data from the U.S. uranium market on uranium contracts and deliveries, inventories, enrichment services purchased, uranium in fuel assemblies, feed deliveries to enrichers, and unfilled market requirements for the current year and the following ten years.

DATES: Comments on this information collection must be received no later than March 31, 2021. 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.

FOR FURTHER INFORMATION CONTACT: If you need additional information, contact Tim Shear, U.S. Energy Information Administration, telephone (202) 586–0503, or by email at *Tim.Shear@eia.gov.* The forms and instructions are available on EIA's website at *www.eia.gov/survey/changes/uranium/2020.*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB No.:* 1905–0160;

(2) *Information Collection Request Title:* Uranium Data Program;

(3) *Type of Request:* Three-year extension with changes;

(4) *Purpose:* Uranium Data Program collects data on domestic uranium supply and demand activities, including production, exploration and development, trade, purchases and sales available to the U.S. The users of these data include Congress, Executive Branch agencies, the nuclear and uranium industry, electric power industry, and the public. Form EIA–851A data are published in EIA's *Domestic Uranium Production Report—Annual* at *http://www.eia.gov/uranium/production/annual/.* Form EIA–851Q data are published in EIA's *Domestic Uranium Production Report—Quarterly* at *http://www.eia.gov/uranium/production/quarterly/.* Form EIA–858 data are published in EIA's *Uranium Marketing Annual Report* at *http://www.eia.gov/uranium/marketing/* and *Domestic Uranium Production Report—Annual* at *http://www.eia.gov/uranium/production/annual/;*

(4a) *Change to information collection:* EIA will no longer protect information reported on Form EIA–851A and EIA–851Q under the Confidential Information Protection and Statistical Efficiency Act of 2018 (CIPSEA). Information reported on Form EIA–858 will continue to be protected under CIPSEA.

EIA proposes to apply exemptions under the Freedom of Information Act (FOIA) to protect information reported on Forms EIA–851A and EIA–851Q except for production data. Production data will be considered public and may be publicly released in an identifiable form. For the past six years, the items ''Respondent and Contact Identification'', ''Company Name'', and all of ''Item 1: Facility Information'' on Forms EIA–851Q and EIA–851A are considered public information and are publicly released in company or individually identifiable form on EIA's website. Data protection methods will continue to be applied to the statistical information reported on Forms EIA–851A and EIA–851Q, except for production data.

The data protection statement in the instructions to Forms EIA–851A and EIA–851Q will state:

The 'Respondent and Contact Identification' (Company Name), 'Item 1: Facility Information', and production data reported on Form EIA–851Q/A are considered public information and may be released in company identifiable form. Additional information reported on this form may be protected and may not be disclosed to the public to the extent that it satisfies the criteria for exemption under the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Department of Energy (DOE) regulations, 10 CFR 1004, implementing the FOIA, and the Trade Secrets Act, 18 U.S.C. 1905.

The Federal Energy Administration Act requires EIA to provide company-specific data to other Federal agencies when requested for official use. The information reported on this form may also be made available, upon request, to another component of the Department of Energy (DOE); to any Committee of Congress, the Government Accountability Office, or other Federal agencies authorized by law to receive such information. A court of competent jurisdiction may obtain this information in response to an order. The information may be used for any non-statistical purposes such as administrative, regulatory, law enforcement, or adjudicatory purposes.

Data protection methods are applied to the statistical information reported on Forms EIA–851A and EIA–851Q, except for production data.

The reason EIA is proposing this change in the data protection for Forms EIA–851A and EIA–851Q is due to a material change in circumstances that occurred over the past 15 years in the domestic uranium production markets that was unforeseen when EIA initially placed these surveys under CIPSEA protection in 2004. Domestic uranium production has significantly decreased from a recent high of 4,891 thousand pounds U3O8 in 2014 to 174 thousand pounds U3O8 in 2019. Over 90% of the uranium purchased by owners and operators of U.S. civilian nuclear power reactors in 2018 and 2019 was from uranium imports of foreign origin. The number of respondents reporting domestic production has steadily declined over the past 15 years as imports of uranium dominate U.S. uranium markets and domestic firms either cease operations or merge with other companies. As fewer respondents contribute to the published aggregates, EIA needs to withhold from publication all of the data at the state and regional level. The practical utility of the information collected is undermined by EIA withholding most of the data it collects on these survey forms. Cognitive research showed that the majority of the respondents to Forms EIA–851A and EIA–851Q are not concerned if informed users infer reported values from published statistical aggregates in data tables. The main reason survey respondents provided was that the information reported on Forms EIA–851A and EIA–851Q is already publicly available. In addition, since 2016, the current instructions to Forms EIA–851A and EIA–851Q have stated the name and address of the respondent are considered public information.

The burden hour estimate on Form EIA–858 is increasing from 15 hours to 26 hours. This increase is due to respondent requests and confirmed through industry studies.

(5) *Annual Estimated Number of Respondents:* 102;

(6) *Annual Estimated Number of Total Responses:* 135;

(7) *Annual Estimated Number of Burden Hours:* 1,769;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* EIA estimates that there are no capital or start-up costs associated with this data collection. The information is maintained during the normal course of business. The cost of the burden hours is estimated to be $144,438.85 (1,769 burden hours times $81.65 per hour). Other than the cost of burden hours, EIA estimates that there are no additional costs for generating, maintaining, and providing this information.

Statutory Authority: 15 U.S.C. 772(b), 42 U.S.C. 7101 *et seq.*

Signed in Washington, DC, on February 23, 2021.

Samson A. Adeshiyan,

Director, Office of Statistical Methods and Research, U.S. Energy Information Administration.

[FR Doc. 2021–04166 Filed 2–26–21; 8:45 am]

BILLING CODE 6450–01–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: EC21–55–000.

Applicants: Altamont Winds LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Altamont Winds LLC.

Filed Date: 02/22/2021.

Accession Number: 20210222–5229.

Comment Date: 5 p.m. ET 3/15/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–945–003.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35: Compliance Filing Revising Tariff in Response to February 18 Order to be effective 4/4/2020.

Filed Date: 02/23/2021.

Accession Number: 20210223–5053.

Comment Date: 5 p.m. ET 3/16/21.

Docket Numbers: ER21–714–001.

Applicants: Indiana Crossroads Wind Farm LLC.

Description: Indiana Crossroads Wind Farm LLC submits tariff filing per 35.17(b): Supplement to Market-Based Rate Application and Revised MBR Tariff to be effective 2/21/2021.

Filed Date: 02/19/2021.

Accession Number: 20210219–5095.

Comment Date: 5 p.m. ET 2/26/21.

Docket Numbers: ER21–816–001.

Applicants: ISO New England Inc.

Description: ISO New England Inc. submits tariff filing per 35.17(b): Amendment to Information Disclosure Req. under the FAP in Docket No.ER21–816 to be effective 3/9/2021.

Filed Date: 02/23/2021.

Accession Number: 20210223–5012.

Comment Date: 5 p.m. ET 3/1/21.

Docket Numbers: ER21–1194–000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits tariff filing per 35.15: PWRPA SA 30 Termination of Rough and Ready SA to be effective 3/1/2021.

Filed Date: 02/23/2021.

Accession Number: 20210223–5000.

Comment Date: 5 p.m. ET 3/16/21.

Docket Numbers: ER21–1195–000.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: American Transmission Systems, Incorporated submits tariff filing per 35.13(a)(2)(iii): ATSI submits Two ECSAs, SA Nos. 5916 and 5922 to be effective 4/25/2021.

Filed Date: 02/23/2021.

Accession Number: 20210223–5081.

Comment Date: 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 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–04141 Filed 2–26–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–1188–000]

Prairie State Solar, 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 Prairie State Solar, 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 15, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: February 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–04146 Filed 2–26–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL21–50–000; QF21–222–001]

Board of Trustees of Michigan State University; Notice of Petition for Declaratory Order

Take notice that on February 19, 2021, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207, the Board of Trustees of Michigan State University (Petitioner), filed a petition for declaratory order (Petition) requesting that the Commission issue a declaratory order granting limited waiver of the filing requirements applicable to qualifying cogeneration facilities set forth in 18 CFR Section 292.203(a)(3) of the Commission's regulations for the time period beginning April 16, 2006, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern time on March 21, 2021.

Dated: February 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–04149 Filed 2–26–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13755–006]

FFP Missouri 12, LLC; Notice of Application for Amendment of License, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Proceeding:* Application for non-capacity amendment of license.

b. *Project No.:* 13755–006.

c. *Date Filed:* January 19, 2021.

d. *Licensee:* FFP Missouri 12, LLC.

e. *Name of Project:* Allegheny Lock and Dam 2 Hydroelectric Project.

f. *Location:* The project is located on the Allegheny River in the City of Sharpsburg in Allegheny County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Licensee Contact:* Paul Jacob, FFP Missouri 12, LLC, c/o Rye Development, 745 Atlantic Ave, 8th Floor, Boston, MA 02111, (617) 7010–3288, *paul@ryedevelopment.com.*

i. *FERC Contact:* Rebecca Martin, (202) 502–6012, *Rebecca.martin@ferc.gov.*

j. *Deadline for filing comments, interventions, and protests Deadline for filing comments, motions to intervene, and protests:* March 25, 2021.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–13755–006. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The Allegheny Lock and Dam Project has not yet been constructed. The applicant is proposing to modify the approved project works identified in Ordering Paragraph (B) of the Order Issuing Original License, issued March 13, 2017, to: (1) Change the design of the intake channel and intake structure to a combined reinforced concrete ''U'' section 150-foot-long, 90-foot-wide, and 57-foot-high; (2) delete the two 45-foot-wide, 40-foot-high spill gates from the intake structure; (3) delete the 1,100-foot-long series of 2.5-foot-high adjustable crest gates on top of the dam; (4) change the design of the powerhouse (the powerhouse will remain a concrete structure supported on a mat foundation but will be decreased in size from 180-foot long, 170-foot wide, and 70-foot high to a building 150-foot long, 90-foot wide, and 70-foot high); (5) decrease the number of generating units from three identical Kaplan turbine generators having an installed capacity of 17 megawatts (MW) to two identical 5.0 MW units for a combined installed capacity of 10.0 MW; and (6) change the design of the tailrace to an excavated channel 150-foot-long and 90-foot-wide. As a result of these modifications the approved 17 MW generating capacity would be reduced to 10 MW and the size of the project boundary would be decreased to accommodate the smaller footprint of the project.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: February 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–04153 Filed 2–26–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP21–505–000.

Applicants: Florida Gas Transmission Company, LLC.

Description: Florida Gas Transmission Company, LLC submits tariff filing per 154.204: Curtailment Priority Filing to be effective 3/25/2021 under RP21–505.

Filed Date: 02/22/2021.

Accession Number: 20210222–5067.

Comment Date: 5 p.m. ET 3/8/21.

Docket Numbers: RP21–506–000.

Applicants: Viking Gas Transmission Company.

Description: Viking Gas Transmission Company submits tariff filing per 154.204: Negotiated Rate PAL Agreement—World Fuel VR1048 Amend 2 Extension to be effective 2/22/2021 under RP21–506.

Filed Date: 02/22/2021.

Accession Number: 20210222–5140.

Comment Date: 5 p.m. ET 3/8/21.

Docket Numbers: RP21–507–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: El Paso Natural Gas Company, L.L.C. submits tariff filing per 154.601: Negotiated Rate Agreement Update (Pioneer Apr–Jun 2021) to be effective 4/1/2021 under RP21–507.

Filed Date: 02/22/2021.

Accession Number: 20210222–5163.

Comment Date: 5 p.m. ET 3/8/21.

Docket Numbers: RP21–508–000.

Applicants: Cimarron River Pipeline, LLC.

Description: Cimarron River Pipeline, LLC submits tariff filing per 154.403(d)(2): Fuel Tracker 2021—Summer Season Rates to be effective 4/1/2021 under RP21–508.

Filed Date: 02/22/2021.

Accession Number: 20210222–5169.

Comment Date: 5 p.m. ET 3/8/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–04144 Filed 2–26–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–1187–000]

Dressor Plains Solar, 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 Dressor Plains Solar, 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 15, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: February 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–04145 Filed 2–26–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–493–000]

Tennessee Gas Pipeline Company, L.L.C.; Notice of Availability of the Environmental Assessment for the Proposed; East 300 Upgrade Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the East 300 Upgrade Project, proposed by Tennessee Gas Pipeline Company, L.L.C. (Tennessee) in the above-referenced docket. Tennessee requests authorization to modify two existing compressor stations and construct one new compressor station in Pennsylvania and New Jersey to create 115 million cubic feet per day of firm transportation capacity on Tennessee's existing 300 Line. The facilities are proposed to meet the market need of Tennessee's shipper, Consolidated Edison Company of New York, Inc.

The EA assesses the potential environmental effects of the construction and operation of the East 300 Upgrade Project in accordance with the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed East 300 Upgrade Project includes the following facilities:

- Modifications at existing Compressor Station 321 in Susquehanna County, Pennsylvania, including the installation of one Solar Taurus 70

turbine with an International Organization for Standardization (ISO) rating of 11,107 horsepower and auxiliary facilities;

- modifications at existing Compressor Station 325 in Sussex County, New Jersey, including installation of one Solar Titan 130 turbine with an ISO rating of 20,500 horsepower and auxiliary facilities; and
- one new 19,000-horsepower electric-driven Compressor Station 327 and associated auxiliary facilities in Passaic County, New Jersey.

The Commission mailed a copy of the *Notice of Availability* to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*), select ''General Search'' and enter the docket number in the ''Docket Number'' field (*i.e.,* CP20–493). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The EA is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Any person wishing to comment on the EA may do so. Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before 5:00 p.m. Eastern Time on March 22, 2021.

For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP20–493–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. At this point in this proceeding, the timeframe for filing timely intervention requests has expired. Any person seeking to become a party to the proceeding must file a motion to intervene out-of-time pursuant to Rule 214(b)(3) and (d) of the Commission's Rules of Practice and Procedures (18 CFR 385.214(b)(3) and (d)) and show good cause why the time limitation should be waived. Motions to intervene are more fully described at *https://www.ferc.gov/ferc-online/ferc-online/how-guides.*

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Dated: February 19, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–04193 Filed 2–26–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10020–19–Region 10]

Proposed Modification of NPDES General Permit for Offshore Seafood Processors in Alaska (AKG524000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Modification of NPDES General Permit.

SUMMARY: In June 2019, EPA Region 10 reissued a National Pollutant Discharge Elimination System (NPDES) General Permit for offshore seafood processors operating in federal waters off the coast of Alaska. The permit, which became effective on July 17, 2019, authorizes discharges of seafood processing waste from vessels that: Discharge at least 3 nautical miles (NM) or greater from the Alaska shore; and, which engage in the processing of fresh, frozen, canned, smoked, salted or pickled seafood, the processing of mince, or the processing of meal, paste and other secondary by-products. On March 30, 2020, the Freezer Longline Coalition (FLC) requested that EPA modify the permit to allow for a currently-prohibited seasonal discharge (between June 10 and December 31, the fleet's ''B Season'') within 1 NM of wintering critical habitat (Unit 5) for the spectacled eider. According to the FLC, the requested modification is a result of changing fish migration patterns and ice coverage in the Bering Sea, and is ''necessary to ensure the continued commercial viability of its members.'' While requested by FLC, a permit modification would apply to all vessels covered under the Permit. EPA has tentatively decided to modify the permit to allow for discharge within 1 NM of

Unit 5 during the fleet's B season. All other conditions of the permit will remain unchanged. EPA is only accepting comments on the modified authorization for vessels to seasonally discharge within 1 NM of spectacled eider wintering critical habitat (Part III.B.7 of the modified general permit). Only the conditions subject to modification are reopened for public comment.

DATES: Comments on the proposed modification must be received by March 31, 2021.

ADDRESSES: Comments on the proposed modification should be sent electronically to *goodman.sally@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Permit documents may be found on the EPA Region 10 website at: *https://www.epa.gov/npdes-permits/npdes-general-permit-offshore-seafood-processors-alaska.* Copies of the draft modified general permit and fact sheet are also available upon request. Requests may be made to Audrey Washington at (206) 553–0523 or to Sally Goodman at (206) 553–0782. Requests may also be electronically mailed to: *washington.audrey@epa.gov* or *goodman.sally@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

There are currently 73 vessel operators authorized to discharge under the permit. In October 2019, FLC reported to EPA that within the past two fishing seasons, sea ice in the Bering Sea had not reached as far south, formed later in the year, and persisted for a shorter duration, and that as a result, a large percentage of the Pacific cod population in the Bering Sea have migrated further north than previously found/harvested, including areas near and within spectacled eider wintering habitat. Under 40 CFR 122.62(a)(2), EPA has tentatively decided to modify the permit. While FLC raised the issue of Pacific cod migrating into more northern reaches of the Bering Sea as a primary motivation in their permit modification request, the modification allowing discharge within 1 NM of Unit 5 would apply to all vessels covered under EPA's General Permit, which include both hook and line (''longline'') and trawl catcher processors, and would not be conditioned upon targeted species. The At-Sea Processors Association, which represents trawl catcher processor vessels, has indicated that up to 12 pelagic trawlers could potentially target pollock within 1 NM of Unit 5, assuming the permit is modified.

EPA has conducted new analyses to identify impacts to spectacled eiders and their critical habitat that could result from the proposed modification, revised the previously concurred-upon Biological Evaluation (BE), and on July 9, 2020, requested formal consultation with USFWS under 50 CFR part 402. New analyses conducted in the BE have led EPA to change its previous determination from *not likely* to adversely affect the federally threatened spectacled eider or its critical habitat to *likely* to adversely affect the species or critical habitat. USFWS concurred on the EPA's determination that the Permit actions are likely to adversely affect species listed under the Endangered Species Act or designated critical habitat. The draft Biological Opinion, received on November 10, 2020, includes mitigations to minimize take and impact on species and habitat, which are also included in the Permit. They are: Permittees must create a Best Management Practices Plan; discharges are not authorized in certain protected areas and habitats; vessels must be moving while discharging; permittees must conduct daily sea surface monitoring; and, EPA will use the information gathered from visual monitoring in evaluation during the next permit cycle.

II. Other Legal Requirements

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

Daniel D. Opalski,

Director, Water Division, Region 10.

[FR Doc. 2021–04105 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2008–0707; FRL–10020–44–OAR]

Proposed Information Collection Request; Comment Request; Data Reporting Requirements for State and Local Vehicle Emission Inspection and Maintenance (I/M) Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Data Reporting Requirements for State and Local Vehicle Emission Inspection and Maintenance (I/M) Programs'' (EPA ICR No.1613.07, OMB Control No. 2060–0252) 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 October 31, 2021. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before April 30, 2021.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2008–0707, to the Federal eRulemaking Portal: *https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. Do not submit any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov,* as there is a temporary suspension of mail delivery to EPA, and no hand deliveries are currently accepted. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Joe Winkelmann, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4255; email address: *winkelmann.joseph@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.* The EPA is temporarily suspending its Docket Center and Reading Room for public visitors to reduce the risk of

transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act (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: Clean Air Act section 182 and EPA's regulations (40 CFR part 51, subpart S) establish the requirements for state and local inspection and maintenance (I/M) programs that are included in state implementation plans (SIPs). To provide general oversight and support to these programs, EPA requires that state agencies with basic and enhanced I/M programs collect two varieties of reports for submission to the Agency:

- An annual report providing general program operating data and summary statistics, addressing the program's current design and coverage, a summary of testing data, enforcement program efforts, quality assurance and quality control efforts, and other miscellaneous information allowing for an assessment of the program's relative effectiveness; and
- A biennial report on any changes to the program over the two-year period and the impact of such changes, including any deficiencies discovered and corrections made or planned.

General program effectiveness is determined by the degree to which a program misses, meets, or exceeds the emission reductions committed to in the state's approved SIP, which, in turn, must meet or exceed the minimum emission reductions expected from the relevant performance standard, as promulgated under 40 CFR part 51, subpart S, in response to requirements established in section 182 of the Clean Air Act. This information is used by EPA to determine a program's progress toward meeting requirements under 40 CFR part 51, subpart S, and to provide background information in support of program evaluations. Additional information regarding the current renewal of this ICR as well as previous renewals can be found in Docket ID No. EPA–HQ–OAR–2008–0707.

The following statistics and responses apply to the ICR proposed for renewal.

Form Numbers: None.

Respondents/affected entities: State I/M program managers.

Respondent's obligation to respond: Mandatory (40 CFR 51.366).

Estimated number of respondents: 26 (total).

Frequency of response: Annual and biennial.

Total estimated burden: 2,236 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $148,824 (per year), includes $0 annualized capital or operation and maintenance costs.

Changes in Estimates: There is a decrease of 172 hours in the total estimated respondent burden compared with the ICR currently approved by OMB due to a reduction in the number of respondents covered by the collection.

Dated: February 24, 2021.

Michael Moltzen,

Deputy Director, Transportation and Climate Division, Office of Transportation and Air Quality.

[FR Doc. 2021–04255 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2003–0033; FRL–10020–95–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Modification of Secondary Treatment Requirements for Discharges Into Marine Waters (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Modification of Secondary Treatment Requirements for Discharges into Marine Waters (EPA ICR Number 0138.12, OMB Control Number 2040–0088) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Public comments were previously requested via the **Federal Register** on August 10, 2020, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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: Additional comments may be submitted on or before March 31, 2021.

ADDRESSES: Submit your comments to EPA, referencing Docket ID No. EPA–HQ–OW–2003–0033, online using *www.regulations.gov* (our preferred method), by email to *OW-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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.

FOR FURTHER INFORMATION CONTACT: Virginia Fox-Norse, Oceans, Wetlands and Communities Division, Office of Water, (4504T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202 566–1266; email address: *fox-norse.virginia@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that 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 EPA Docket Center, EPA

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.*

Abstract: Regulations implementing section 301(h) of the Clean Water Act (CWA) are found at 40 CFR part 125, subpart G. This CWA section allows for a case-by-case review of treatment requirements for publicly owned treatment works (POTW) discharges to marine waters. Eligible POTW applicants that met the set of environmentally stringent criteria received a modified National Pollutant Discharge Elimination System (NPDES) permit waiving secondary treatment requirements. CWA section 301(h) only applies to the 25 POTWs that applied by December 29, 1982, that currently hold modified permits and the six states in which the POTWs are located. No new applications are accepted.

The CWA section 301(h) program involves collecting information from municipal wastewater treatment facilities (POTWs), and the state in which the POTW is located. A POTW holding a modified permit or reapplying for a modification provides application, monitoring, and toxic control program information. The state provides information on its determination whether the discharge under the proposed conditions of the modified permit ensures the protection of water quality, biological habitats, and beneficial uses of receiving waters and whether the discharge will result in additional treatment, pollution control, or any other requirement for any other point or nonpoint sources. The state also provides information to certify that the discharge will meet all applicable state laws and that the state accepts all permit conditions.

There are four situations where information will be required: (1) A POTW reapplying for a CWA section 301(h) modified permit. As the permits with section 301(h) modifications reach their expiration dates, EPA must have updated information on the discharge to determine whether criteria are still being met and whether the modified permit should be reissued. (2) Once a modified permit has been granted, EPA must continue to assess whether the discharge is meeting the CWA criteria, and that the receiving water quality, biological habitats, and beneficial uses of the receiving waters are protected. To do this, EPA needs monitoring and toxics control information furnished by the permittee. (3) Application revision information: A POTW is allowed to revise its application one time only, following a tentative decision by EPA to deny the modified permit request. In its application revision, the POTW usually corrects deficiencies and changes proposed treatment levels as well as outfall and diffuser locations. The application revision is a voluntary submission for the applicant. (4) State determination and state certification information: The state determines whether all state laws are satisfied. Additionally, the state must determine if the applicant's discharge will result in additional treatment, pollution control, or any other requirement for any other point or nonpoint sources. This process allows the state's views to be considered when EPA reviews the application and develops permit conditions.

Form numbers: None.

Respondents/affected entities: Municipalities that currently have CWA section 301(h) modifications from secondary treatment, or have applied for a renewal of a CWA section 301(h) modified permit, and the states within which these municipalities are located.

Respondent's obligation to respond: Required to obtain or retain a benefit.

Estimated number of respondents: 31 (total).

Frequency of response: From once every five years, to varies case-by-case, depending on the category of information.

Total estimated burden: 44,985 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,300,339 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the estimates: There is an increase of hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to changes in respondent universe, program status, information needs, and use of technology.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2021–04095 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA–04–2018–3762; FRL 10019–53–Region 4]

KOPPERS CO., Inc. (Charleston Plant), Charleston, North Carolina; Notice of Modified Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Modified Settlement.

SUMMARY: Under 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency (EPA) has modified an existing settlement entered by the EPA and Prospective Purchaser (PP) Highland Resources for the Koppers Co., Inc. (Charleston Plant) Superfund National Priorities List (NPL) Site (''Site'') in Charleston, Charleston County, South Carolina. The existing Administrative Agreement on Consent (AOC) (CERCLA Docket No. 2018–3762) became effective on March 11, 2019. HR Charleston VII, LLC agreed to perform work at the Koppers Superfund Site to support redevelopment. This modification adds a newly acquired parcel which was not previously included in the agreement.

DATES: The Agency will consider public comments on the settlement until March 31, 2021. The Agency will consider all comments received and may modify or withdraw its consent to the modified settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

ADDRESSES: Copies of the settlement are available from the Agency by contacting Ms. Paula V. Painter, Program Analyst, using the contact information provided in this notice. Comments may also be submitted by referencing the Site's name through one of the following methods:

Internet: https://www.epa.gov/aboutepa/about-epa-region-4-southeast#r4-public-notices.

Email: Painter.Paula@epa.gov.

FOR FURTHER INFORMATION CONTACT: Paula V. Painter at 404/562–8887.

Dated: January 21, 2021.

Maurice Horsey,

Chief, Enforcement Branch, Superfund & Emergency Management Division.

[FR Doc. 2021–04128 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10020–66–Region 8]

Clean Air Act Operating Permit Program: Petitions for Objection to State Operating Permit for Hunter Power Plant (Emery County, Utah) and State Operating Permit for Coyote Station Power Plant (Mercer County, North Dakota)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final orders on petitions to object to state operating permits.

SUMMARY: The EPA Administrator signed orders, dated January 13, 2021, and January 15, 2021, denying the petitions submitted on separate permitting actions in Utah and North Dakota, respectively. The January 13, 2021 Order pertains to two petitions submitted by the Sierra Club requesting that EPA object to the issuance of the Clean Air Act (CAA) title V operating permit issued to the Hunter Power Plant in Castle Dale, Emery County, Utah, by the Utah Department of Environmental Quality, Division of Air Quality (UDAQ). The January 13, 2021 Order responds to Sierra Club's April 11, 2016 petition regarding title V operating permit # 1500101002 (2016 Permit), and Sierra Club's October 20, 2020 petition regarding title V operating permit # 1500101004 (2020 Permit). The January 15, 2021 Order responds to petitions submitted by Casey and Julie Voigt requesting that EPA object to the title V operating permit issued to the Coyote Station Power Plant in Beulah, Mercer County, North Dakota, by the North Dakota Department of Environmental Quality (NDDEQ).

The Orders constitute final actions on the petitions.

ADDRESSES: You may review copies of the Orders and petitions electronically at *https://www.epa.gov/title-v-operating-permits/title-v-petition-database.* To reduce the risk of COVID–19 transmission, for this action we do not plan to offer hard copy review of these documents or other supporting information. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the documents.

FOR FURTHER INFORMATION CONTACT: Gail Fallon, Air Permitting and Monitoring Branch (8ARD–PM), EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202–1129. Phone: (303) 312–6281. Email: *fallon.gail@epa.gov.*

SUPPLEMENTARY INFORMATION: The CAA affords EPA a 45-day period to review and, as appropriate, the authority to object to operating permits proposed by state permitting authorities under title V of the CAA, 42. U.S.C. 7661–7661f. Section 505(b)(2) of the CAA and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of EPA's 45-day review period if EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period. Pursuant to sections 307(b) and 505(b)(2) of the Act, a petition for judicial review of those portions of the Order that deny issues in the petition may be filed in the United States Court of Appeals for the appropriate circuit within 60 days from the date this document appears in the **Federal Register**.

State Operating Permit for Hunter Power Plant (Emery County, Utah)

EPA received petitions from the Sierra Club, requesting that EPA object to the 2016 Permit and the 2020 Permit for the Hunter Power Plant. Among other things, the Sierra Club claims that the 2016 and 2020 Permits are deficient because they do not include Prevention of Significant Deterioration (PSD) permitting requirements. More specifically, the Sierra Club asserts that Best Achievable Control Technology requirements as well as terms and conditions necessary to adequately protect national ambient air quality standards and PSD increments are required. EPA denied the 2016 petition on October 16, 2017; however, the Sierra Club sought judicial review of a portion of the 2017 Order in the United States Court of Appeals for the Tenth Circuit. On July 2, 2020, the Tenth Circuit issued a decision vacating and remanding the 2017 Order. EPA's January 13, 2021 Order responds to the Tenth Circuit's decision, replaces the vacated portion of EPA's 2017 Order, and separately responds to the 2020 Petition.

On January 13, 2021, the Administrator issued an Order denying the petitions, but directing UDAQ to reopen the 2020 Permit for cause.

State Operating Permit for Coyote Station Power Plant (Mercer County, North Dakota)

EPA received petitions from the Voigts, requesting that EPA object to the title V permit for the Coyote Station Power Plant. The Voigts allege that the permit fails to ensure compliance with applicable requirements under the CAA in that: (1) The Coyote Station Power Plant and the nearby Coyote Creek Mine should be considered a single source for title V and New Source Review preconstruction permitting purposes; and (2) the permit fails to include appropriate CAA requirements for the mine, the mine's coal processing plant, and the power plant. On January 15, 2021, the Administrator issued an Order denying the petition.

The Orders issued on January 13, 2021, and January 15, 2021, explain EPA's basis for denying the petitions.

Dated: February 23, 2021.

Debra Thomas,

Acting Regional Administrator, Region 8.

[FR Doc. 2021–04127 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2021–0128; FRL–10020–81–OW]

Proposed Information Collection Request; Comment Request; Clean Watersheds Needs Survey (CWNS) (Reinstatement)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Clean Watersheds Needs Survey (CWNS) (Reinstatement)'' (EPA ICR No. 0318.14, OMB Control No. 2040–0050) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a reinstatement of the ICR. 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 30, 2021.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OW–2021–0128 online using *www.regulations.gov* (our preferred method) 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: Elisabeth Schlaudt, Office of Water, State Revolving Fund Branch, (4204M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC

20460; telephone number: 202–564–8934; email address: *schlaudt.elisabeth@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. EPA is temporarily suspending its Docket Center and Reading Room for public visitors, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501 *et seq.*), EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The Clean Watersheds Needs Survey (CWNS) is required by Clean Water Act (CWA) Sections 205(a) and 516. It is a periodic inventory of existing and planned publicly owned wastewater conveyance and treatment facilities, combined sewer overflow correction, stormwater management and other water pollution control facilities in the United States, as well as an estimate of how many of these facilities need to be built. The CWNS is a joint effort between EPA and the states. The CWNS collects cost and technical data from states that are associated with publicly owned treatment works (POTWs) and other water pollution control facilities, existing and planned. The respondents who provide this information to EPA are state agencies responsible for environmental pollution control and local facility contacts who provide documentation to the states. Periodically, the states request data or documentation from contacts at the facility or local government level. These respondents are referred to as facilities.

No confidential information is used, nor is sensitive information protected from release under the Public Information Act. EPA achieves national consistency in the final results through the application of uniform guidelines and validation techniques.

Form Numbers: None.

Respondents/affected entities: States, Territories, and Local Facilities.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 56 States and Territories, 5,349 Local Facilities (total).

Frequency of response: Every 4 years.

Total estimated burden: 9,645 hours (per year). Burden is defined at 5 CFR 1320.03(b).

T*otal estimated cost:* $505,004 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an increase of 541 hours and $134,820 in the total estimated respondent burden compared with the ICR previously approved by OMB. This increase is based upon an increase in facility universe, as well as an adjustment in labor rates and benefits.

Dated: February 18, 2021.

Andrew D. Sawyers,

Director, Office of Wastewater Management.

[FR Doc. 2021–04197 Filed 2–26–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS21–02]

Appraisal Subcommittee; Notice of meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of Meeting.

Description: In accordance with Section 1104 (b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for its regular meeting:

Location: Due to the COVID–19 Pandemic, the meeting will be open to the public via live webcast only. Visit the agency's homepage (*www.asc.gov*) and access the provided registration link in the What's New box. You MUST register in advance to attend this Meeting.

Date: March 10, 2021.

Time: 10 a.m. ET.

Status: Open.

Reports

Chairman
Executive Director
Grants Director
Financial Manager

Action and Discussion Items

Approval of Minutes
  September 9, 2020 Open Session
  October 5, 2020 Special Meeting
2020 ASC Annual Report
Approval of Cooperative Agreement for training and technical assistance

How To Attend and Observe an ASC Meeting: Due to the COVID–19 Pandemic, the meeting will be open to the public via live webcast only. Visit the agency's homepage (*www.asc.gov*) and access the provided registration link in the What's New box. The meeting space is intended to accommodate public attendees. However, if the space will not accommodate all requests, the ASC may refuse attendance on that reasonable basis. The use of any video or audio tape recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at ASC Meetings.

James R. Park,

Executive Director.

[FR Doc. 2021–04073 Filed 2–26–21; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2021–N–2]

Federal Home Loan Bank Community Support Program—Opportunity To Comment on Members Subject To Review

AGENCY: Federal Housing Finance Agency.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Agency (FHFA) is announcing that FHFA will review all applicable Federal Home Loan Bank (Bank) members in 2021 under FHFA's community support requirements regulation. This Notice invites the public to comment on the community support performance of individual members.

DATES: Public comments on individual Bank members' community support performance must be submitted to FHFA on or before March 31, 2021.

ADDRESSES: Comments on members' community support performance should be submitted to FHFA by electronic mail at *hmgcommunitysupportprogram@fhfa.gov* or by fax to 202–649–4308.

FOR FURTHER INFORMATION CONTACT: Deattra Perkins, Senior Policy Analyst, at *hmgcommunitysupportprogram@fhfa.gov,* Division of Housing Mission and Goals, Federal Housing Finance Agency, Ninth Floor, 400 Seventh Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires FHFA to promulgate regulations establishing standards of community investment or service that Bank members must meet in order to maintain access to long-term Bank advances. *See* 12 U.S.C. 1430(g)(1). The regulations promulgated by FHFA must take into account factors such as the Bank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 *et seq.,* and the Bank member's record of lending to first-time homebuyers. *See* 12 U.S.C. 1430(g)(2). Pursuant to section 10(g) of the Bank Act, FHFA has promulgated a community support requirements regulation that establishes standards a Bank member must meet in order to maintain access to long-term advances, and establishes review criteria FHFA must apply in evaluating a member's community support performance. *See* 12 CFR part 1290. The regulation includes standards and criteria for the two statutory factors—members' CRA performance and members' record of lending to first-time homebuyers. 12 CFR 1290.3. Only members subject to the CRA must meet the CRA standard. 12 CFR 1290.3(b). All members subject to community support review, including those not subject to the CRA, must meet the first-time homebuyer standard. 12 CFR 1290.3(c). Members that have been certified as community development financial institutions (CDFIs) are deemed to be in compliance with the community support requirements and are not subject to periodic community support review, unless the CDFI member is also an insured depository institution or a CDFI credit union. 12 CFR 1290.2(d). In addition, FHFA will not review an institution's community support performance until it has been a Bank member for at least one year. 12 CFR 1290.2(e).

Under the regulation, FHFA reviews each applicable member once every two years. Starting April 1, 2021, each member that is subject to community support review will be required to submit a completed Community Support Statement to FHFA. All Community Support Statements for this review cycle must be submitted by October 29, 2021. FHFA will review the community support performance of each member after receiving the member's completed Community Support Statement.

II. Public Comments

FHFA encourages the public to submit comments by March 31, 2021, on the community support performance of Bank members. Each Bank is required to post a notice on its public website and to notify its Advisory Council, nonprofit housing developers, community groups, and other interested parties in its district of the opportunity to submit comments on the community support programs and activities of Bank members, with the name and address of each member subject to community support review. 12 CFR 1290.2(c)(1). In reviewing a member for community support compliance, FHFA will consider any public comments it has received concerning the member. 12 CFR 1290.2(c)(3). To ensure consideration by FHFA, comments concerning the community support performance of members being reviewed in 2021 must be submitted to FHFA, either by electronic mail to *hmgcommunitysupportprogram@fhfa.gov*, or by fax to 202–649–4308, on or before March 31, 2021. 12 CFR 1290.2(c)(2).

The names of applicable members currently subject to Community Support review can be found on the public websites for the individual Banks at:

Federal Home Loan Bank of Boston—District 1 (Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont) *https://www.fhlbboston.com/fhlbank-boston/hci-community-support#/*

Federal Home Loan Bank of New York—District 2 (New Jersey, New York, Puerto Rico) *https://www.fhlbny.com/*

Federal Home Loan Bank of Pittsburgh—District 3 (Delaware, Pennsylvania, West Virginia) *https://www.fhlb-pgh.com/Files/Resources/CSS.pdf*

Federal Home Loan Bank of Atlanta—District 4 (Alabama, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia) *https://corp.fhlbatl.com/community-support-program/*

Federal Home Loan Bank of Cincinnati—District 5 (Kentucky, Ohio, Tennessee) *https://www.fhlbcin.com*

Federal Home Loan Bank of Indianapolis—District 6 (Indiana, Michigan) *https://www.fhlbi.com/products-services/community-investment-and-housing*

Federal Home Loan Bank of Chicago—District 7 (Illinois, Wisconsin) *https://fhlbc.com/community-investment/community-support-program*

Federal Home Loan Bank of Des Moines—District 8 (Alaska, Guam, Hawaii, Idaho, Iowa, Minnesota, Missouri, Montana, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming) *https://www.fhlbdm.com/news/business-news/2021-community-support-statement/*

Federal Home Loan Bank of Dallas—District 9 (Arkansas, Louisiana, Mississippi, New Mexico, Texas) *https://www.fhlb.com/membership/community-support-program*

Federal Home Loan Bank of Topeka—District 10 (Colorado, Kansas, Nebraska, Oklahoma) *https://www.fhlbtopeka.com/community-programs-community-support-statements*

Federal Home Loan Bank of San Francisco—District 11 (Arizona, California, Nevada) *www.fhlbsf.com/community-programs/community-support-review*

Mark A. Calabria,

Director, Federal Housing Finance Agency.

[FR Doc. 2021–04119 Filed 2–26–21; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the

assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than March 31, 2021.

A. Federal Reserve Bank of Cleveland (Mary S. Johnson, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566. Comments can also be sent electronically to *Comments.applications@clev.frb.org:*

1. *Eagle Financial Bancorp, Cincinnati, Ohio;* to become a bank holding company by acquiring EAGLE Bank, also of Cincinnati, Ohio.

B. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Southern Bancorp, Inc., Arkadelphia, Arkansas;* to merge with DeWitt First Bankshares Corporation, and thereby indirectly acquire Arkansas County Bank, both of DeWitt, Arkansas.

Board of Governors of the Federal Reserve System, February 24, 2021.

Michele Taylor Fennell,

Deputy Assistant Secretary of the Board.

[FR Doc. 2021–04160 Filed 2–26–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–21–1039; Docket No. CDC–2021–0013]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Cause-Specific Absenteeism in Schools and Evaluation of Influenza Transmission within Student Households. This collection is designed as an evaluation of cause-specific absenteeism in school and evaluation of influenza and SARS–CoV–2 within student households.

DATES: CDC must receive written comments on or before April 30, 2021.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2021–0013 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

Cause-Specific Absenteeism in Schools and Evaluation of Influenza Transmission within Student Households (OMB Control No. 0920–1039, Exp. 3/31/2021)—Reinstatement with Change—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This information collection aims to improve our understanding of the role of influenza-like illness (ILI)-specific absenteeism in schools in predicting community-wide influenza transmission and to detect within-household transmission of influenza in households from which a student has been absent from school due to ILI. Insights gained from this information collection will be

used to strengthen the evidence-base of CDC's Pre-Pandemic Guidance prior to the next pandemic.

School children are frequently the main introducers of influenza to their families. Evaluating influenza transmission within households where students are absent from school because of ILI may serve as an additional layer of influenza surveillance and could contribute to understanding of influenza transmission dynamics within the surrounding community. This aims to enhance current knowledge and understanding around the introduction of influenza infection to households that have school-age children, as well as within-household influenza transmission.

CDC requests a three-year approval for this Reinstatment. Estimated annualized burden hours requested for this collection are 449. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Parent/guardians of students or students 18 or older.	Screening Form	345	1	5/60	29
Parent/guardians of students or students 18 or older.	Acute Respiratory Infection and Influenza Surveillance Form.	300	1	15/60	75
Student	Biospecimen Collection Day 0	300	1	5/60	25
Household Members	Household Study Form Days 0, 7, 14.	720	3	5/60	120
Parent/guardians of students or students 18 or older.	Household Study Form Days 7, 14	300	2	5/60	80
Household Members	Biospecimen Collection Days 0, 7, 14.	720	3	5/60	120
Total					449

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021–04179 Filed 2–26–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Withdrawal of Development of Computed Tomography (CT) Image Quality and Safety Hospital Measures Funding Opportunity

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Withdrawal notice.

SUMMARY: This notice withdraws the ''Development of Computed Tomography (CT) Image Quality and Safety Hospital Measures'' notice that published in the **Federal Register** on January 5, 2021. That notice announced a funding opportunity to seek an application for a single source, cooperative agreement, to develop a radiology electronic clinical quality measure(s) (eCQM) for the following CMS hospital programs: Hospital Inpatient Quality Reporting Program (IQR); Hospital Outpatient Quality Reporting Program (OQR); and Promoting Interoperability Program for Eligible Hospitals and Critical Access Hospitals—formerly Meaningful Use (PI). CMS will no longer provide support through a cooperative agreement in its planning, technical assistance, and reporting needs related to submission of a fully developed and tested radiology measures to the 2021 Measures Under Consideration (MUC) List in May 2021.

DATES: The notice published at 86 FR 306 on January 5, 2021, is withdrawn as of February 25, 2021.

FOR FURTHER INFORMATION CONTACT:

Janis Grady, (410) 786–7217, for programmatic questions or concerns.

Monica Anderson, (410) 786–2988, for administrative and compliance concerns.

SUPPLEMENTARY INFORMATION:

I. Background

CMS has determined that current delays will not allow adequate time for the measures to be developed to meet internal deadlines, as such the determination is made to withdraw the January 5, 2021 **Federal Register** notice.

CMS will no longer provide support through a single source cooperative agreement in its planning, technical assistance, and reporting needs related to submission of a fully developed and tested radiology measures to the 2021 Measures Under Consideration (MUC) List in May 2021.

II. Provisions of the Notice

This notice withdraws the solicitation notice that we published in the **Federal Register** on January 5, 2021. For this Notice of Funding Opportunity, CMS will no longer accept an application for development of radiology electronic clinical quality measures (eCQM) that fill an existing gap or need and are high impact.

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Acting Administrator of the Centers for Medicare & Medicaid Services (CMS), Elizabeth Richter, having reviewed and approved this document, authorizes Lynette Wilson, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register.**

Authority: Programmatic Authority of the Social Security Act, Titles XI, XVIII, XIX, XXI.

Dated: February 24, 2021.

Lynette Wilson,

Federal Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2021–04130 Filed 2–25–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3400–FN]

Medicare and Medicaid Programs; Application From the Accreditation Commission for Health Care (ACHC) for Continued Approval of its Home Health Agency Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve The Accreditation Commission for Health Care (ACHC) for continued recognition as a national accrediting organization for home health agencies (HHAs) that wish to participate in the Medicare or Medicaid programs. An HHA that participates in Medicaid must also meet the Medicare conditions of participation (CoPs).

DATES: This decision announced in this final notice is effective February 24, 2021 through February 24, 2025.

FOR FURTHER INFORMATION CONTACT: Tara Lemons (410) 786–3030. Lillian Williams (410) 786–8636.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a home health agency (HHA), provided certain requirements are met. Sections 1861(m) and (o), 1891 and 1895 of the Social Security Act (the Act) establish distinct criteria for an entity seeking designation as an HHA. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities and other entities are at 42 CFR part 488. The regulations at 42 CFR parts 409 and 484 specify the conditions that an HHA must meet to participate in the Medicare program, the scope of covered services and the conditions for Medicare payment for home health care.

Generally, to enter into a provider agreement with the Medicare program, an HHA must first be certified by a state survey agency as complying with the conditions or requirements set forth in 42 CFR part 484 of our regulations. Thereafter, the HHA is subject to regular surveys by a state survey agency to determine whether it continues to meet these requirements. However, there is an alternative to certification surveys by state agencies. Accreditation by a nationally recognized Medicare accreditation program approved by CMS may substitute for both initial and ongoing state review.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, we will deem those provider entities as having met our requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary of Health and Human Services (the Secretary) as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national accrediting organization applying for CMS approval of their accreditation program under 42 CFR part 488, subpart A, must provide CMS with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.5. Section 488.5(e)(2)(i) requires accrediting organizations to reapply for continued approval of its Medicare accreditation program every 6 years or sooner as determined by CMS.

The Accreditation Commission for Health Care (ACHC's) term of approval for their HHA accreditation program expires February 24, 2021.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS-approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination, to complete our survey activities and application process. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice

In the September 28, 2020 **Federal Register** (85 FR 60796), we published a proposed notice announcing ACHC's request for continued approval of its Medicare HHA accreditation program. In the September 28, 2020 proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.5, we conducted a review of ACHC's Medicare HHA accreditation application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

- An administrative review of ACHC's: (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its HHA surveyors; (4) ability to investigate and respond appropriately to complaints against accredited HHAs; and (5) survey review and decision-making process for accreditation.
- The comparison of ACHC's Medicare HHA accreditation program standards to our current Medicare conditions of participation (CoPs) for HHAs.
- A documentation review of ACHC's survey process to do the following:

++ Determine the composition of the survey team, surveyor qualifications, and ACHC's ability to provide continuing surveyor training.

++ Compare ACHC's processes to those we require of state survey agencies, including periodic resurvey and the ability to investigate and respond appropriately to complaints against accredited HHAs.

++ Evaluate ACHC's procedures for monitoring HHAs it has found to be out of compliance with ACHC's program requirements. (This pertains only to monitoring procedures when ACHC identifies non-compliance. If noncompliance is identified by a state survey agency through a validation survey, the state survey agency monitors corrections as specified at § 488.9(c)).

++ Assess ACHC's ability to report deficiencies to the surveyed HHAs and respond to the HHAs plan of correction in a timely manner.

++ Establish ACHC's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ Determine the adequacy of ACHC's staff and other resources.

++ Confirm ACHC's ability to provide adequate funding for performing required surveys.

++ Confirm ACHC's policies with respect to surveys being unannounced.

++ Confirm ACHC's policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys or participate in accreditation decisions.

++ Obtain ACHC's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(a)(3)(A) of the Act, the September 28, 2020 proposed notice also solicited public comments regarding whether ACHC's requirements met or exceeded the Medicare CoPs for HHAs. No comments were received in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between ACHC's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared ACHC's HHA accreditation requirements and survey process with the Medicare CoPs of parts 409 and 484, and the survey and certification process requirements of parts 488 and 489. Our review and evaluation of ACHC's HHA application, which were conducted as described in section III. of this final notice, yielded the following areas where, as of the date of this notice, ACHC has completed revising its standards and certification processes in order to meet the following requirements:

- Section 484.102(b) to include the requirement to review and update emergency preparedness policies and procedures at least every 2 years.
- Section 484.105(b)(1)(i) to ensure that the administrator is appointed by and reports to the governing body.
- Section 488.26(b) to ensure surveyor documentation relating to non-compliance with particular Medicare conditions reflects the manner and degree of non-compliance, cited at the appropriate level (that is, condition versus standard level).
- Section 488.5(a)(4)(vii) to describe ACHC's procedures and timelines for monitoring provider's or supplier's correction of identified non-compliance with relevant standards, including the criteria ACHC uses to determine when a desk review versus an on-site review would be acceptable for monitoring the correction of non-compliance.

B. Term of Approval

Based on our review and observations described in section III. of this final notice, we approve ACHC as a national accreditation organization for HHAs that request participation in the Medicare program, effective February 24, 2021 through February 24, 2025.

V. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Acting Administrator of the Centers for Medicare & Medicaid Services (CMS), Elizabeth Richter, having reviewed and approved this document, authorizes Lynette Wilson, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: February 24, 2021.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2021–04169 Filed 2–26–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request; Healthy Marriage and Responsible Fatherhood Performance Measures and Additional Data Collection (New Collection)

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF), Office of Family Assistance (OFA) has had administrative responsibility for federal funding of programs that strengthen families through healthy marriage and relationship education and responsible fatherhood programming since 2006, through the Healthy Marriage (HM) and Responsible Fatherhood (RF) Grant Programs. ACF required the 2015 cohort of HMRF grantees—which received 5-year grants in September 2015—to collect and report performance measures about program operations, services, and clients served (OMB #0970–0460). A performance measures data collection system called nFORM (Information, Family Outcomes, Reporting, and Management) was implemented with the 2015 cohort to improve the efficiency of data collection and reporting and the quality of data. This system allows for streamlined and standardized submission of grantee performance data through regular progress reports and supports grantee-led and federal research projects. ACF will continue performance measure and other data collection activities for the HMRF grant program with a new cohort of grantees who received 5-year awards in September 2020. ACF is requesting comment on a new data collection to support these activities with the 2020 HMRF grantee cohort. ACF has made changes to the previous cohort's data collection instruments and performance reports for use in the new cohort. This new grantee cohort is expected to begin collecting performance measure data and reporting to ACF in April 2021.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

Description: ACF proposes to collect a set of performance measures from all HMRF grantees. These measures collect standardized information in the following areas:

- Applicant characteristics;
- Program operations;
- Service delivery; and
- Participant outcomes:
  - Entrance survey, with five versions: (1) HM Program Entrance Survey for Adult-Focused Programs; (2) HM Program Entrance Survey for Youth-Focused Programs; (3) RF Program Entrance Survey for Community-Based Fathers; (4) RF Program Entrance Survey for Community-Based Mothers; and (5)

RF Program Entrance Survey for Reentering Fathers.

○ Exit survey, with five versions: (1) HM Program Exit Survey for Adult-Focused Programs; (2) HM Program Exit Survey for Youth-Focused Programs; (3) RF Program Exit Survey for Community-Based Fathers; (4) RF Program Exit Survey for Community-Based Mothers; and (5) RF Program Exit Survey for Reentering Fathers.

The measures used by the 2015 grantee cohort were developed in 2014 after extensive review of the research literature and grantees' past measures. The performance measures, data collection instruments, and data collection system were revised in 2020 based on a targeted analysis of existing measures, feedback from key stakeholders, and discussions with ACF staff and the 2015 cohort of grantees. ACF required the 2015 cohort of grantees to submit data on these standardized measures on a quarterly basis and proposes the same requirement for the 2020 cohort. In addition to the performance measures mentioned above, ACF proposes to repeat collection for these data submissions:

• Semi-annual Performance Progress Report (PPR), with two versions: (1) Performance Progress Report for HM Programs, and (2) Performance Progress Report for RF Programs; and

• Quarterly Performance Report (QPR), with two versions: (1) Quarterly Performance Progress Report for HM Programs, and (2) Quarterly Performance Progress Report for RF Programs.

Grantees in the new cohort will also be required to engage in continuous quality improvement (CQI) planning and implementation using a proposed CQI plan template developed by ACF. The estimated burden for completing and updating this template is included in the table below.

Respondents: Respondents include HM and RF grantee staff and program applicants and participants (participants are called ''clients'').

ANNUAL BURDEN ESTIMATES

Instrument	Respondent	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Average burden per response (in hours)	Total burden (in hours)	Annual burden (in hours)
1: Applicant Characteristics	Program applicants	273,840	1	0.25	68,460.0	22,820.0
	Program staff	408	672	0.10	27,417.6	9,139.2
2: Program Operations	Program staff	136	12	0.32	522.24	174.08
3: Service Delivery Data	Program staff	2,040	126	0.50	128,520.0	42,840.0
4: Entrance and Exit Surveys	Program clients (entrance)	257,409	1	0.42	108,111.78	36,037.26
	Program clients (exit)	169,965	1	0.42	71,385.3	23,795.1
	Program staff (entrance and exit on paper).	32	3,506	0.10	11,219.2	3,739.73
5: Semi-annual Performance Progress Report (PPR).	Program staff	136	6	3	2,448.0	816.0
6: Quarterly Performance Report (QPR).	Program staff	136	6	1	816.0	272.0
7: CQI Plan	Program staff	136	3	4	1,632	544.0

Estimated Total Annual Burden Hours: 140,177.37.

Authority: Sec. 403. [42 U.S.C. 603].

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–04162 Filed 2–26–21; 8:45 am]

BILLING CODE 4184–73–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing to achieve expeditious commercialization of results of federally-funded research and development.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of patent applications may be obtained by emailing Brian W. Bailey, Ph.D., *bbailey@mail.nih.gov,* the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive, Room 4A29, MSC2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

SUPPLEMENTARY INFORMATION:

Technology description follows.

Use of Statins To Treat or Prevent Drug-Induced Hearing Loss

Description of Technology

Available for licensing and commercial development are patent rights covering methods of using atorvastatin and related statin compounds and derivatives to reduce or prevent drug-induced hearing loss that is caused as a side effect by ototoxic drugs such as cisplatin, which is commonly used in cancer therapies. At present, permanent hearing loss occurs in approximately half of all patients treated with cisplatin; consequently, every year many thousands of individuals experience partial loss of hearing and associated quality of life issues as a result of medically necessary chemoradiation therapies to treat their cancers. This technology addresses a large unmet need to eliminate or reduce hearing loss in patients that must undergo therapies involving ototoxic drugs.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404.

Potential Commercial Applications

• Repurposing existing statins, including atorvastatin, to treat or protect against permanent hearing loss arising from chemoradiation therapy involving ototoxic drugs.

• Development of statin analogues or derivatives with enhanced abilities to treat or protect against hearing loss resulting from therapies involving cisplatin or other ototoxic drugs.

Competitive Advantages

- This invention addresses an urgent need to protect against permanent hearing loss resulting from therapies with commonly used but ototoxic drugs, including cisplatin.
- Statins are already extensively used therapeutically to lower blood cholesterol and have well understood drug profiles, making them ideal candidates for repurposing.

Development Stage: An observational clinical trial (NCT03225157) in patients with head and neck cancers has been completed.

Inventors: Lisa Lynn Cunningham (NIDCD), Nicole C. Schmitt (NIDCD), and Katharine Ann Fernandez (NIDCD).

Publications: J Clin Invest. 2021;131(1):e142616.

Intellectual Property: HHS Reference No. E–029–2020—PCT/US21/14918 filed January 25, 2021; U.S. Patent Application No. 62/966,794 filed January 28, 2020.

Licensing Contact: Brian W. Bailey, Ph.D.; 301–594–4094; *bbailey@mail.nih.gov.*

Bruce D. Goldstein,

Director, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development, National Institutes of Health.

[FR Doc. 2021–04069 Filed 2–26–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Heart, Lung, and Blood Institute (NHLBI), National Institutes of Health, Department of Health and Human Services, is contemplating the grant of sublicensable patent licenses to Simon Fraser University (''Simon Fraser''), a non-profit university located in British Columbia, Canada, and Le Centre National de la Recherche Scientifique (''CNRS''), a public scientific and technological establishment located in France, its rights to the inventions and patents listed in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: Only written comments and/or applications for a license which are received by the NHLBI Office of Technology Transfer and Development on or before March 16, 2021 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated exclusive patent license should be directed to: Brian W. Bailey, Ph.D., Senior Technology Transfer Manager, NHLBI Office of Technology Transfer and Development, 31 Center Drive, Rm. 4A29, MSC 2479, Bethesda, MD 20892–2479 (for business mail), Telephone (301) 594–4094; Email: *bbailey@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The following and all continuing U.S. and foreign patents/patent applications thereof are the intellectual properties to be licensed under the prospective agreement to Stanford: United States Provisional Patent Application No. 62/489,346 filed April 24, 2017 and entitled ''FLUORIGEN–BINDING RNA APTAMERS'' [HHS Reference No. E–152–2018/0–US–01].

The patent rights in these inventions have been assigned to the Government of the United States of America, Simon Fraser, and CNRS. The prospective patent license will be for the purpose of consolidating the patent rights to CNRS, one of the co-owners of said rights, for commercial development, and the purpose of consolidating the patent rights to CNRS and Simon Fraser for marketing. Consolidation of these co-owned rights is intended to expedite development of the invention, consistent with the goals of the Bayh-Dole Act codified as 35 U.S.C. 200–212.

The prospective patent license will be worldwide, exclusive, and may be limited to those fields of use commensurate in scope with the patent rights. It will be sublicensable, and any sublicenses granted by CNRS or Simon Fraser will be subject to the provisions of 37 CFR part 401 and 404.

This invention pertains to certain RNA aptamers with optimized fluorescent properties and fluorophore binding affinities as well as corresponding heterocyclic fluorophores. The technology consists of a suite of fluorescent RNA-fluorophore complexes within the ''Mango'' that have been optimized for live-cell imaging of RNA molecules without altering biological function, in a manner analogous to the way that fluorescently labeled proteins are used to study specific protein functions within cells. As such, this technology can be used as a powerful tool for live-cell study of RNA function and activity for research and diagnostic purposes. The prospective exclusive patent license will include terms for the sharing of royalty income with NHLBI from commercial sublicenses of the patent rights and may be granted unless within fifteen (15) days from the date of this published notice the NHLBI receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license that are timely filed in response to this notice will be treated as objections to the grant of the contemplated exclusive patent license. In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information from these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Licensing information and copies of patent applications may be obtained by emailing Brian W. Bailey, Ph.D., *bbailey@mail.nih.gov,* the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive, Room 4A29, MSC2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

Licensing Contact: Brian W. Bailey, Ph.D.; 301–594–4094; *bbailey@mail.nih.gov.*

Bruce D. Goldstein,

Director, Office of Technology Transfer and Development, National Heart, Lung, and Blood Institute, National Institutes of Health.

[FR Doc. 2021–04070 Filed 2–26–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; Early Phase Clinical Trials for Psychosocial Interventions.

Date: March 22, 2021.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Nicholas Gaiano, Ph.D., Review Branch Chief, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center/Room 6150/MSC 9606, 6001 Executive Boulevard, Bethesda, MD 20892–9606, 301–443–2742, *nick.gaiano@nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Role of Myeloid Cells in Brain HIV–1 Reservoirs (R01, R21).

Date: March 23, 2021.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Suicide Prevention Centers.

Date: March 23, 2021.

Time: 11:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Nicholas Gaiano, Ph.D., Review Branch Chief, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center/Room 6150/MSC 9606, 6001 Executive Boulevard, Bethesda, MD 20892–9606, 301–443–2742, *nick.gaiano@nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; BRAIN Initiative: Tools to Facilitate High-Throughput Microconnectivity Analysis (R01).

Date: March 25, 2021.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Erin E. Gray, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Boulevard, NSC 6152B, Bethesda, MD 20892, 301–402–8152, *erin.gray@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: February 23, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–04071 Filed 2–26–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Asthma and Allergic Diseases Cooperative Research Centers (U19 Clinical Trial Optional).

Date: March 22–23, 2021.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G51, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Thomas F. Conway, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G51, Rockville, MD 20852, 240–507–9685, *thomas.conway@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 22, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–04176 Filed 2–26–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine and Oral Fluid Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs using Urine or Oral Fluid (Mandatory Guidelines).

FOR FURTHER INFORMATION CONTACT: Anastasia Donovan, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N06B, Rockville, Maryland 20857; 240–276–2600 (voice); *Anastasia.Donovan@samhsa.hhs.gov* (email).

SUPPLEMENTARY INFORMATION: In accordance with Section 9.19 of the Mandatory Guidelines, a notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at *https://www.samhsa.gov/workplace/resources/drug-testing/certified-lab-list.*

The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal

Workplace Drug Testing Programs (Mandatory Guidelines) using Urine and of the laboratories currently certified to meet the standards of the Mandatory Guidelines using Oral Fluid.

The Mandatory Guidelines using Urine were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); April 30, 2010 (75 FR 22809); and on January 23, 2017 (82 FR 7920).

The Mandatory Guidelines using Oral Fluid were first published in the **Federal Register** on October 25, 2019 (84 FR 57554) with an effective date of January 1, 2020.

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71 and allowed urine drug testing only. The Mandatory Guidelines using Urine have since been revised, and new Mandatory Guidelines allowing for oral fluid drug testing have been published. The Mandatory Guidelines require strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on specimens for federal agencies. HHS does not allow IITFs to conduct oral fluid testing.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines using Urine and/or Oral Fluid. An HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that the test facility has met minimum standards. HHS does not allow IITFs to conduct oral fluid testing.

HHS-Certified Laboratories Approved To Conduct Oral Fluid Drug Testing

In accordance with the Mandatory Guidelines using Oral Fluid dated October 25, 2019 (84 FR 57554), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on oral fluid specimens:

At this time, there are no laboratories certified to conduct drug and specimen validity tests on oral fluid specimens.

HHS-Certified Instrumented Initial Testing Facilities Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Dynacare, 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780–784–1190. (Formerly: Gamma-Dynacare Medical Laboratories)

HHS-Certified Laboratories Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823. (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130. (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

Cordant Health Solutions, 2617 East L Street, Tacoma, WA 98421, 800–442–0438. (Formerly: STERLING Reference Laboratories)

Desert Tox, LLC, 5425 E Bell Rd., Suite 125, Scottsdale, AZ 85254, 602–457–5411/623–748–5045

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

Dynacare *, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630. (Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

Laboratory Corporation of America Holdings, 7207 N Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986. (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984. (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339. (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845. (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

Legacy Laboratory Services Toxicology, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

MedTox Laboratories, Inc., 402 W County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088

Testing for Veterans Affairs (VA) Employees Only, Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942. (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216. (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Redwood Toxicology Laboratory, 3700 Westwind Blvd., Santa Rosa, CA 95403, 800–255–2159

U.S. Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085. Testing for Department of Defense (DoD) Employees Only

The following laboratory is voluntarily withdrawing from the National Laboratory Certification Program effective March 15, 2021:

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432. (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance

Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on January 23, 2017 (82 FR 7920). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Anastasia Marie Donovan,

Policy Analyst.

[FR Doc. 2021–04116 Filed 2–26–21; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of July 6, 2021 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2021–04150 Filed 2–26–21; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0002; Internal Agency Docket No. FEMA–B–2075]

Proposed Flood Hazard Determinations; Correction

AGENCY: Federal Emergency Management Agency; Department of Homeland Security.

ACTION: Notice; correction.

SUMMARY: On January 12, 2021, FEMA published in the **Federal Register** a proposed flood hazard determination notice that contained an erroneous table. This notice provides corrections to that table to be used in lieu of the erroneous information. The table provided here represents the proposed flood hazard determinations and communities affected for Rice County, Minnesota and Incorporated Areas.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of January 12, 2021, in FR Doc. 2021–00399, on page 2433, correct the ''Rice County, Minnesota and Incorporated Areas'' table to read:

Community	Community map repository address
Rice County, Minnesota and Incorporated Areas Project: 12–05–2135S Preliminary Date: November 15, 2019	
Unincorporated Areas of Rice County	Rice County Government Services Building, 320 Northwest Third Street, Faribault, MN 55021.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Barnstable County, Massachusetts (All Jurisdictions) Docket No.: FEMA–B–1842	
Town of Bourne	Bourne Town Hall, 24 Perry Avenue, Buzzards Bay, MA 02532.
Bristol County, Massachusetts (All Jurisdictions) Docket No.: FEMA–B–1842	
City of Fall River	City Hall, 1 Government Center, Fall River, MA 02722.
City of New Bedford	City Hall, 133 William Street, New Bedford, MA 02740.
Town of Acushnet	Parting Ways Building, 130 Main Street, 2nd Floor, Acushnet, MA 02743.
Town of Dartmouth	Town Hall, 400 Slocum Road, Dartmouth, MA 02747.
Town of Fairhaven	Town Hall, 40 Center Street, Fairhaven, MA 02719.
Town of Freetown	Freetown Town Hall, 3 North Main Street, Assonet, MA 02702.
Town of Westport	Town Hall, 816 Main Road, Westport, MA 02790.
Norfolk County, Massachusetts (All Jurisdictions) Docket No.: FEMA–B–1842	
Town of Cohasset	Town Hall, 41 Highland Avenue, Cohasset, MA 02025.
Plymouth County, Massachusetts (All Jurisdictions) Docket No.: FEMA–B–1842	
Town of Abington	Town Hall, 500 Gliniewicz Way, Abington, MA 02351.
Town of Carver	Town Hall, 108 Main Street, Carver, MA 02330.
Town of Duxbury	Town Hall, 878 Tremont Street, Duxbury, MA 02332.
Town of Halifax	Town Hall, 499 Plymouth Street, Halifax, MA 02338.
Town of Hanover	Town Hall, 550 Hanover Street, Hanover, MA 02339.
Town of Hanson	Town Hall, 542 Liberty Street, Hanson, MA 02341.
Town of Hingham	Town Hall, 210 Central Street, Hingham, MA 02043.
Town of Kingston	Town House, 26 Evergreen Street, Kingston, MA 02364.
Town of Marion	Town House, 2 Spring Street, Marion, MA 02738.
Town of Marshfield	Town Hall, 870 Moraine Street, Marshfield, MA 02050.
Town of Mattapoisett	Town Hall, 16 Main Street, Mattapoisett, MA 02739.
Town of Middleborough	Town Hall, 10 Nickerson Avenue, Middleborough, MA 02346.
Town of Norwell	Town Hall, 345 Main Street, Room 112, Norwell, MA 02061.
Town of Pembroke	Town Hall, 100 Center Street, Pembroke, MA 02359.
Town of Plymouth	Town Hall, 26 Court Street, Plymouth, MA 02360.
Town of Plympton	Town Hall, 5 Palmer Road, Plympton, MA 02367.
Town of Rochester	Town Hall, 1 Constitution Way, Rochester, MA 02770.
Town of Rockland	Town Hall, 242 Union Street, Rockland, MA 02370.
Town of Scituate	Town Hall, 600 Chief Justice Cushing Highway, Scituate, MA 02066.
Town of Wareham	Memorial Town Hall, 54 Marion Road, Wareham, MA 02571.
Newport County, Rhode Island (All Jurisdictions) Docket No.: FEMA–B–1842	
Town of Little Compton	Town Hall, 40 Commons, Little Compton, RI 02837.
Town of Tiverton	Town Hall, 343 Highland Road, Tiverton, RI 02878.

[FR Doc. 2021–04152 Filed 2–26–21; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the

communities listed in the table below. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of June 16, 2021 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
City of Baltimore, Maryland (Independent City) Docket No.: FEMA–B–1909	
City of Baltimore	Department of Planning, 417 East Fayette Street, Baltimore, MD 21202.
Erie County, New York (All Jurisdictions) Docket No.: FEMA–B–1972	
City of Buffalo	City Hall, 65 Niagara Square, Buffalo, NY 14202.
City of Lackawanna	City Hall, 714 Ridge Road, Lackawanna, NY 14218.
City of Tonawanda	City Hall, 200 Niagara Street, Tonawanda, NY 14150.
Town of Brant	Town Hall, 1272 Brant-North Collins Road, Brant, NY 14027.
Town of Evans	Evans Town Hall, 8787 Erie Road, Angola, NY 14006.
Town of Grand Island	Town Hall, 2255 Baseline Road, Grand Island, NY 14072.
Town of Hamburg	Town Hall, 6100 South Park Avenue, Hamburg, NY 14075.
Town of Tonawanda	Tonawanda Town Hall, 2919 Delaware Avenue, Kenmore, NY 14217.

[FR Doc. 2021–04148 Filed 2–26–21; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0002; Internal Agency Docket No. FEMA–B–2112]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before June 1, 2021.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective

Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2112, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Humboldt County, Iowa and Incorporated Areas Project: 19–07–0032S Preliminary Date: March 27, 2020	
City of Humboldt	Municipal Building, 29 5th Street South, Humboldt, IA 50548.
Unincorporated Areas of Humboldt County	Humboldt County Courthouse, 203 Main Street, Dakota City, IA 50529.
Monona County, Iowa and Incorporated Areas Project: 18–07–0012S Preliminary Date: February 28, 2020	
City of Blencoe	City Hall, 413 Main Street, Blencoe, IA 51523.
City of Castana	City Hall, 103 3rd Street, Castana, IA 51010.
City of Mapleton	City Hall, 513 Main Street, Mapleton, IA 51034.
City of Moorhead	City Hall, 100 Oak Street, Moorhead, IA 51558.
City of Onawa	City Hall, 914 Diamond Street, Onawa, IA 51040.
City of Rodney	City Hall, 219 Main Street, Rodney, IA 51051.
City of Soldier	City Hall, 108 Oak Street, Soldier, IA 51572.
City of Turin	City Hall, 302 Highway 175, Turin, IA 51040.
City of Ute	City Hall, 130 East Main Street, Ute, IA 51060.
City of Whiting	City Hall, 605 Whittier Street, Whiting, IA 51063.
Omaha Tribe of Nebraska	Omaha Tribal Administration Building, 100 Main Street, Macy, NE 68039.
Unincorporated Areas of Monona County	Monona County Courthouse, 610 Iowa Avenue, Onawa, IA 51040.
Sac County, Iowa and Incorporated Areas Project: 17–07–0044S Preliminary Date: July 6, 2019	
City of Schaller	City Hall, 101 South Main Street, Schaller, IA 51053.

[FR Doc. 2021–04151 Filed 2–26–21; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0002; Internal Agency Docket No. FEMA–B–2110]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before June 1, 2021.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2110, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Madison County, Georgia and Incorporated Areas Project: 18–04–0003S Preliminary Date: May 27, 2020	
Unincorporated Areas of Madison County	Madison County Government Courthouse, Building and Zoning Office, 91 Albany Avenue, Danielsville, GA 30633.
Oglethorpe County, Georgia and Incorporated Areas Project: 18–04–0003S Preliminary Date: May 27, 2020	
City of Maxeys	Maxeys City Hall, 369 South Main Street, Stephens, GA 30667.

Community	Community map repository address
Unincorporated Areas of Oglethorpe County	Oglethorpe County Board of Commissioners Office, 105 Union Point Road, Lexington, GA 30648.
Butte-Silver Bow County, Montana (All Jurisdictions) Project: 20–08–0038S Preliminary Date: August 28, 2020	
Butte-Silver Bow County	Butte-Silver Bow Courthouse, 155 West Granite Street, Room 108, Butte, MT 59701.
Cannon County, Tennessee and Incorporated Areas Project: 18–04–0025S Preliminary Date: February 13, 2020	
Town of Woodbury	Town Hall, 101 West Water Street, Woodbury, TN 37190.
Unincorporated Areas of Cannon County	Cannon County Court House, 200 West Main Street, Woodbury, TN 37190.
Rutherford County, Tennessee and Incorporated Areas Project: 18–04–0025S Preliminary Date: February 13, 2020	
City of La Vergne	Planning and Codes Department, 5175 Murfreesboro Road, La Vergne, TN 37086.
City of Murfreesboro	City Hall, 111 West Vine Street, Murfreesboro, TN 37130.
Town of Smyrna	Town Hall, 315 South Lowry Street, Smyrna, TN 37167.
Unincorporated Areas of Rutherford County	Rutherford County Planning Department, 1 South Public Square, Room 200, Murfreesboro, TN 37130.
Wilson County, Tennessee and Incorporated Areas Project: 18–04–0025S Preliminary Date: February 13, 2020	
City of Mt. Juliet	City Hall, 2425 North Mount Juliet Road, Mt. Juliet, TN 37122.
Unincorporated Areas of Wilson County	Wilson County Court House, Planning Office, 228 East Main Street, Room 5, Lebanon, TN 37087.
Dinwiddie County, Virginia and Incorporated Areas Project: 19–03–0016S Preliminary Date: September 30, 2020	
Unincorporated Areas of Dinwiddie County	Dinwiddie County Government Center, 14010 Boydton Plank Road, Dinwiddie, VA 23841.
Fauquier County, Virginia and Incorporated Areas Project: 14–03–3327S Preliminary Date: September 15, 2020	
Town of Remington	Town Office, 105 East Main Street, Remington, VA 22734.
Town of The Plains	Post Office, 4314 Fauquier Avenue, The Plains, VA 20198.
Town of Warrenton	Town Office, 21 Main Street, Warrenton, VA 20186.
Unincorporated Areas of Fauquier County	Fauquier County GIS Department, 29 Ashby Street, Warrenton, VA 20186.
Prince William County, Virginia and Incorporated Areas Project: 14–03–3327S Preliminary Date: September 30, 2020	
City of Manassas	Public Works Building, Engineering Department, 8500 Public Works Drive, Manassas, VA 20110.
City of Manassas Park	City Hall, 1 Park Center Court, Manassas Park, VA 20111.
Town of Dumfries	Town Hall, Zoning Administrator's Office, 17739 Main Street, Suite 200, Dumfries, VA 22026.
Town of Haymarket	Town Hall, 15000 Washington Street, Suite 100, Haymarket, VA 20169.
Town of Occoquan	Town Clerk's Office, 314 Mill Street, Occoquan, VA 22125.
Town of Quantico	Town Hall, 337 5th Avenue, Quantico, VA 22134.
Unincorporated Areas of Prince William County	Prince William County Department of Public Works, Watershed Management Branch, 5 County Complex Court, Prince William, VA 22192.

[FR Doc. 2021–04143 Filed 2–26–21; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0002; Internal Agency Docket No. FEMA–B–2104]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency; Department of Homeland Security.

ACTION: Notice; correction.

SUMMARY: On January 25, 2021, FEMA published in the **Federal Register** a proposed flood hazard determination notice that contained an erroneous table. This notice provides corrections to that table to be used in lieu of the erroneous information. The table provided here represents the proposed flood hazard determinations and communities affected for Hendricks County, Indiana and Incorporated Areas.

DATES: Comments are to be submitted on or before June 1, 2021.

ADDRESSES: The Preliminary Flood Insurance Rate Map (FIRM), and where applicable, the Flood Insurance Study (FIS) report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2104, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed in the table below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP may only be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The communities affected by the flood hazard determinations are provided in the table below. Any request for reconsideration of the revised flood hazard determinations shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations will also be considered before the FIRM and FIS report are made final.

Correction

In the proposed flood hazard determination notice published at 86 FR 6905 in the January 25, 2021, issue of the **Federal Register**, FEMA published a table titled Hendricks County, Indiana and Incorporated Areas. This table contained inaccurate information as to the communities affected by the proposed flood hazard determinations for Town of Brownsburg and Town of Danville, featured in the table. In this document, FEMA is publishing a table containing the accurate information. The information provided below should be used in lieu of that previously published.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Hendricks County, Indiana and Incorporated Areas Project: 19–05–0004S Preliminary Date: May 11, 2020	
Town of Avon	Town Hall Offices, 6570 East US Highway 36, Avon, IN 46123.
Unincorporated Areas of Hendricks County	Hendricks County Government Center, 355 South Washington Street, Danville, IN 46122.

[FR Doc. 2021–04142 Filed 2–26–21; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7036–N–01]

60-Day Notice of Proposed Information Collection: Veterans Housing Rehabilitation and Modification and Pilot Program; OMB Control No.: 2506–0213

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* April 30, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Jackie L. Williams, Ph.D., Office of Rural Housing and Economic Development, 451 7th Street SW, Washington, DC 20410; email *Jackie.Williams@hud.gov;* telephone (202) 708–2290. 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 Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: FY 2020 Veterans Housing Rehabilitation and Modification and Pilot Program.

OMB Approval Number: 2506–0213.

Type of Request: Extension of a currently approved collection.

Form Number: SF–424; HUD 424CB; HUD 424–CBW; SF–LLL; HUD 2880; HUD 2990; HUD 2991; HUD 2993; HUD 2994A; HUD 27061; and HUD 27300.

Description of the need for the information and proposed use: The Veterans Housing Rehabilitation and Modification Pilot Program funding in FY 2020 was provided under the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94, approved December 20, 2019), the Consolidated Appropriations Act of 2018 (Pub. L. 115–141), and the Consolidated Appropriations Action, 2019 (Pub. L. 116–6). The purpose of VHRMP is to award grants to nonprofit veteran's service organizations to rehabilitate and modify the primary residence of disabled and low-income veterans. The program goal is to support eligible activities that serve the following objectives: (1) Modify and rehabilitate the primary residence of disabled and low-income veterans; (2) rehabilitate such residence that is in a state of interior and exterior disrepair; and (3) install energy efficient features or equipment. Information is required to rate and rank competitive applications and to ensure eligibility of applicants for funding. Quarterly reporting is required to monitor grant management.

Respondents: Public, Not-for-profit institutions.

Estimated Number of Respondents: 200.

Estimated Number of Responses: 200.

Frequency of Response: Once.

Average Hours per Response: 12.74.

Total Estimated Burdens: 2,548.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD–424CB	200	1	200	3.12	624	69.75	$43,524.00
HUD–424CBW	200	1	200	3.12	624	69.75	43,524.00
HUD–2880	200	1	200	2	400	69.75	27,900.00
HUD–2991	200	1	200	0	0	69.75	0
HUD–2993	200	1	200	0	0	69.75	0
HUD–2994A	200	1	200	0.5	100	69.75	6,975.00
HUD–27061	200	1	200	1	200	69.75	13,950.00
HUD–27300	200	1	200	3	600	69.75	41,850.00
Total				12.74	2,548		177,723.00

Annualized Cost @ $69.75/hr.: $172,550.56.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Principal Deputy Assistant Secretary for Community Planning and Development, James Arthur Jemison II, having reviewed and approved this document, is delegating the authority to electronically sign this document to submitter, Aaron Santa Anna, who is the Federal Register Liaison for HUD,

for purposes of publication in the **Federal Register**.

Aaron Santa Anna,

Federal Register Liaison for the Department of Housing and Urban Development.

[FR Doc. 2021–04074 Filed 2–26–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7040–N–04; OMB Control No. 2535–0107]

60-Day Notice of Proposed Information Collection: Public Housing Financial Management Template

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date: April 30, 2021.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–5564 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Dacia Rogers, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW, (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Rogers.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Public Housing Financial Management Template.

OMB Approval Number: 2535–0107.

Type of Request: Reinstatement of a previously approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: To meet the requirements of the Uniform Financial Standards Rule (24 CFR part 5, subpart H) and the asset management requirements in 24 CFR part 990, the Department developed financial management templates that public housing agencies (PHAs) use to annually submit electronically financial information to HUD. HUD uses the financial information it collects from each PHA to assist in the evaluation and assessment of the PHAs' overall condition. Requiring PHAs to report electronically has enabled HUD to provide a comprehensive financial assessment of the PHAs receiving federal funds from HUD.

Respondents: Public Housing Agencies (PHAs).

Estimated Annual Reporting and Recordkeeping Burden: The average burden hour estimate assumes that there are 3,916 PHAs (Low Rent Only, Low Rent and Section 8, and Section 8 only PHAs) that submit one unaudited financial management template annually. The average burden hours associated with an unaudited financial management template is 6.4 hours (25,015.5 total hours divided by 3,916 PHAs). There are 3,538 PHAs that are required to or voluntarily submit an audited financial management template annually. The average burden hours associated with an audited financial management template is 4.2 hours (14,705 total hours divided by 3,538 PHAs). When added together, the average burden hours for a PHA that submits both an unaudited and audited financial management template is 5.3 hours, for a total reporting burden of 39,721 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35 as amended.

Dated: February 19, 2021.

Merrie Nichols-Dixon,

Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2021–04136 Filed 2–26–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R1–ES–2020–0131; FXES111401000000, 212, FF01E00000]

Marine Mammals; Incidental Take During Specified Activities; Proposed Incidental Harassment Authorization for Northern Sea Otters in the Northeast Pacific Ocean

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application and proposed incidental harassment authorization; availability of draft environmental assessment; and request for public comments.

SUMMARY: The U.S. Fish and Wildlife Service (Service) received a request from the National Science Foundation (NSF) for authorization to take a small number of northern sea otters by harassment incidental to a marine geophysical survey in the northeast Pacific Ocean. Pursuant to the Marine Mammal Protection Act of 1972, as amended (MMPA), the Service is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to NSF for certain activities during the period between May 1 and June 30, 2021. This proposed IHA, if finalized, will be for take by Level A and Level B harassment. We

anticipate no take by death and include none in this proposed authorization. The Service has prepared a draft environmental assessment (EA) addressing the proposed IHA and is soliciting public comments on both documents.

DATES: Comments on the proposed IHA request and the draft EA will be accepted on or before March 31, 2021.

ADDRESSES:

Document availability: The proposed IHA request, the draft EA, and the list of references cited herein are available for viewing at *http://www.regulations.gov* in Docket No. FWS–R1–ES–2020–0131 and at *http://www.fws.gov/wafwo.* NSF's associated environmental assessments can be found at *https://www.nsf.gov/geo/oce/envcomp/.*

Comment Submission: You may submit comments on this proposed authorization by one of the following methods:

- *U.S Mail:* Public Comments Processing, Attn: Docket No. FWS–R1–ES–2020–0131, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB/3W, Falls Church, VA 22041–3803; or
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments to Docket No. FWS–R1–ES–2020–0131.

We will post all comments on *http://www.regulations.gov.* You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so. See Request for Public Comments for more information.

FOR FURTHER INFORMATION CONTACT: Brad Thompson, State Supervisor, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive SE, Suite 102, Lacey, WA 98503–1273 (telephone 360–753–9440).

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361, *et seq.*), authorizes the Secretary of the Interior 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 region during a period of not more than 1 year. Incidental take may be authorized only if statutory and regulatory procedures are followed and the U.S. Fish and Wildlife Service (hereafter, ''the Service'' or ''we'') makes the following findings: (i) The take is of a small number of marine mammals; (ii) the take will have a negligible impact on the species or stock; and (iii) take will not have an unmitigable adverse impact on the availability of the species or stock for subsistence uses by coastal-dwelling Alaska Natives. As part of the authorization process, we prescribe permissible methods of taking and other means of affecting the least practicable impact on the species or stock and its habitat and prescribe requirements pertaining to the monitoring and reporting of such takings.

The term ''take,'' as defined by the MMPA, means to harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill any marine mammal (16 U.S.C. 1362(13)). Harassment, as defined by the MMPA, means ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (the MMPA refers to this impact as 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 (the MMPA refers to these impacts as Level B harassment) (See 16 U.S.C. 1362(18)).

The terms ''negligible impact,'' ''small numbers,'' and ''unmitigable adverse impact'' are defined in the Code of Federal Regulations at 50 CFR 18.27, the Service's regulations governing take of small numbers of marine mammals incidental to specified activities. ''Negligible impact'' is defined 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. ''Small numbers'' is defined as a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock. However, we do not rely on that definition as it conflates the terms ''small numbers'' and ''negligible impact,'' which we recognize as two separate and distinct requirements (see *Natural Res. Def. Council, Inc.* v. *Evans,* 232 F. Supp. 2d 1003, 1025 (N.D. Cal. 2003)). Instead, in our small numbers determination, we evaluate whether the number of marine mammals likely to be taken is small relative to the size of the overall population. ''Unmitigable adverse impact'' is defined 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. The subsistence provision does not apply to northern sea otters in Washington and Oregon.

If the requisite findings are made, we will issue an IHA, which sets forth the following: (i) Permissible methods of taking; (ii) other means of effecting the least practicable impact on marine mammals and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance; and (iii) requirements for monitoring and reporting take.

Summary of Request

On December 19, 2019, the Service received an application from the National Science Foundation (hereafter ''NSF'' or ''the applicant'') for authorization to take the northern sea otter (*Enhydra lutris kenyoni,* hereafter ''sea otters'' or ''otters'' unless another subspecies is specified) by unintentional harassment incidental to a marine geophysical survey of the Cascadia Subduction Zone off the coasts of Washington, Oregon, and British Columbia, Canada. The NSF subsequently postponed the project until 2021.

Description of the Activities and Specified Geographic Region

The specified activity (the ''project'') consists of Lamont-Doherty Earth Observatory's (L–DEO) 2020 Marine Geophysical Surveys by the Research Vessel *Marcus G. Langseth* (R/V *Langseth*) in the Northeast Pacific Ocean between May 1 and June 31, 2021. The high-energy, two-dimensional (2–D) seismic surveys are expected to last for a total of 40 (nonconsecutive) days, including approximately 37 days of seismic operations, 2 days of equipment deployment/retrieval, and 1 day of transit. A maximum of 6,890 km (4,281 mi) of transect lines would be surveyed in marine waters adjacent to Oregon, Washington, and British Columbia from 41° N to 50° N latitude and −124 N and −130 W longitude, of which approximately 6,600 km (4,101 mi) would be in the U.S. Exclusive Economic Zone and 295 km (183 mi) in Canadian territorial waters. The Service cannot authorize the incidental take of marine mammals in waters not under the jurisdiction of the United States, and the Washington stock of the northern sea otter is not found within Canadian territorial waters. Therefore, the

Service's calculation of estimated incidental take is limited to the specified activity occurring in United States jurisdictional waters within the stock's range.

The survey would include several strike lines, parallel (including one continuous line along the continental shelf) and perpendicular to the coast. The R/V *Langseth* will tow 4 strings containing an array of 36 airguns at a depth of 12 m (39 ft), creating a discharge volume of approximately 6,600 cubic inches (in^3) or 0.11 cubic meter (m^3) at a shot interval of 37.5 m (123 ft). The 36-airgun array could operate 24 hours a day, except during mitigation shutdowns, for the entirety of the 37 days of survey. The energy produced by the seismic array is broadband and ranges from a few hertz (Hz) to kilohertz (kHz); however, all but a small fraction of the energy is focused in the 10–300 Hz range (Tolstoy *et al.* 2009). The receiving system would consist of one 15-km (9.3-mi) long hydrophone streamer, Ocean Bottom Seismometers (OBSs), and Ocean Bottom Nodes (OBNs) deployed within the survey area. In addition to the operations of the airgun array, a multibeam echosounder, a single-beam dual-frequency echosounder (4 and 12 kHz), a sub-bottom profiler (SBP), and an Acoustic Doppler Current Profiler (ADCP) would be operated. Further information and technical specifications can be found in NSF's IHA application and the Service's draft EA available at: *http://www.regulations.gov,* Docket No. FWS–R1–ES–2020–2012;0131.

Description of Northern Sea Otters in the Specified Activity Area

The proposed area of specified activity occurs within the range of the Washington stock of the northern sea otter, a portion of the species' range that is not listed under the Endangered Species Act of 1973, as amended (ESA). This stock primarily occurs along the Washington coast between Cape Flattery and Grays Harbor, but small groups have been reported in the Straits of Juan de Fuca and individual sea otters have been reported in Puget Sound and along the Oregon coast as far south as Cape Blanco (Jeffries *et al.* 2019, USFWS 2018, unpublished observations J. Rice OSU). Among the largest members of the family Mustelidae but one of the smallest of marine mammals, northern sea otters exhibit limited sexual dimorphism (males are larger than females) and can attain weights and lengths up to 40 kg (110 lb) and 1.4 m (4.6 ft), respectively. They have a typical life span of 11–15 years (Riedman and Estes 1990). Unlike most other marine mammals, sea otters have little subcutaneous fat. They depend on their clean, dense, water-resistant fur for insulation against the cold and maintain a high level of internal heat production to compensate for their lack of blubber. Consequently, their energetic requirements are high, and they consume an amount of food equivalent to approximately 23 to 33 percent of their body weight per day (Riedman and Estes 1990).

Northern sea otters forage in both rocky and soft-sediment communities in water depths of 40 m (131 ft) or less (Laidre *et al.* 2009), although otters have been documented along the Washington coast as far as 58 km (36 mi) offshore in waters deeper than 200 m (656 ft) (Pearson 2019; supplemental data provided to USFWS). They tend to be found closer to shore during storms, but they venture farther out during good weather and calm seas (Kenyon 1975). Sea otters occasionally make dives of up to 100 m (328 ft) (Newby 1975), but the vast majority of feeding dives (more than 95 percent) occur in waters less than 40 m (131 ft) in depth (Tinker *et al.* 2006). Therefore, sea otter habitat is typically defined by the 40-m (131-ft) depth contour (Laidre *et al.* 2011).

The number of sea otters in this stock, for the purposes of this analysis, was estimated to be approximately 3,000, based on survey count data and projections for areas not surveyed. The estimated minimum abundance of the stock, based on survey count data, was 2,785 sea otters within the area between Cape Flattery and Grays Harbor, Washington, between shore and the 40-m (131-ft) depth contour (Jeffries *et al.* 2019). While systematic surveys farther offshore have not been conducted in Washington or Oregon, otters have been documented farther offshore (Pearson 2019). Surveys conducted in Southeast Alaska found 95 percent of northern sea otters were found in areas shallower than 40-m (131 ft) and 5 percent farther offshore (Tinker *et al.* 2019). Therefore, assuming a similar proportion of sea otters in Washington occur offshore, we added 5 percent (139 sea otters) to the minimum abundance to account for otters farther offshore than 40-m (131-ft) depth contour, to get a total population estimate of 2,924 for the area between Cape Flattery and Grays Harbor. Based on best professional judgment and limited anecdotal observations, we estimate two sea otters would be somewhere along the coast between Grays Harbor and the Washington/Oregon border and two sea otters would be somewhere along the Oregon coast.

Otter densities were calculated for the area between Cape Flattery and Grays Harbor, broken down to north and south of the Quillayute River. Surveys indicate the otter population is not evenly distributed throughout the area surveyed (Jeffries *et al.* 2019), and the distribution of the population during the proposed project is likely to be similar to that detected during surveys, as work will occur during the same time of year as the surveys were conducted. (See Table 2 for density estimations). A density was not estimated for the area between Grays Harbor and the southern end of the project; rather, we assumed that the four sea otters estimated to occur there would be exposed.

Further biological information on this stock can be found in the Washington Department of Fish and Wildlife's Periodic Status Review (Sato 2018) and Recovery Plan (Lance *et al.* 2004). The sea otters in this stock have no regulatory status under the ESA. The potential biological removal (PBR) for this stock is 18 sea otters (USFWS 2018). 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. While no mortality is anticipated or authorized here, PBR is included as a gross indicator of the status of the species.

Sea Otter Hearing

Controlled sound exposure trials on a single older male southern sea otter (*E. l. nereis*) indicate that otters can hear frequencies between 125 Hz and 38 kHz with best sensitivity between 1.2 and 27 kHz in air and 2 to 26 kHz underwater; however, these thresholds may underrepresent best hearing capabilities in younger otters (Ghoul and Reichmuth 2014). Aerial and underwater audiograms for a captive adult (14-year-old) male southern sea otter in the presence of ambient noise suggest the sea otter's hearing was less sensitive to high-frequency (greater than 22 kHz) and low-frequency (less than 1 kHz) sound than terrestrial mustelids, but was similar to that of a California sea lion (*Zalophus californianus*). However, the subject otter was still able to hear low-frequency sounds, and the detection thresholds for sounds between 0.125–1 kHz were between 116–101 dB, respectively. Dominant frequencies of southern sea otter vocalizations are between 3 and 8 kHz, with some energy extending above 60 kHz (McShane *et al.* 1995; Ghoul and Reichmuth 2012).

Potential Impacts of the Proposed Seismic Survey on Northern Sea Otters in Washington and Oregon

This section includes a summary of the ways that components of the specified activity may impact sea otters and their habitat. A more in-depth analysis can be found in the Service's draft EA (USFWS 2020). The *Estimated Take by Incidental Harassment of Sea Otters* section later in this document includes a quantitative analysis of the number of sea otters that are expected to be taken by this activity. The *Negligible Impact* section considers the content of the *Estimated Take by Incidental Harassment of Sea Otters* section, and the *Mitigation and Monitoring* section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact sea otters.

Otters may be impacted while at the surface by the presence of the vessels traveling to/from the ports to the transects and operating along the transects. Otters underwater may be impacted by the OBS/OBNs as they are deployed and the acoustic effects from the airguns, OBS/SBP/ADCP/ echosounders, and ship noise.

Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on signal characteristics, received levels, duration of exposure, behavioral context, and whether the sea otter is above or below the water surface. Underwater sounds are not likely to affect sea otters at the surface, due to the pressure release effect. Thus, the susceptibility of sea otters from underwater sounds would be restricted to behaviors during which the head or body is submerged, such as during foraging dives and underwater swimming and, intermittently, during grooming bouts. The proposed activities include underwater sound sources that are impulsive (airguns) and non-impulsive (OBS/SBP/ADCP/ echosounders and ship noise). Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight to severe injury of the internal organs and the auditory system, or mortality (Yelverton *et al.* 1973; Yelverton and Richmond 1981; Turnpenny and Nedwell 1994; Turnpenny *et al.* 1994).

Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience a hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran 2015). TS can be permanent (PTS), in which case there is physical damage to the sound receptors in the ear (*i.e.,* tissue damage) and the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case there is primarily tissue fatigue and the animal's hearing threshold would recover over time (Southall *et al.* 2007). Repeated sound exposure that leads to TTS could cause PTS. Temporary or permanent loss of hearing will occur almost exclusively for noise within an animal's hearing range. Given the longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS would occur as a result of project activities because a sea otter could remove itself from exposure by coming to the surface. However, a sea otter underwater in close proximity to the higher level of sound could experience PTS. In addition, otters startled by the sound while foraging in deeper waters will be underwater longer and potentially be exposed to more acoustic sound.

Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area, changes in vocalizations, or changes in antipredator response), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Reactions by sea otters to anthropogenic noise can be manifested as visible startle responses, flight responses (flushing into water from haulouts or ''splash-down'' alarm behavior in surface-resting rafts), changes in moving direction and/or speed, changes in or cessation of certain behaviors (such as grooming, socializing, or feeding), or avoidance of areas where noise sources are located. The biological significance of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification would be expected to be biologically significant if the change affected growth, survival, or reproduction.

Potentially significant behavioral modifications include disturbance of resting sea otters, marked disruption of foraging behaviors, separation of mothers from pups, or disruption of spatial and social patterns (sexual segregation and male territoriality). Foraging is energetically costly to sea otters, more so than other marine mammals, because of their buoyancy and swimming style (Yeates *et al.* 2007), thus displacement from or reduction of foraging in high-quality habitat could result in increased energy expenditures. The energy expense and associated physiological effects could ultimately lead to reduced survival and reproduction (Gill and Sutherland 2000; Frid and Dill 2002).

Disturbances can also have indirect effects; for example, response to noise disturbance is considered a nonlethal stimulus that is similar to an antipredator response (Frid and Dill 2002). Sea otters are susceptible to predation, particularly from sharks and eagles, and have a well-developed antipredator response to perceived threats, which includes actively looking above and beneath the water. Although an increase in vigilance or a flight response is nonlethal, a tradeoff occurs between risk avoidance and energy conservation. An animal's reactions to noise disturbance may cause stress and direct an animal's energy away from fitness-enhancing activities such as feeding and mating (Frid and Dill 2002; Goudie and Jones 2004). For example, southern sea otters in areas with heavy recreational boat traffic demonstrated changes in behavioral time budgeting showing decreased time resting and changes in haul-out patterns and distribution (Benham 2006; Maldini *et al.* 2012).

Chronic stress can also lead to weakened reflexes, lowered learning responses (Welch and Welch 1970; van Polanen Petel *et al.* 2006), compromised immune function, decreased body weight, and abnormal thyroid function (Seyle 1979). Changes in behavior resulting from anthropogenic disturbance can include increased agonistic interactions between individuals or temporary or permanent abandonment of an area (Barton *et al.* 1998). The type and extent of response may be influenced by intensity of the disturbance (Cevasco *et al.* 2001), the extent of previous exposure to humans (Holcomb *et al.* 2009), the type of disturbance (Andersen *et al.* 2012), and the age or sex of the individuals (Shaughnessy *et al.* 2008; Holcomb *et al.* 2009).

Exposure Thresholds—Although no specific thresholds have been developed for sea otters, several alternative behavioral response thresholds have been developed for otariid pinnipeds. Otariid pinnipeds (*e.g.,* California sea lions [*Zalophus californianus*]) have a frequency range of hearing most similar to that measured in a southern sea otter (Ghoul and Reichmuth 2014) and provide the closest related proxy for

which data are available. Sea otters and pinnipeds share a common mammalian aural physiology (Echteler *et al.* 1994; Solntseva 2007). Both are adapted to amphibious hearing, and both use sound in the same way (primarily for communication rather than feeding). NMFS criteria for Level A harassment represents the best available information for predicting injury from exposure to underwater sound among pinnipeds, and in the absence of data specific to otters, we assume these criteria also represent appropriate exposure thresholds for Level A harassment of sea otters.

For otariid pinnipeds, PTS is predicted to occur at 232 dB peak or 203 dB SELcum (cumulative sound exposure level) for impulsive sound, or 219 dB SELcum for non-impulsive (continuous) sound (NMFS 2018). Exposure to unmitigated in-water noise levels between 125 Hz and 38 kHz that are greater than 232 dB peak or 203 dB SELcum for impulsive sound or 219 dB SELcum for non-impulsive (continuous) sound will be considered by the Service as Level A harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner considered 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 (NMFS 2018).

Thresholds based on TTS can be used as a proxy for Level B harassment. Based on studies summarized by Finneran (2015), NMFS (2018) has set the TTS threshold for otariid pinnipeds at 188 dB SELcum for impulsive sounds and 199 dB SELcum for non-impulsive sounds. Thus, using information available for other marine mammals, specifically otariid pinnipeds, as a surrogate, and taking into consideration the best available information about sea otters, the Service has set the received sound level underwater of 160 dB re 1 µPa (rms) as a threshold for Level B harassment for sea otters based on the work of Ghoul and Reichmuth (2012), McShane *et al.* (1995), Riedman (1983), Richardson *et al.* (1995), and others. Exposure to unmitigated impulsive in-water noise levels between 125 Hz and 38 kHz that are greater than 160 dB re 1 µPa (rms) will be considered by the Service as Level B harassment.

Exposure to Project Activities—Based on the studies on sea otters in Washington, California, and Alaska, we believe sea otters spend between 40 and 60 percent of a 24-hour period with at least a portion of their body underwater (foraging, other diving, or grooming behaviors that result in the head being underwater) and forage both diurnally and nocturnally (Esslinger *et al.* 2014, Laidre *et al.* 2009, Yeates *et al.* 2007, Tinker *et al.* 2008). Seismic survey activities can operate 24 hours/day and otters may be exposed at any time. Any single point along the transects could be above thresholds for a maximum of 6.5 hours, during which time sea otters in that area would engage in underwater behaviors and would be exposed to underwater sound. Some areas along the transects will be ensonified more than once.

Because sea otters spend a considerable portion of their time at the surface of the water, they are typically visually aware of approaching boats and are able to move away if the vessel is not traveling too quickly. The noise of approaching boats provides an additional warning, thus otters should be able to detect the vessels and paddle away, rather than be startled and go subsurface. Because the R/V *Langseth* would be traveling relatively slowly (4.5 knots) during the surveys, it is unlikely that sea otters would suffer injury or death from a vessel collision. Otters that may be foraging may be startled by the remotely operated vehicle deployed to retrieve OBNs in waters >60 m (197 ft) along three transects perpendicular to the Oregon coast.

The potential for exposure to all activities is likely to be limited to where the vessel is operating in waters <1,000 m (3,280 ft) deep, as we do not anticipate otters to be farther offshore. Off the Washington coast, females primarily forage and rest in waters <40 m (131 ft), but males spend less time foraging close to shore and rest farther offshore than females (Laidre *et al.* 2009), venturing as far offshore as 58 km (36 mi) (Pearson 2019). Within the waters adjacent to Washington and northern Oregon (to Tillamook Head), the ensonified zone would not penetrate the waters between shore and the 40-m (131-ft) depth contour, thus sea otters that may be exposed are more likely to be the males that occur farther offshore. The otters along the Oregon coast are presumed to be males, based on stranding data (FWS unpublished data).

NSF and L–DEO have proposed measures to minimize the chances of sea otter exposure to the seismic surveys. Along the Washington coast in waters <200 m (656 ft) deep, the airgun array would operate only during daylight hours. The airgun startup would be ramped in order to alert otters that are underwater, in the hope they would move away. Prior to airgun startup and during airgun operations, visual observers would be employed during daylight hours, in order to establish a 500-m (1,640 ft) exclusion zone. Any sea otter observed in this zone would lead to a shutdown of the airgun array. However, there will be gaps in the visual coverage, in particular during nighttime operations in Oregon and beyond 200 m (656 ft) in Washington. In addition, under poor weather conditions and some good weather conditions, observers cannot be 100 percent effective and may not detect a sea otter in, or about to enter, the exclusion zone. Further, visual observations cannot cover the entirety of the area with sound levels that may cause behavioral changes. The lack of ability to fully monitor the ensonified area means an otter(s) may go unobserved and be exposed to underwater noise that results in Level A and/or Level B harassment.

Potential Effects of the Proposed Activity on Northern Sea Otter Habitat

Physical and biological features of habitat essential to the conservation of sea otters include the benthic invertebrates (crabs, urchins, mussels, clams, etc.) eaten by otters and the shallow rocky areas and kelp beds that provide cover from predators. Important sea otter habitat areas of significance in the NSF and L–DEO project area include coastal areas within the 40-m (131-ft) depth contour where high densities of otters have been detected, although deeper waters may be important for male sea otters. A number of recent reviews and empirical studies have addressed the effects of noise on invertebrates (Carroll *et al.* 2017), sea otter prey, with some studies showing little or no effects and others indicating deleterious effects from exposure to increased sound levels. Given the short-term duration of sounds produced by each component of the proposed project, it is unlikely that noises generated by survey activities will have any lasting effect on sea otter prey (see the Service's draft EA (USFWS 2020) for further information). The MMPA allows the Service to identify avoidance and minimization measures for affecting the least practicable impact of the specified activity on important habitats. Although sea otters within this important habitat may be impacted by geophysical surveys conducted by NSF and L–DEO, the project, as currently proposed, is not likely to cause lasting effects to habitat.

Potential Impacts of the Proposed Activity on Subsistence Needs

The subsistence provision of the MMPA does not apply to northern sea otters in Washington and Oregon.

Mitigation and Monitoring

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, the Service must set forth the permissible methods of taking pursuant to the activity, and other means of affecting the least practicable impact on the species or stock and its habitat, paying particular attention to habitat areas of significance and the availability of sea otters for subsistence uses by coastal-dwelling Alaska Natives, although this factor is not applicable for this action.

In evaluating how mitigation may or may not be appropriate to ensure the least practicable impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (*i.e.,* 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.

To reduce the potential for disturbance to marine mammals caused by acoustic stimuli associated with IHA activities, NSF has proposed to implement mitigation measures for the northern sea otter including, but not limited to, the following:

- Development of marine mammal monitoring and mitigation plans;
- Reduced survey transect lines and daylight-only operations in area of highest sea otter densities;
- Establishment of shutdown and monitoring zones;
- Vessel-based visual mitigation monitoring by Protected Species Observers;
- Site clearing before start-up;
- Soft-start and shutdown procedures.

The specific methods to be implemented are further specified in the Service's draft EA (USFWS 2020) available at: *http://www.regulations.gov,* Docket No. FWS–R1–ES–2020–0131.

Estimated Take by Incidental Harassment of Northern Sea Otters

In a previous section, we discussed the components of the project activities that have the potential to affect sea otters and the physiological and behavioral effects that can be expected. Here, we discuss how the Service characterizes these effects under the MMPA.

An individual sea otter's reaction to human activity will depend on the otter's prior exposure to the activity, its need to be in the particular area, its physiological status, or other intrinsic factors. The location, timing, frequency, intensity, and duration of the encounter are among the external factors that will also influence the animal's response. Intermediate reactions that disrupt biologically significant behaviors are considered Level B harassment under the MMPA. The Service has identified the following sea otter behaviors as indicating possible Level B harassment:

- Swimming away at a fast pace on belly (*i.e.,* porpoising);
- Repeatedly raising the head vertically above the water to get a better view (spy hopping) while apparently agitated or while swimming away;
- In the case of a pup, repeatedly spy hopping while hiding behind and holding onto its mother's head;
- Abandoning prey or feeding area;
- Ceasing to nurse and/or rest (applies to dependent pups);
- Ceasing to rest (applies to independent animals);
- Ceasing to use movement corridors along the shoreline;
- Ceasing mating behaviors;
- Shifting/jostling/agitation in a raft so that the raft disperses;
- Sudden diving of an entire raft; or
- Flushing animals off of a haulout.

This list is not meant to encompass all possible behaviors; other situations may also indicate Level B harassment.

Reactions capable of causing injury are characterized as Level A harassment events. However, it is also important to note that, depending on the duration and severity of the above-described Level B behaviors, such responses could constitute take by Level A harassment. For example, while a single flushing event would likely indicate Level B harassment, repeatedly flushing sea otters from a haulout may constitute Level A harassment.

Calculating Estimate of Takes

In the sections below, we estimate take by harassment of the numbers of sea otters from the Washington stock (in Oregon and Washington) that are likely to be affected during the proposed activities. We assumed all animals exposed to underwater sound levels that meet the acoustic exposure criteria would experience Level A (>232 dB_{RMS}) or Level B (160–232 dB_{RMS}) harassment. To determine the number of otters that may be exposed to these sound levels, we created spatially explicit zones of ensonification using the proposed reduced survey transect lines and determined the number of otters present in the ensonification zones using density information generated from minimum population estimates in Jeffries *et al.* (2019), which subdivides the surveyed area into Cape Flattery to La Push and La Push to north entrance of Grays Harbor. An in-depth explanation of the process used can be found in the Service's draft EA (USFWS 2020) available at: *http://www.regulations.gov,* Docket No. FWS–R1–ES–2020–0131.

The Level A and Level B underwater sound thresholds were used to create spatially explicit ensonification zones surrounding the proposed project transects. We created a buffer with a 46-m (151-ft) width around the proposed project transects to account for the Level A ensonified area on either side of the 24-m-wide (79-ft-wide) airgun array. To determine the Level B ensonified area, we placed a 12,650-m (7.9-mi) buffer around transects in water <100 m (328 ft) deep, and a 9,468-m (5.9-mi) buffer around transects in water 100–1,000 m (328–3,280 ft) deep.

The minimum population estimate from Jeffries *et al.* (2019) can be specifically applied to the surveyed area, which included the Washington coastline between Cape Flattery and Grays Harbor in the nearshore areas less than 25-m (82-ft) depth contour. Sea otters are overwhelmingly observed (95 percent) within the 40-m (131-ft) depth contour (Laidre *et al.* 2009; Tinker *et al.* 2019), thus for the purposes of this analysis, the population estimated by Jeffries *et al.* (2019) is assumed to apply to the 40-m (131-ft) depth contour for the waters between Grays Harbor and Cape Flattery. The minimum abundance estimates from Jeffries *et al.* (2019) were divided north and south of the Quillayute River, thus for this analysis habitat was divided into subregions, Cape Flattery south to Quillayute River (subregion north) and Quillayute River to Grays Harbor (subregion mid). Density estimates for the north and mid subregions were calculated by dividing the population estimate for that subregion (Jeffries *et al.* 2019) by the area from shore to the 40-m (131-ft) depth contour. See Table 1 for projected sea otter abundance and density estimates.

Sea otter abundances outside of the area covered by surveys were inferred/estimated as follows.

- *North and Mid subregions 40–100-m (131–328-ft) depth contour:* While 95 percent of sea otters are observed within the 40-m (131-ft) depth contour, otters do occur farther off shore (see Pearson 2019 for specific instances off Washington coast), thus lower density otter habitat was delineated between the 40- and 100-m (131- and 328-ft) depth contours. To calculate the density of otters in lower density (40–10-m or 131–328-ft) habitat, we multiplied the density of the adjacent high-density habitat by 0.05.
- *North and Mid subregions >100-m (328-ft) depth contour:* Pearson (2019) observed two sea otters (1 in 2017 and 1 in 2018) in waters >100-m (328-ft) depth contour in the Mid subregion. We do not have a reasonable method for determining the density of otters in the waters this deep and far offshore, thus for the purposes of calculating the number of otters that may be exposed, we assumed 2 otters could be in the waters >100-m (328-ft) depth contour in the Mid subregion.
- *South subregion:* Includes the area from Grays Harbor south to Oregon/California border. This subregion was further divided into three areas because of the differences in transects and sea otter observations: Grays Harbor to Washington/Oregon border, Northern Oregon, Southern Oregon. There are no systematic surveys conducted south of Grays Harbor, but there are consistent reports of individuals as far south as Cape Blanco, Oregon (unpublished FWS data; Jim Rice, Oregon State University, pers. comm). We do not have data to inform a density estimate for these areas; however, in our best professional judgment we estimated that a minimum of four sea otters may be in the south subregion at the time of the project. Pearson (2019) observed one sea otter in waters >100-m (328-ft) depth contour in the South subregion. We do not have a reasonable method for determining the density of otters in the waters this deep and far offshore, thus for the purposes of calculating the number of otters that may be exposed in the Grays Harbor to WA/OR border, we assumed two sea otters could be at any depth. In Oregon, we assumed one otter in each of the two areas, which could be at any depth.

TABLE 1—ESTIMATED SEA OTTER ABUNDANCE AND DENSITIES FOR THE ANALYSIS AREA

Subregion	High density (<40 m)			Lower density (40–100 m)		
	Abundance estimate	Area (km^2)	Density	Abundance estimate	Area (km^2)	Density
North	549	456	1.2	27	556	0.05
Mid	2,236	1,434	1.56	112	2,060	0.05
South	.....	.....	.....	.....	.....	4

The area impacted in each subregion and depth contour was multiplied by the estimated otter density to determine the number of otters that would experience Level A and Level B sound levels (Tables 2 and 3). The total number of takes was predicted by estimating the projected days of activity in each subregion and depth contour using the reduced transects supplied by NSF. In several areas, the length and direction of the proposed survey transect lines make it highly unlikely that impacts will occur on only 1 day. In these instances, we estimated the days of disturbance based on the number of passes of the survey transect lines.

The following assumptions were pertinent to our estimate of harassment take (see above for specific rationale):

- No otters will occur >100-m (328-ft) depth contour in North subregion.
- Visual observers will not be able to see sea otters in poor weather conditions and will not be observing at night. When visual observers are not able to effectively observe sea otters, there would be no mitigation (shutdown) applied.
- When visual observers are not able to observe sea otters they could be exposed to harassment that has the potential to injure (Level A) or disturb by causing disruption of behavioral patterns (Level B). For the purposes of this analysis, we applied our best professional judgment and erred on the side of the species, attributing the harassment to Level A. In the areas where a density estimate cannot be used to differentiate the number of otters exposed to Level A or Level B, we attributed the harassment to Level A.
- During the project, only two sea otters will be in the waters offshore of Southwest Washington between Grays Harbor and Washington/Oregon border. These two sea otters may be in waters >100 m (328 ft), thus harassment was assigned at Level A conditions.
- During the project, only two sea otters will be in the waters offshore of Oregon. These two sea otters may be in waters at any depth contour, thus harassment was assigned at Level A conditions.

TABLE 2—ESTIMATED NUMBER OF NORTHERN SEA OTTERS ENSONIFIED BY SOUND LEVELS GREATER THAN 232 dB_{RMS} (LEVEL A) DUE TO THE PROPOSED ACTIVITIES

Take was calculated by multiplying the area ensonified in each subregion by that subregion's sea otter density or specific estimate, then multiplied by the projected days of ensonification]

Subregion	Habitat type	Density (otters/km^2)	Area impacted (km^2)	Estimated take/day	Projected days of take	Estimated survey total takes
North	High (<40m)	1.2	0	0	.....	0
	Low (40–100 m)	.05	0	0	.....	0
	Offshore (>100 m)	0	.....	.....	.....	0
Mid	High (<40 m)	1.56	0	0	.....	0
	Low (40–100 m)	0.05	0	0	.....	0
	Offshore (>100 m)	2 otters	.....	2	2	4

TABLE 2—ESTIMATED NUMBER OF NORTHERN SEA OTTERS ENSONIFIED BY SOUND LEVELS GREATER THAN 232 dB_{RMS} (LEVEL A) DUE TO THE PROPOSED ACTIVITIES—Continued

Take was calculated by multiplying the area ensonified in each subregion by that subregion's sea otter density or specific estimate, then multiplied by the projected days of ensonification]

Subregion	Habitat type	Density (otters/km^2)	Area impacted (km^2)	Estimated take/day	Projected days of take	Estimated survey total takes
Grays Harbor-WA/OR border.	.....	2 otter	.....	2	2	4
N Oregon	.....	1 otter	.....	1	2	2
S Oregon	.....	1 otter	.....	1	3	3
Total	.....	.....	.....	5	.....	13
Estimated Stock Total ...	.....	.....	.....	.....	.....	2,928
Percentage of Stock	.....	.....	.....	.....	.....	0.44

TABLE 3—ESTIMATED NUMBER OF NORTHERN SEA OTTERS ENSONIFIED BY SOUND LEVELS GREATER THAN 160 dB_{RMS} (LEVEL B) DUE TO THE PROPOSED ACTIVITIES

[Take was calculated by multiplying the area ensonified in each subregion by that subregion's sea otter density or specific estimate, then multiplied by the projected days of ensonification]

Subregion	Habitat type	Density (otters/km^2)	Area impacted (km^2)	Estimated take/day	Projected days of take	Estimated survey total takes
North	High (<40 m)	1.2	0	0	0	0
	Low (40–100 m)	.05	0	0	1	0
	Low (40–100 m)	.05	0	0	2	0
	Offshore (>00 m)	0	.....	.....	.....	.....
Mid	High (<40 m)	1.56	0	0	.....	0
	Low (40–100 m)	0.05	0	0	2	0
	Offshore (>100 m)	2 otters	Accounted for in Level A.			
Grays Harbor–WA/OR border	.....	2 otters	Accounted for in Level A.			
N Oregon	.....	1 otter	Accounted for in Level A.			
S Oregon	.....	1 otter	Accounted for in Level A.			
Total	.....	.....	.....	0	.....	0
Estimated Stock Total	.....	.....	.....	.....	.....	2,928
Percentage of Stock	.....	.....	.....	.....	.....	0.00

We expect that up to 13 sea otters may experience Level A and/or Level B take due to harassment by noise (Tables 2 and 3). While sea otters in these areas are most likely to be exposed to Level B harassment, during times when sea otters cannot be observed, we are erring on the side of the species and attributing the potential harassment to Level A, thus the total number of otters harassed is accounted for under Level A. The revised transects provided by NSF resulted in the area of ensonification being beyond the 100-m (328-ft) depth contour for the entire coast of Washington; therefore, no otters in waters less than 100 m (328 ft) deep are anticipated to be harassed by the activities. The total number of incidental takes of sea otters is expected to be less than 13. Take from sources other than noise is not expected.

Findings

The Service proposes the following findings regarding this action:

Small Numbers Determination

The statute and legislative history do not expressly require a specific type of numerical analysis for the small take evaluation, leaving the determination of ''small'' to the agency's discretion. In this case, we propose a finding that the NSF and L–DEO project may result in incidental take of up to 13 otters from the Washington sea otter stock. This represents less than 1 percent of the stock. Predicted levels of take were determined based on estimated density of sea otters in the project area and an ensonification zone developed using empirical evidence from the same geographic area and corrected for the methodology proposed by NSF and L–DEO for this project. Based on these numbers, we propose a finding that the NSF and L–DEO project will take only a small number of marine mammals.

Negligible Impact

We propose a finding that any incidental take by harassment resulting from the proposed activity cannot be reasonably expected to, and is not reasonably likely to, adversely affect the sea otter through effects on annual rates of recruitment or survival and will, therefore, have no more than a negligible impact on the species or stocks. In making this finding, we considered the best available scientific information, including: (1) The biological and behavioral characteristics of the species; (2) the most recent information on species distribution and abundance within the area of the specified activity; (3) the current and expected future status of the stock (including existing and foreseeable human and natural stressors); (4) the potential sources of disturbance caused

by the project; and (5) the potential responses of marine mammals to this disturbance. In addition, we reviewed applicant-provided material, information in our files and datasets, published reference materials, and input from experts on the sea otter.

The Service does not anticipate that mortality of affected otters would occur as a result of NSF and L–DEO's planned survey. Thus, mortality is not authorized. We are proposing to authorize Level A and Level B harassment of 13 sea otters. The effects to these individuals are unknown, and lasting effects to survival and reproduction for these otters are possible. However, we believe that any PTS incurred as a result of the planned activity would be in the form of only a small degree of PTS, not total deafness, and would be unlikely to affect the fitness of any individuals for the following reasons: (1) The constant movement of the *R/V Langseth* means the vessel is not expected to remain in any one area in which individual otters may spend an extended period of time (*i.e.,* since the duration of exposure to loud sounds will be relatively short); and (2) we expect that sea otters would be likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice of the *R/V Langseth's* approach due to the vessel's relatively low speed when conducting seismic surveys.

We expect that the majority of takes would be in the form of short-term behavioral harassment in the form of temporary avoidance of the area or ceasing/decreased foraging (if such activity were occurring). Reactions to this type of harassment could have significant biological impacts for affected individuals but are not likely to result in measurable changes in their survival or reproduction. The otters subject to short-term behavioral harassment would be the same otters that may be subject to Level A harassment.

The total number of animals affected and severity of impact is not sufficient to change the current population dynamics of the sea otter at the subregion or stock scales. Although the specified activities may result in the take of up to 13 sea otters from the Washington stock, we do not expect this level of harassment to affect annual rates of recruitment or survival or result in adverse effects on the species or stock as all of the projected takes occur outside of the areas used by females and are most likely to be males.

With implementation of the proposed project, sea otter habitat may be impacted by elevated sound levels, but these impacts would be temporary and are not anticipated to result in detrimental impacts to sea otter prey species. Because of the temporary nature of the disturbance, the impacts to sea otters and the food sources they utilize are not expected to cause significant or long-term consequences for individual sea otters or their population.

The proposed mitigation measures are expected to reduce the number and/or severity of take events by allowing for detection of sea otters in the vicinity of the vessel by visual observers, and by minimizing the severity of any potential exposures via shutdowns of the airgun array. These measures, and the monitoring and reporting procedures, are required for the validity of our finding and are a necessary component of the proposed IHA. For these reasons, we propose a finding that the 2021 NSF and L–DEO project will have a negligible impact on sea otters.

Impact on Subsistence

The subsistence provision of the MMPA does not apply to northern sea otters in Washington and Oregon.

Required Determinations

Endangered Species Act

The Service's proposed take authorization has no effect on any species listed as threatened or endangered under the ESA. The proposed NSF Seismic Survey is a Federal action currently undergoing separate interagency consultation with the Service pursuant to the ESA. As ESA-listed species or critical habitat will not be impacted by the Service's proposed take authorization, intra-agency consultation for the permit action is not required.

National Environmental Policy Act

We have prepared a draft EA (USFWS 2020) addressing the proposed MMPA take authorization in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*). Based on the findings presented in the EA, we have preliminarily concluded that approval and issuance of the authorization for the nonlethal, incidental, unintentional take by Level A and Level B harassment of small numbers of the Washington stock of the northern sea otter caused by activities conducted by the applicant would not significantly affect the quality of the human environment, and that the preparation of an environmental impact statement for this action is not required by section 102(2) of NEPA or its implementing regulations. We are accepting comments on the draft EA as described above in **ADDRESSES**.

Government-to-Government Relations With Native American Tribal Governments

In accordance with: The President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951); the Native American Policy of the Service (January 20, 2016); Executive Order 13175 (November 6, 2000); and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with Federally recognized Tribes on a Government-to-Government basis. We have evaluated possible effects of the proposed MMPA take authorization on federally recognized Indian Tribes and have determined that there are no effects.

Proposed Authorization

We propose to issue an IHA to NSF for incidental takes by Level A and Level B harassment of up to 13 sea otters from the Washington stock of the northern sea otter. The final authorization would incorporate the mitigation, monitoring, and reporting measures as described below and fully detailed in the draft EA. The taking of sea otters whenever the required conditions, mitigation, monitoring, and reporting measures are not fully implemented as required by the IHA will be prohibited. Failure to follow these measures may result in the modification, suspension, or revocation of the IHA. Authorized take will be limited to PTS and disruption of behavioral patterns that may be caused by geophysical surveys and support activities conducted by NSF and L–DEO in Washington and Oregon from May 1 to June 30, 2021. We anticipate no take in the form of death of northern sea otters resulting from these surveys.

If take exceeds the level or type identified in the proposed authorization (*e.g.,* greater than 13 incidents of take of sea otters), the IHA will be invalidated and the Service will reevaluate its findings. If project activities cause unauthorized take, the applicant must take the following actions: (i) Cease its activities immediately (or reduce activities to the minimum level necessary to maintain safety); (ii) report the details of the incident to the Service's Washington Fish and Wildlife Office within 48 hours; and (iii) suspend further activities until the Service has reviewed the circumstances,

determined whether additional mitigation measures are necessary to avoid further unauthorized taking, and notified the applicant that they may resume project activities.

All operations managers and vessel operators must possess a copy of the IHA and maintain access to it for reference at all times during project work. These personnel must understand, be fully aware of, and be capable of implementing the conditions of the IHA at all times during project work.

The IHA will apply to activities associated with the proposed project as described in this document, the draft EA, and in the applicant's amended application and environmental assessments. Changes to the proposed project without prior Service authorization may invalidate the IHA.

Operators shall allow Service personnel or the Service's designated representative to visit project work sites to monitor impacts to sea otters at any time throughout project activities so long as it is safe to do so. ''Operators'' are all personnel operating under the applicant's authority, including all contractors and subcontractors.

A final report will be submitted by NSF to the Service within 90 days after completion of work or expiration of the IHA. The report will describe the operations that were conducted and document sightings of sea otters near the operations. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring, including factors influencing visibility and detectability of sea otters. The final report will summarize the dates and locations of seismic operations, and all northern sea otter sightings (dates, times, locations, activities, associated seismic survey activities). The report will also include estimates of the number and nature of exposures, if any, that occurred above the harassment threshold based on Protected Species Observer (PSO) observations and including an estimate of those that were not detected.

The report shall also include geo-referenced time-stamped vessel transect lines for all time periods during which airguns were operating. Transect lines should include points recording any change in airgun status (*e.g.,* when the airguns began operating, when they were turned off, or when they changed from a full array to a single gun or vice versa). GIS files shall be provided in ESRI shapefile format and include the UTC date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates shall be referenced to the GCS_North_American_1983 geographic coordinate system. In addition to the report, all raw observational data shall be made available to the Service. The report will be accompanied by a certification from the lead PSO as to the accuracy of the report, and the lead PSO may submit directly to the Service a statement concerning implementation and effectiveness of the required mitigation and monitoring.

References

A list of the references cited in this notice is available at *www.regulations.gov* in Docket No. FWS–R1–ES–2020–0131.

Request for Public Comments

If you wish to comment on this proposed authorization or the associated draft EA, or both, you may submit your comments by any of the methods described in **ADDRESSES**. Please identify if you are commenting on the proposed IHA, draft EA, or both. Please make your comments as specific as possible, confine them to issues pertinent to the proposed authorization, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph that you are addressing. The Service will consider all comments that are received before the close of the comment period (see **DATES** above).

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.

Dated: February 23, 2021.

Hugh Morrison,

Deputy Regional Director, Interior Regions 9 and 12.

[FR Doc. 2021–04081 Filed 2–26–21; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1236]

Certain Polycrystalline Diamond Compacts and Articles Containing Same; Notice of Commission Determination Not To Review an Initial Determination Amending the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''Commission'') has determined not to review an initial determination (''ID'') (Order No. 8) of the presiding administrative law judge (''ALJ'') granting an unopposed motion of complainant US Synthetic Corporation for leave to amend the complaint and notice of investigation to substitute Guangdong Juxin New Materials Technology Co., Ltd.as a respondent in place of Zhuhai Juxin Technology.

FOR FURTHER INFORMATION CONTACT: Ronald A. Traud, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3427. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 29, 2020, based on a complaint filed by US Synthetic Corporation of Orem, Utah (''US Synthetic''). 85 FR 85661 (Dec. 29, 2020). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''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 polycrystalline diamond compacts and articles containing same by reason of infringement of certain claims of U.S. Patent Nos. 9,932,274; 10,508,502; 9,315,881; 10,507,565; and 8,616,306. *Id.* The complaint further

alleges that an industry in the United States exists as required by section 337. *Id.* The notice of investigation named numerous respondents, including Zhuhai Juxin Technology of Zhuhai, China. *Id.* at 85662. The Office of Unfair Import Investigations is not participating in the investigation. *Id.*

On February 4, 2021, US Synthetic filed an unopposed motion to substitute Guangdong Juxin New Materials Technology Co., Ltd. as a respondent in place of Zhuhai Juxin Technology.

On February 8, 2021, the ALJ issued Order No. 8, the subject ID, which granted the motion. The ID found that the motion complied with Commission Rule 210.14(b)(1).

No party petitioned for review of the subject ID.

The Commission has determined not to review the ID. Accordingly, Guangdong Juxin New Materials Technology Co., Ltd.is substituted as a respondent in place of Zhuhai Juxin Technology.

The Commission vote for this determination took place on February 24, 2021.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: February 24, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–04164 Filed 2–26–21; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1175]

Certain Bone Cements and Bone Cement Accessories; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on February 11, 2021, the presiding administrative law judge (''ALJ'') issued an Initial Determination on Violation of Section 337. The ALJ also issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public only.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3228. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone 202–205–1810.

SUPPLEMENTARY INFORMATION: Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: A limited exclusion order directed to certain bone cements and bone cement accessories imported, sold for importation, and/or sold after importation by respondents Heraeus Medical GmbH of Wehrheim, Germany and Heraeus Medical LLC of Yardley, Pennsylvania (collectively, ''Heraeus''); and cease and desist orders directed to Heraeus.

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bonding issued in this investigation on February 11, 2021. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on March 9, 2021.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1175'') in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.* Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for

developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: February 23, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–04067 Filed 2–26–21; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. AA1921–167 (Fifth Review)]

Pressure Sensitive Plastic Tape From Italy; Institution of Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted this review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty finding on pressure sensitive plastic tape from Italy would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted March 1, 2021. To be assured of consideration, the deadline for responses is March 31, 2021. Comments on the adequacy of responses may be filed with the Commission by May 13, 2021.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On October 21, 1977, the Department of the Treasury issued an antidumping finding on imports of pressure sensitive plastic tape from Italy (42 FR 56110). Following first five-year reviews by Commerce and the Commission, effective February 17, 1999, Commerce issued a continuation of the antidumping duty finding on imports of pressure sensitive plastic tape from Italy (64 FR 51515, September 23, 1999). Following second five-year reviews by Commerce and the Commission, effective June 25, 2004, Commerce issued a second continuation of the antidumping duty finding on imports of pressure sensitive plastic tape from Italy (69 FR 35584). Following third five-year reviews by Commerce and the Commission, effective April 5, 2010, Commerce issued a continuation of the antidumping duty finding on imports of pressure sensitive plastic tape from Italy (75 FR 17124). Following the fourth five-year review by Commerce and the Commission, effective April 14, 2016, Commerce issued a continuation of the antidumping duty finding on imports of pressure sensitive plastic tape from Italy (81 FR 22048). The Commission is now conducting its fifth review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the finding would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by Commerce.

(2) The *Subject Country* in this review is Italy.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* The Commission did not make a like product determination *per se* in its original determination; however, the Commission considered the U.S. industry to consist of all domestic facilities that were devoted to the production of pressure sensitive plastic tape. In its expedited first and second five-year review determinations, in its full third five-year review determinations, and in its expedited fourth five-year review determination, the Commission found that the appropriate definition of the *Domestic Like Product* was the same as Commerce's scope: Pressure sensitive plastic tape measuring over 1⅜ inches in width and not exceeding 4 mils in thickness.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination and its expedited first and second five-year review, full third five-year review, and expedited fourth five-year review determinations, the Commission defined the *Domestic Industry* as all domestic producers of pressure sensitive plastic tape.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective finding (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

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.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 31, 2021. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is May 13, 2021. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also 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 upon the Commission's procedures with respect to filings. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 21–5–483, expiration date June 30, 2022. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty findings on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the

Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2014.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2020, except as noted (report quantity data in square yards and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2020 (report quantity data in square yards and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2020 (report quantity data in square yards and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2014, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By finding of the Commission.

Issued: February 23, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–04014 Filed 2–26–21; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–786]

Importer of Controlled Substances Application: Groff NA Hemplex, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Groff NA Hemplex, LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before March 31, 2021. Such persons may also file a written request for a hearing on the application on or before March 31, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on January 19, 2021, Groff NA Hemplex, LLC, 100 Redco Avenue, Suite A, Red Lion, Pennsylvania 17356–1436, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to import finished dosage unit products containing Marihuana Extracts for clinical trial studies. These Marihuana Extracts compounds are listed under drug code 7350. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2021–04181 Filed 2–26–21; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–799]

Importer of Controlled Substances Application: Microgenics Corporation Thermo Fisher Scientific

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Microgenics Corporation Thermo Fisher Scientific has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before March 31, 2021. Such persons may also file a written request for a hearing on the application on or before March 31, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on January 27, 2021, Microgenics Corporation Thermo Fisher Scientific, 46500 Kato Road Fremont, California 94538, has applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Cathinone	1235	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Mecloqualone	2572	I
2-(1-(4-fluorobenzyl)-1Hindazole-3-carboxamido)-3-methylbutanoate	7021	I
AB–PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7023	I
AB–CHMINACA (N-(1-amino-3-methyl-1-≤oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide	7031	I
MAB–CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
5F–AMB (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)	7033	I
ADB–PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
APINACA and AKB48 N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide	7048	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
Lysergic acid diethylamide	7315	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
3,4-Methylenedioxyamphetamine	7400	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
2-(4-iodo-2,5-dimethoxyphenyl) ethanamine (2C–I)	7518	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I–NBOMe)	7538	I
Butylone	7541	I
Pentylone	7542	I
alpha-pyrrolidinopentiophenone (α-PVP)	7545	I
Normorphine	9313	I

Controlled substance	Drug code	Schedule
AH–7921 (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide))	9551	I
Acetylmethadol	9601	I
Alphamethadol	9605	I
Ketobemidone	9628	I
Noracymethadol	9633	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-methylfentanyl	9814	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide	9825	I
3-Methylthiofentanyl	9833	I
Cyclopropyl Fentanyl	9845	I
Fentanyl related-compounds as defined in 21 CFR 1308.11&h)	9850	I
Amphetamine	1100	II
Methamphetamine	1105	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Phencyclidine	7471	II
Cocaine	9041	II
Codeine	9050	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Ecgonine	9180	II
Hydrocodone	9193	II
Levorphanol	9220	II
Meperidine	9230	II
Meperidine intermediate-B	9233	II
Methadone	9250	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Thebaine	9333	II
Levo-alphacetylmethadol	9648	II
Oxymorphone	9652	II
Carfentanil	9743	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to import the listed controlled substances for feasibility studies for new products and cross reactivity studies for existing products. The products will serve as raw materials for In Vitro Diagnostic quantitative assay. No other activity for these drug codes is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of the Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2021–04147 Filed 2–26–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–781]

Bulk Manufacturer of Controlled Substances Application: Bulk Manufacturer of Marihuana: Cosmic Light LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: The Drug Enforcement Administration (DEA) is providing notice of an application it has received from an entity applying to be registered to manufacture in bulk basic class(es) of controlled substances listed in schedule I. DEA intends to evaluate this and other pending applications according to its regulations governing the program of growing marihuana for scientific and medical research under DEA registration.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefor, may file written comments on or objections to the issuance of the proposed registration on or before April 30, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. To ensure proper handling of comments, please reference Docket No–DEA–XXX in all correspondence, including attachments.

SUPPLEMENTARY INFORMATION: The Controlled Substances Act (CSA) prohibits the cultivation and distribution of marihuana except by persons who are registered under the CSA to do so for lawful purposes. In accordance with the purposes specified in 21 CFR 1301.33(a), DEA is providing notice that the entity identified below has applied for registration as a bulk manufacturer of schedule I controlled substances. In response, registered bulk manufacturers of the affected basic class(es), and applicants therefor, may file written comments on or objections of the requested registration, as

provided in this notice. This notice does not constitute any evaluation or determination of the merits of the application submitted.

The applicant plans to manufacture bulk active pharmaceutical ingredients (APIs) for product development and distribution to DEA registered researchers. If the application for registration is granted, the registrant would not be authorized to conduct other activity under this registration aside from those coincident activities specifically authorized by DEA regulations. DEA will evaluate the application for registration as a bulk manufacturer for compliance with all applicable laws, treaties, and regulations and to ensure adequate safeguards against diversion are in place.

As this applicant has applied to become registered as a bulk manufacturer of marihuana, the application will be evaluated under the criteria of 21 U.S.C. 823(a). DEA will conduct this evaluation in the manner described in the rule published at 85 FR 82333 on December 18, 2020, and reflected in DEA regulations at 21 CFR part 1318.

In accordance with 21 CFR 1301.33(a), DEA is providing notice that on January 14, 2021, Cosmic Light LLC, 5565 Ara Pahoe Avenue, Suite G, Boulder, Colorado 80303–1334, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I

William T. McDermott,

Assistant Administrator.

[FR Doc. 2021–04180 Filed 2–26–21; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0074]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension, Without Change, of a Previously Approved Collection; FBI Hazardous Devices School Application

AGENCY: Hazardous Device School, Critical Incident Response Group, Federal Bureau of Investigation, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Critical Incident Response Group (CIRG), Hazardous Devices School (HDS) 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. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until April 30, 2021.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Mark H. Wall, Supervisory Management and Program Analyst, FBI, Hazardous Devices School, at telephone number (540) 424–4575, 7010 Redstone Road, Huntsville, AL 35898.

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 Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension, without change, of a previously approved collection.

2. *The Title of the Form/Collection:* Federal Bureau of Investigation hazardous Devices School Course Application.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number FD–731. Federal Bureau of Investigation (FBI).

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* This form is utilized by the FBI, Hazardous Devices School to information needed during a review process of the identification and qualification of prospective students, and to initiate a review of security clearance status prior to being granted access to law enforcement sensitive and classified facilities and information.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1,000 respondents will complete each form within approximately 45 minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 750 total annual burden hours associated with this collection.

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 23, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–04189 Filed 2–26–21; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Notice of Proposed Settlement Agreement Under the Oil Pollution Act and Clean Water Act

Notice is hereby given that the United States of America, on behalf of the Department of the Interior (''DOI'') acting through the U.S. Fish and Wildlife Service and the State of Iowa, acting through the Iowa Department of Natural Resources (''IDNR'') (DOI and IDNR collectively, the ''Trustees''), are providing an opportunity for public comment on a proposed Settlement Agreement (''Settlement Agreement'') among the Trustees and Canadian Pacific Railway (''CP'').

The settlement resolves the civil claims of the Trustees against CP arising under their natural resource trustee authority under the Oil Pollution Act of 1990, 33 U.S.C. 2702 and the Clean

Water Act, 33 U.S.C. 1321(f)(4) and (5), and applicable state law for injury to, impairment of, destruction of, and loss of, diminution of value of and/or loss of use of natural resources as a result of the February 4, 2015 discharge of 30,000–53,000 gallons of denatured ethanol into and near the Mississippi River near Balltown, Iowa from CP's derailed train (''the Spill''). Under the proposed Settlement Agreement, CP agrees to pay $282,391 to the DOI Natural Resource Damage Assessment and Restoration Fund to be used for restoration activities to compensate the public for recreational and aquatic injuries. CP will receive from the Trustees a covenant not to sue for the claims resolved by the settlement.

The publication of this notice opens a period for public comment on the proposed Settlement Agreement. Comments on the proposed Settlement Agreement should be addressed to the Assistant Attorney General, Environment and Natural Resources Division and should refer to the CP Settlement Agreement, DJ No. 90–11–3–10260/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Settlement Agreement upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $2.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2021–04082 Filed 2–26–21; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Thomas E. Lipar, et al.,* Civil Action Number 4:10–cv–01904, was lodged with the United States District Court for the Southern District of Texas on January 19, 2021.

This proposed Consent Decree concerns a complaint filed by the United States against Defendants Thomas E. Lipar, LGI Land, LLC, LGI Group, LLC, and LGI Development, Inc., pursuant to Sections 301 and 404 of the Clean Water Act, 33 U.S.C. 1311 and 1344, to obtain remedies against them for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to effectuate compensatory mitigation, conduct best management practices work, and be subject to other injunctive relief.

On January 26, 2021, the Department of Justice published a notice in the **Federal Register** opening a period of public comment on the proposed Consent Decree for a period of thirty (30) days through February 25, 2021. By this notice, the Department of Justice is extending the public comment period through March 11, 2021. Comments should be addressed to Michele Walter and Andrew Doyle, United States Department of Justice, Environment and Natural Resources Division, Environmental Defense Section, Post Office Box 7611, Washington, DC 20044, *pubcomment_eds.enrd@usdoj.gov,* and refer to *United States* v. *Thomas E. Lipar, et al.,* DJ #90–5–1–1–18564.

The proposed Consent Decree may be examined electronically at *http://www.justice.gov/enrd/consent-decrees.* In addition, the proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Southern District of Texas, 515 Rusk Street, Houston, TX 77002. However, the Clerk's Office may limit public access due to the ongoing Coronavirus/COVID–19 emergency. Please visit *www.txs.uscourts.gov* or call 713–250–5500 for more information.

Cherie Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2021–04131 Filed 2–26–21; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; National Compensation Survey

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before March 31, 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.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Anthony May by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The National Compensation Survey (NCS) is an ongoing survey of earnings and benefits among private firms, State, and local government. Data from the NCS program include estimates of wages covering broad groups of related occupations, and data that directly links benefit plan costs with detailed plan provisions. The NCS is used to produce the Employment Cost Trends, including the Employment Cost Index (ECI) and

Employer Costs for Employee Compensation (ECEC), employee benefits data (on coverage, cost, and provisions), and data used by the President's Pay Agent. This data is used by compensation administrators and researchers in the public and private sectors. Data from the NCS are used to help in determining monetary policy (as a Principal Federal Economic Indicator). The integrated program's single sample produces both time-series indexes and cost levels for industry and occupational groups, thereby increasing the analytical potential of the data.

The NCS employs probability methods for selection of occupations. This ensures that sampled occupations represent all occupations in the workforce, while minimizing the reporting burden on respondents. The survey collects data from a sample of employers. These data will consist of information about the duties, responsibilities, and compensation (earnings and benefits) for a sample of occupations for each sampled employer. Data will be updated on a quarterly basis. The updates will allow for production of data on change in earnings and total compensation.

This survey was revised to temporarily add questions to the National Compensation Survey to cover sick leave policy changes due to the coronavirus pandemic. These questions were collected primarily through email in June and July of 2020. These data were approved for collection under Emergency OMB Clearance Package 1220–0195, but they were discontinued on November 13, 2020. Respondents will electronically complete and submit responses through a simple fillable form. The additional sick leave policy questions are not intended to be collected beyond the July timeframe. At this time, BLS has discontinued in person data collection in response to the coronavirus pandemic. NCS will return to using in person interviews as a method of collection once restrictions are lifted. During this time, the NCS is relying heavily on telephone, email, and mail for current collection. Video interview collection is also available in response to the pandemic and is being considered as a standard collection method.

The NCS collects earnings and work level data on occupations for the nation. The NCS also collects information on the cost, provisions, and incidence of major employee benefits through its benefit cost and benefit provision programs and publications. BLS has for a number of years been using a revised approach to the Locality Pay Survey (LPS) component of the NCS; this uses data from two current BLS programs—the Occupational Employment Statistics (OES) survey and the ECI program. This approach uses OES data to provide wage data by occupation and by area, while ECI data are used to specify grade level effects. This approach is also being used to extend the estimation of pay gaps to areas that were not included in the prior Locality Pay Survey sample, and these data have been delivered to the Pay Agent (in 2019, data for 95 areas were delivered).

For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 11, 2020 (85 FR 35667).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–BLS.

Title of Collection: National Compensation Survey.

OMB Control Number: 1220–0164.

Affected Public: Private Sector: Businesses or other for-profits; not-for-profit institutions; State, local, and tribal governments.

Total Estimated Number of Respondents: 15,863.

Total Estimated Number of Responses: 49,717.

Total Estimated Annual Time Burden: 43,978 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: February 23, 2021.

Anthony May,

Management and Program Analyst.

[FR Doc. 2021–04101 Filed 2–26–21; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

60-Day Notice for the "NEA Panelist Profile Data"

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice of proposed collection; comment request.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data is provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents is properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection of NEA panelist profile data. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register.** The NEA is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Can help the agency minimize the burden of the collection of information on those who are to respond, including through the electronic submission of responses.

ADDRESSES: Email comments to Daniel Beattie, Director, Office of Guidelines and Panel Operations, National Endowment for the Arts, at: *beattied@arts.gov.*

FOR FURTHER INFORMATION CONTACT: Daniel Beattie, Director of Guidelines

and Panel Operations, National Endowment for the Arts, at *beattied@arts.gov.*

Dated: February 22, 2021.

Anthony M. Bennett,

Director of Administrative Services and Contracts, National Endowment for the Arts.

[FR Doc. 2021–04188 Filed 2–26–21; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 1 meeting of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference or videoconference.

DATES: See the **SUPPLEMENTARY INFORMATION** section for individual meeting times and dates. All meetings are Eastern time and ending times are approximate.

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Sherry Hale, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *hales@arts.gov,* or call 202/682–5696.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of September 10, 2019, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

The Upcoming Meeting Is

Our Town (review of applications): This meeting will be closed.

Date and time: March 16, 2021, 2:00 p.m. to 3:00 p.m.

Dated: February 24, 2021.

Sherry Hale,

Staff Assistant, National Endowment for the Arts.

[FR Doc. 2021–04114 Filed 2–26–21; 8:45 am]

BILLING CODE 7537–01–P

OFFICE OF PERSONNEL MANAGEMENT

Civil Service Retirement System Board of Actuaries Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The Civil Service Retirement System Board of Actuaries plans to meet on Wednesday, April 28, 2021. The meeting will start at 10:00 a.m. EDT and will be held by teleconference. The purpose of the meeting is for the Board to review the actuarial methods and assumptions used in the valuations of the Civil Service Retirement and Disability Fund (CSRDF).

FOR FURTHER INFORMATION CONTACT: Gregory Kissel, Senior Actuary for Pension Programs, U.S. Office of Personnel Management, 1900 E Street NW, Room 4316, Washington, DC 20415. Phone (202) 606–0722 or email at *actuary@opm.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

1. Summary of recent legislative proposals
2. Review of actuarial assumptions
3. CSRDF Annual Report

Persons desiring to attend this meeting of the Civil Service Retirement System Board of Actuaries, or to make a statement for consideration at the meeting, should contact OPM at least 5 business days in advance of the meeting date at the address shown below. Any detailed information or analysis requested for the Board to consider should be submitted at least 15 business days in advance of the meeting date. The manner and time for any material presented to or considered by the Board may be limited.

For the Board of Actuaries.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2021–04077 Filed 2–26–21; 8:45 am]

BILLING CODE 6325–63–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91189; File No. SR–CTA/CQ–2021–01]

Consolidated Tape Association; Notice of Filing of the Thirty-Sixth Substantive Amendment to the Second Restatement of the CTA Plan and Twenty-Seventh Substantive Amendment to the Restated CQ Plan

February 23, 2021.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 608 thereunder,[2] notice is hereby given that on February 3, 2021,[3] the Participants[4] in the Second Restatement of the Consolidated Tape Association (''CTA'') Plan and Restated Consolidated Quotation (''CQ'') Plan (collectively ''CTA/CQ Plans'' or ''Plans'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposal to amend the Plans.[5] These amendment represents the Thirty-Sixth Substantive Amendment to the CTA Plan and Twenty-Seventh Substantive Amendment to the CQ Plan (''Amendments''). Under the Amendments, the Participants propose revisions to the provisions of the Plans governing regulatory and operational halts.[6]

The proposed Amendments have been filed by the Participants pursuant to Rule 608(b)(2) under Regulation NMS.[7] The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendments. Set forth in Sections I and II is the statement of the purpose and summary of the Amendments, along

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] *See* Letter from Robert Books, Chair, CTA/CQ Operating Committee, to Vanessa Countryman, Secretary, Commission (Feb. 3, 2021).

[4] The Participants are: Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., The Investors' Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq PHLX, Inc., The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively, the ''Participants'').

[5] The Amendments were posted to the Plans' website on February 12, 2021. *See* Email from James P. Dombach, Counsel to the Plans, to Michael E. Coe, Assistant Director, Commission, et al. (Feb. 12, 2021).

[6] The Participants previously, on December 5, 2016, filed amendments to the provisions of the Plans governing regulatory and operation halts. These amendments were not acted upon by the Commission and were withdrawn by the Participants. *See* Letter from Robert Books, UTP Chair, to Vanessa Countryman, Secretary, Commission (Nov. 17, 2020).

[7] 17 CFR 242.608(b)(2).

with the information required by Rules 608(a) and 601(a) under the Act, prepared and submitted by the Participants to the Commission.

I. Rule 608(a)

A. Purpose of the Amendments

The purpose of the Amendments is to incorporate into the Plans the same processes for Regulatory Halts that are proposed by the equity exchanges. Consistent with the proposals from the equity exchanges, the Primary Listing Market may declare a Regulatory Halt [8] in trading for any security for which it is the Primary Listing Market.[9] The Participants believe that it is appropriate for the Primary Listing Market to declare a Regulatory Halt in order to vest the authority to declare a Regulatory Halt in a single entity, and with respect to any given security, the Primary Listing Market is best positioned to determine when to initiate and end a Regulatory Halt.

The Primary Listing Market may declare a Regulatory Halt as provided for in the rules of the Primary Listing Market, if it determines that there is a SIP Outage,[10] Material SIP Latency,[11] Extraordinary Market Activity,[12] or in the event of national, regional, or localized disruption that necessitates a Regulatory Halt to maintain a fair and orderly market.[13] In making such determination, the Primary Listing Market will consider the totality of information available concerning the severity of the disruption, its likely duration, and potential impact on Member Firms and other market participants, and will make a good-faith determination that the criteria to declare a Regulatory Halt have been satisfied and that a Regulatory Halt is appropriate. The Primary Listing Market will consult, if feasible before declaring a Regulatory Halt, with the affected Trading Center(s), other Participants, or the Processor, as applicable, regarding the scope of the issue and what steps are being taken to address the issue.

Should the Primary Listing Market declare a Regulatory Halt, the Primary Listing Market will determine the SIP Halt Resume Time.[14] The Primary Listing Market will declare a resumption of trading when it makes a good-faith determination and considers the totality of information to determine that trading may resume in a fair and orderly manner in accordance with its rules. The Primary Listing Market retains discretion to delay the SIP Halt Resume Time if it believes trading will not resume in a fair and orderly manner. The Primary Listing Market has the responsibility to notify all other Participants of the initiation of the halt as well as the lifting of the halt. The notification process will be mutually agreed to by the Operating Committee and the Primary Listing Market.[15]

During Regular Trading Hours, if the Primary Listing Market does not open a security within the amount of time as specified by the rules of the Primary Listing Market after the SIP Halt Resume Time, a Participant may resume trading in that security. Outside of Regular Trading Hours, a Participant may resume trading immediately after the SIP Halt Resume Time.

The Amendments provide that the Processor shall disseminate to the Participants notice of the Regulatory Halt as well as notice of the lifting of a Regulatory Halt through any means the Processor considers appropriate.[16]

B. Governing or Constituent Documents

Not applicable.

C. Implementation of Amendment

Each of the Participants has approved the Amendments in accordance with Section IV(b) of the CTA Plan and Section IV(c) of the CQ Plan, as applicable. The Participants also solicited the Advisory Committee for its thoughts and any comments on the Amendments. The Amendments would become operational upon approval by the Commission.

D. Development and Implementation Phases

The Amendments proposed herein would be implemented to coincide with amendments filed by the equity exchanges and approved by the Commission.

E. Analysis of Impact on Competition

The Amendments proposed herein do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the amendments simply incorporate into the Plans the processes for Regulatory Halts that will be proposed by the equity exchanges. The Participants do not believe that the proposed Amendments introduce terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Act.

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plans

Not applicable.

[8] Regulatory Halt is defined in Section XI(a)(i)(J) as ''a halt declared by the Primary Listing Market in trading in one or more securities on all Trading Centers for regulatory purposes, including for the dissemination of material news, news pending, suspensions, or where otherwise necessary to maintain a fair and orderly market. A Regulatory Halt includes a trading pause triggered by Limit Up Limit Down, a halt based on Extraordinary Market Activity, a trading halt triggered by a Market-Wide Circuit Breaker, and a SIP Halt.''

[9] The ''Primary Listing Market'' is defined in Section XI(a)(i)(H) as ''the national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchange, Primary Listing Market means the exchange on which the security has been listed the longest.''

[10] SIP Outage is defined in Section XI(a)(i)(M) as ''a situation in which the Processor has ceased, or anticipates being unable, to provide updated and/or accurate quotation or last sale price information in one or more securities for a material period that exceeds the time thresholds for an orderly failover to backup facilities established by mutual agreement among the Processor, the Primary Listing Market for the affected securities, and the Operating Committee unless the Primary Listing Market, in consultation with the Processor and the Operating Committee, determines that resumption of accurate data is expected in the near future.''

[11] Material SIP Latency is defined in Section XI(a)(i)(E) as ''a delay of quotation or last sale price information in one or more securities between the time data is received by the Processor and the time the Processor disseminates the data over the high speed line or over the ''high speed line'' under the CQ Plan, which delay the Primary Listing Market determines, in consultation with, and in accordance with, publicly disclosed guidelines established by the Operating Committee, to be (a) material and (b) unlikely to be resolved in the near future.''

[12] Extraordinary Market Activity is defined in Section XI(a)(i)(A) as ''a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact, on a market-wide basis, on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers or their members; or (iii) the unavailability of quoting, order, transaction information, or regulatory messages for a sustained period.'' In the originally proposed amendments in 2016, Extraordinary Market Activity was defined to include disruptions or malfunctions on a market. After discussions with SEC Staff, the Participants revised this provision to solely limit the definition to disruptions or malfunctions that occur on a market-wide basis.

[13] *See* Section XI(a)(iii). In the originally proposed amendments in 2016, the Primary Listing Market could have declared a Regulatory Halt ''when otherwise necessary to maintain a fair and orderly market or in the public interest.'' After discussions with SEC Staff, the Participants revised this provision as part of the current Amendments in order to provide greater detail as to when a Regulatory Halt may be declared. The definitions of SIP Outage, Material SIP Latency, and Extraordinary Market Activity appear in Section XI(a)(i).

[14] SIP Halt Resume Time is defined in Section XI(a)(i)(L) as ''the time that the Primary Listing Market determines as the end of a SIP Halt.''

[15] *See* Section XI(a)(viii).

[16] *See id.*

G. Approval by Sponsors in Accordance With Plans

Section IV(c)(i) of the CQ Plan and Section IV(b)(i) of the CTA Plan require the Participants to unanimously approve the Amendments proposed herein. They so approved it.

H. Description of Operation of Facility Contemplated by the Proposed Amendments

Not applicable.

I. Terms and Conditions of Access

Not applicable.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Regulation NMS Rule 601(a) (Solely in Its Application to the Amendments to the CTA Plan)

A. Equity Securities for Which Transaction Reports Shall be Required by the Plan

Not applicable.

B. Reporting Requirements

Not applicable.

C. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

D. Manner of Consolidation

Not applicable.

E. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

G. Terms of Access to Transaction Reports

Not applicable.

H. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

The Commission seeks comments on the Amendments. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendments are consistent with the Act and the rules and regulations thereunder applicable to national market system plans. 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–CTA/CQ–2021–01 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–CTA/CQ–2021–01. 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 website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all written statements with respect to the proposed Amendments that are filed with the Commission, and all written communications relating to the proposed Amendments 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 website viewing and printing at the principal office of the Plans. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CTA/CQ–2021–01 and should be submitted on or before March 22, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–04088 Filed 2–26–21; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(85).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34202; 812–15120]

Star Mountain Credit Opportunities Fund, LP, et al.

February 23, 2021.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (''BDCs'') and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment funds.

APPLICANTS: Star Mountain Credit Opportunities Fund, LP (the ''Fund''); Star Mountain Fund Management, LLC (the ''BDC Adviser), on behalf of itself and its successors; [1] Star Mountain Diversified Small Business Access Fund II, LP, Star Mountain Diversified Small Business Access Fund II–A, LP, Star Mountain Diversified Credit Income Fund III, LP, Star Mountain—PA Small Business Co-Investment Platform, LP, Star Mountain—PA Small Business Co-Investment Platform II, LP, Star Mountain—PA Holdings I, LTD, Star Mount U.S. Lower Middle-Market Secondary Fund II, LP and Star Mountain SBIC Fund, LP (collectively, the ''Existing Affiliated Funds'').

FILING DATES: The application was filed on April 3, 2020 and amended on July 29, 2020 and November 25, 2020.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicants with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on March 22, 2021, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–

[1] The term ''successor'', as applied to each Adviser (as defined below), means an entity that results from a reorganization into another jurisdiction or change in the type of business organization.

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: Secretary, U.S. Securities and Exchange Commission, *Secretarys-Office@sec.gov.* Applicants: *Chris.Gimbert@starmountaincapital.com* and *Richard.horowitz@dechert.com.*

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel, at (202) 551–6990 or Trace W. Rakestraw, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Fund is a Delaware limited partnership that will convert to a Delaware corporation that is a non-diversified, closed-end management investment company and intends to elect to be regulated as a business development company (''BDC'') under section 54(a) of the Act.[2] The Fund's investment objective is to create a diversified and current yielding portfolio composed primarily of senior and subordinated loans with equity upside investments in the U.S. small and medium-sized business (''SMBs'') market segment. The Fund invests primarily in privately negotiated loans and equity investments to SMBs generally with annual revenues greater than $15 million and earnings before interest, taxes, depreciation and amortization of less than $50 million. The Fund generates revenues primarily through receipt of interest income from the investments it holds. The board of directors (the ''Board'')[3] of the Fund will be comprised of five directors, three of whom are not ''interested persons,'' within the meaning of section 2(a)(19) of the Act (''Non-Interested Directors''). Prior to relying on the requested Order, the Fund will have filed an election to be regulated as a BDC under the Act.

2. The BDC Adviser is a limited liability company organized under the laws of the State of Delaware and is registered with the Commission under the Investment Advisers Act of 1940 (the ''Advisers Act''). The BDC Adviser serves as the investment adviser to the Fund and each of the Existing Affiliated Funds.

3. The Existing Affiliated Funds pursue strategies focused on investing in senior and subordinated loans with equity upside investments in U.S. small and medium-sized businesses. Each Existing Affiliated Fund is an entity whose investment adviser is the BDC Adviser and that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act.

4. Applicants seek an order (''Order'') to permit a Regulated Fund[4] and one or more other Regulated Funds and/or one or more Affiliated Funds[5] to participate in the same investment opportunities through a proposed co-investment program (the ''Co-Investment Program'') where such participation would otherwise be prohibited under section 17(d) and/or section 57(a)(4) and rule 17d–1 by (a) co-investing with each other in securities issued by issuers in private placement transactions in which an Adviser negotiates terms in addition to price;[6] and (b) making additional investments in securities of such issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers (''Follow-On Investments''). ''Co-Investment Transaction'' means any transaction in which a Regulated Fund (or its Wholly-Owned Investment Sub, as defined below) participates together with one or more other Regulated Funds and/or one or more Affiliated Funds in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Sub) could not participate together with one or more Affiliated Funds and/or one or more other Regulated Funds without obtaining and relying on the Order.[7]

5. Applicants state that any of the Regulated Funds may, from time to time, form a Wholly-Owned Investment Sub.[8] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any Affiliated Fund or Regulated Fund because it would be a company controlled by its parent Regulated Fund for purposes of section 57(a)(4) of the Act and rule 17d–1 under the Act. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Fund and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the Order, as though the parent Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Fund's investments and, therefore, no conflicts of interest could arise between the Regulated Fund and the Wholly-Owned Investment Sub. The Regulated Fund's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Sub's participation in a Co-Investment Transaction, and the Regulated Fund's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund's place. If the Regulated Fund proposes to participate in the

[2] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[3] The term ''Board'' refers to the board of directors of any Regulated Fund.

[4] ''Regulated Fund'' means the Fund and any Future Regulated Fund. ''Future Regulated Fund'' means any closed-end management investment company (a) that is registered under the Act or has elected to be regulated as BDC, (b) whose investment adviser is an Adviser, and (c) that intends to participate in the Co-Investment Program. The term ''Adviser'' means the BDC Adviser and any future investment adviser that (i) controls, is controlled by, or is under common control with the BDC Adviser and (ii) is registered as an investment adviser under the Advisers Act.

[5] ''Affiliated Fund'' means the Existing Affiliated Funds and any entity (a) whose investment adviser is an Adviser, (b) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, and (c) that intends to participate in the Co-Investment Program.

[6] The term ''private placement transactions'' means transactions in which the offer and sale of securities by the issuer are exempt from registration under the Securities Act of 1933 (the ''Securities Act'').

[7] All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

[8] The term ''Wholly-Owned Investment Sub'' means an entity (i) that is wholly-owned by a Regulated Fund (with the Regulated Fund at all times holding, beneficially and of record, 100 percent of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of the Regulated Fund; (iii) with respect to which the Regulated Fund's Board has the sole authority to make all determinations with respect to the entity's participation under the conditions of the application; and (iv) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. All subsidiaries participating in Co-Investment Transactions will be Wholly-Owned Investment Subs and will have Objectives and Strategies (as defined below) that are either the same as, or a subset of, their parent Regulated Fund's Objectives and Strategies.

same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub.

6. When considering Potential Co-Investment Transactions for any Regulated Fund, the applicable Adviser will consider only the Objectives and Strategies,[9] investment policies, investment positions, capital available for investment,[10] and other pertinent factors applicable to that Regulated Fund. The Regulated Fund's Adviser expects that any portfolio company that is an appropriate investment for a Regulated Fund should also be an appropriate investment for one or more other Regulated Funds and/or one or more Affiliated Funds, with certain exceptions based on capital available for investment or diversification. The Board of each Regulated Fund, including the Non-Interested Directors, has determined, or will have determined, that it is in the best interests of the Regulated Fund to participate in Co-Investment Transactions.[11]

7. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board eligible to vote on that Co-Investment Transaction under section 57(o) of the Act (''Eligible Directors''), and the required majority of such directors of the Board, as defined in section 57(o) of the Act (''Required Majority'') [12] will approve each Co-Investment Transaction prior to any investment by the participating Regulated Fund.

8. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Fund and Affiliated Fund in such disposition or Follow-On Investment is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Fund has approved that Regulated Fund's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Fund. If the Board does not so approve, any such disposition or Follow-On Investment will be submitted to the Regulated Fund's Eligible Directors. The Board of any Regulated Fund may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

9. No Non-Interested Director of a Regulated Fund will have a financial interest in any Co-Investment Transaction, other than indirectly through share ownership in one of the Regulated Funds.

10. If the Advisers, their principal owners (the ''Principals''), or any person controlling, controlled by, or under common control with the Advisers or the Principals, and the Affiliated Funds (collectively, the ''Holders'') own in the aggregate more than 25 percent of the outstanding voting shares of a Regulated Fund (the ''Shares''), then the Holders will vote such Shares as required under condition 14.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

2. Similarly, with regard to BDCs, section 57(a)(4) of the Act generally prohibits certain persons specified in section 57(b) from participating in joint transactions with the BDC or a company controlled by the BDC in contravention of rules as prescribed by the Commission. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 also applies to joint transactions with Regulated Funds that are BDCs.

3. Applicants state that in the absence of the requested relief, in some circumstances the Regulated Funds would be limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions set forth in the application ensure that the proposed Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants believe that the participation of the Regulated Funds in the Co-Investment Transactions done in accordance with the proposed terms and conditions would be consistent with the provisions, policies, and purposes of the Act and would be done in a manner that was not different from, or less advantageous than, the other participants.

Applicants' Conditions

Applicants agree that the Order shall be subject to the following conditions:

1. Each time an Adviser considers a Potential Co-Investment Transaction for an Affiliated Fund or another Regulated Fund that falls within a Regulated Fund's then-current Objectives and Strategies, the Regulated Fund's Adviser will make an independent determination of the appropriateness of the investment for such Regulated Fund in light of the Regulated Fund's then-current circumstances.

2.(a) If the Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, it will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by

[9] ''Objectives and Strategies'' means a Regulated Fund's investment objectives and strategies, as described in the Regulated Fund's registration statement on Form N–2, other filings the Regulated Fund has made with the Commission under the Securities Act, or under the Securities Exchange Act of 1934, and the Regulated Fund's reports to shareholders.

[10] The amount of each Regulated Fund's capital available for investment will be determined based on the amount of cash on hand, existing commitments and reserves, if any, the targeted leverage level, targeted asset mix and other investment policies and restrictions set from time to time by the Board of the applicable Regulated Fund or imposed by applicable laws, rules, regulations or interpretations.

[11] The Regulated Funds, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

[12] In the case of a Regulated Fund that is a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to section 57(o).

the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on each participant's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each. The applicable Adviser will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's available capital to assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Adviser will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each participating Regulated Fund and Affiliated Fund) to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with one or more other Regulated Funds and/or one or more Affiliated Funds only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its shareholders and do not involve overreaching in respect of the Regulated Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) The interests of the shareholders of the Regulated Fund; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Funds or Affiliated Funds would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of other Regulated Funds or Affiliated Funds; provided that, if any other Regulated Fund or Affiliated Fund, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the applicable Adviser agrees to, and does, provide periodic reports to the Regulated Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Affiliated Fund or any Regulated Fund or any affiliated person of any Affiliated Fund or any Regulated Fund receives in connection with the right of an Affiliated Fund or a Regulated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Funds (who each may, in turn, share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Advisers, the Affiliated Funds or the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by section 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Adviser will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,[13] a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Affiliated Fund, or any affiliated person of another Regulated Fund or Affiliated Fund is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Affiliated Fund. The grant to an Affiliated Fund or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7.(a) If any Affiliated Fund or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the disposition.

(b) Each Regulated Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Affiliated Funds and any other Regulated Fund.

(c) A Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the

[13] This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Affiliated Fund and each Regulated Fund will bear its own expenses in connection with any such disposition.

8.(a) If any Affiliated Fund or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of the opportunity is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the Adviser to be invested by each Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the participating Affiliated Funds in the same transaction, exceeds the amount of the opportunity; then the amount invested by each such party will be allocated among them pro rata based on each party's capital available for investment in the asset class to be allocated, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Non-Interested Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds and Affiliated Funds that the Regulated Fund considered but declined to participate in, so that the Non-Interested Directors may determine whether all investments made during the preceding quarter, including those investments which the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Non-Interested Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Non-Interested Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of an Affiliated Fund.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Advisers under their respective investment advisory agreements with Affiliated Funds and the Regulated Funds, be shared by the Regulated Funds and the Affiliated Funds in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee [14] (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable), received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Funds and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by such Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the Advisers, the other Regulated Funds or any affiliated person of the Regulated Funds or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C); and (b) in the case of an Adviser, investment advisory fees paid in accordance with the agreement between the Adviser and the Regulated Fund or Affiliated Fund.

14. If the Holders own in the aggregate more than 25 percent of the Shares of a Regulated Fund, then the Holders will vote such Shares in the same percentages as the Regulated Fund's other shareholders (not including the Holders) when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any other matter under either the Act or applicable State law affecting the Board's composition, size or manner of election.

15. Each Regulated Fund's chief compliance officer, as defined in rule 38a–1(a)(4) under the Act, will prepare an annual report for its Board each year that evaluates (and documents the basis of that evaluation) the Regulated Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance.

[14] Applicants are not requesting and the staff is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–04075 Filed 2–26–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Extension Form Id 3235–0328]

Submission for OMB Review; Comment Request; Upon Written Request

Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (the ''Paperwork Reduction Act''), the Commission is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget.

Form ID (OMB Control No. 3235–0328) must be completed and filed with the Commission by all individuals, companies, and other organizations who seek access to file electronically on the Commission's primary electronic filing system, Electronic Data Gathering, Analysis and Retrieval system (''EDGAR''). Those seeking access to file on EDGAR typically include those who are required to make certain disclosures pursuant to the federal securities laws. The information provided on Form ID is an essential part of the security of EDGAR. Form ID is not a public document because it is used solely for the purpose of screening applicants and granting access to EDGAR. Form ID must be submitted whenever an applicant seeks an EDGAR identification number (Central Index Key or CIK) and access codes to file on EDGAR.

The Commission may consider, among other things, amendments to Form ID that would result in a more uniform and secure process for EDGAR access by requiring certain applicants that already have a CIK, but do not have EDGAR access codes, to submit the Form ID to obtain access to EDGAR. If these amendments are adopted, for purposes of the Paperwork Reduction Act, the estimated total number of annual Form ID filings for filers with CIKs that need to obtain access codes is approximately 404 filings.[1] Additionally, we would update the current approved estimate of the annual number of Form ID filings for new filers without CIKs (46,842 filings) by approximately 1,247 filings.[2]

Thus, for purposes of the Paperwork Reduction Act, the estimated total number of annual Form ID filings would increase from 46,842 filings to 48,493 filings.[3] The estimate of 0.15 hours per response would stay the same, as the filers with CIKs would be filling out the same information as filers without CIKs. The estimated total annual burden would increase from 7,026 hours to 7,274 hours.[4] The estimate that the filers are responsible for 100% of the total burden hours would stay the same.

In relation to the potential amendments described above, the Commission may consider amending the Form ID to delete references to applicants that do not have CIKs. If adopted, this amendment would clarify that a Form ID submission would also be required by applicants that already have CIKs but do not have EDGAR access codes. Separately, the Commission may also consider modifying Form ID to update its instructions and cross-references to Volume I of the EDGAR Filer Manual.[5]

Other than the potential amendments to require certain applicants that already have a CIK, but do not have EDGAR access codes, to submit the Form ID, we do not believe that these additional amendments to the Form ID would make any substantive modifications to any existing collection of information requirements or impose any new substantive recordkeeping or information collection requirements within the meaning of the Paperwork Reduction Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: February 24, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–04139 Filed 2–26–21; 8:45 am]

BILLING CODE 8011–01–P

[1] We base this estimate on the average number of filers with CIKs who have obtained access codes to EDGAR for the past three fiscal years. (524 + 359 + 330)/3 = 404.

[2] We base this estimate on the number of Form ID filings for filers with no CIKs for the past three fiscal years and subtracting it from the current approved estimate. ((49,269 + 48,136 + 46,861)/3) − 46,842 = 1,247.

[3] 46,842 + 404 + 1,247 = 48,493.

[4] 48,493 × 0.15 = 7,274.

[5] *See* Adoption of Updated EDGAR Filer Manual, Proposed Collection and Comment Request for Form ID, Release No. 33–10902 (Dec. 11, 2020) [86 FR 7968] (Feb. 3, 2021)] (allowing applicants to EDGAR the option of obtaining electronic notarizations and remote online notarizations). The Commission also amended 17 CFR 232.10(b) to remove the manual signature requirement for EDGAR access requests to allow electronic signature requests. *Id.* The methods of notarization provide an efficient means of authenticating signatures in connection with requests for EDGAR access.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91190; File No. S7–24–89]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of the Fiftieth Amendment to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis

February 23, 2021.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 608 thereunder,[2] notice is hereby given that on February 11, 2021,[3] the Participants [4] in the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] *See* Letter from Robert Books, Chair, UTP Operating Committee, to Vanessa Countryman, Secretary, Commission (Feb. 11, 2021).

[4] The Participants are: Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., The Investors' Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq PHLX, Inc., The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively, the ''Participants'').

on an Unlisted Trading Privileges Basis (''UTP Plan'' or ''Plan'') filed with the Securities and Exchange Commission (''Commission'') a proposal to amend the UTP Plan.[5] The amendment represents the Fiftieth Amendment to the Plan (''Amendment''). Under the Amendment, the Participants propose revisions to the provisions of the Plan governing regulatory and operational halts.[6]

The proposed Amendment has been filed by the Participants pursuant to Rule 608(b)(2) under Regulation NMS.[7] The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendment. Set forth in Sections I and II is the statement of the purpose and summary of the Amendment, along with the information required by Rules 608(a) and 601(a) under the Act, prepared and submitted by the Participants to the Commission.

I. Rule 608(a)

A. Purpose of the Amendment

The purpose of the Amendment is to incorporate into the UTP Plan the same processes for Regulatory Halts that are proposed by the equity exchanges. Consistent with the proposals from the equity exchanges, the Primary Listing Market may declare a Regulatory Halt [8] in trading for any security for which it is the Primary Listing Market.[9] The Participants believe that it is appropriate for the Primary Listing Market to declare a Regulatory Halt in order to vest the authority to declare a Regulatory Halt in a single entity, and with respect to any given security, the Primary Listing Market is best positioned to determine when to initiate and end a Regulatory Halt.

The Primary Listing Market may declare a Regulatory Halt as provided for in the rules of the Primary Listing Market, if it determines that there is a SIP Outage,[10] Material SIP Latency,[11] Extraordinary Market Activity,[12] or in the event of national, regional, or localized disruption that necessitates a Regulatory Halt to maintain a fair and orderly market.[13] In making such determination, the Primary Listing Market will consider the totality of information available concerning the severity of the disruption, its likely duration, and potential impact on Member Firms and other market participants, and will make a good-faith determination that the criteria to declare a Regulatory Halt have been satisfied and that a Regulatory Halt is appropriate. The Primary Listing Market will consult, if feasible before declaring a Regulatory Halt, with the affected Trading Center(s), other Participants, or the Processor, as applicable, regarding the scope of the issue and what steps are being taken to address the issue.

Should the Primary Listing Market declare a Regulatory Halt, the Primary Listing Market will determine the SIP Halt Resume Time.[14] The Primary Listing Market will declare a resumption of trading when it makes a good-faith determination and considers the totality of information to determine that trading may resume in a fair and orderly manner in accordance with its rules. The Primary Listing Market retains discretion to delay the SIP Halt Resume Time if it believes trading will not resume in a fair and orderly manner. The Primary Listing Market has the responsibility to notify all other Participants of the initiation of the halt as well as the lifting of the halt. The notification process will be mutually agreed to by the Operating Committee and the Primary Listing Market.[15]

During Regular Trading Hours, if the Primary Listing Market does not open a security within the amount of time as specified by the rules of the Primary Listing Market after the SIP Halt Resume Time, a Participant may resume trading in that security. Outside of Regular Trading Hours, a Participant may resume trading immediately after the SIP Halt Resume Time.

The amendment provides that the Processor shall disseminate to the Participants notice of the Regulatory Halt as well as notice of the lifting of a Regulatory Halt through any means the Processor considers appropriate.[16]

B. Governing or Constituent Documents

Not applicable.

C. Implementation of Amendment

All of the Participants have manifested their approval of the proposed amendment by means of their execution of the UTP Plan Amendment. The Participants also solicited the Advisory Committee for its thoughts and any comments on the amendment. The UTP Plan Amendment would

[5] The Amendment was posted to the Plan website on February 12, 2021. *See* Email from James P. Dombach, Counsel to the Plan, to Michael E. Coe, Assistant Director, Commission, et al. (Feb. 12, 2021).

[6] The Participants previously, on December 5, 2016, filed an amendment to the provisions of the Plan governing regulatory and operation halts. This amendment was not acted upon by the Commission and was withdrawn by the Participants. *See* Letter from Robert Books, UTP Chair, to Vanessa Countryman, Secretary, Commission (Nov. 17, 2020).

[7] 17 CFR 242.608(b)(2).

[8] Regulatory Halt is defined in Section X.A.10 as ''a halt declared by the Primary Listing Market in trading in one or more securities on all Trading Centers for regulatory purposes, including for the dissemination of material news, news pending, suspensions, or where otherwise necessary to maintain a fair and orderly market. A Regulatory Halt includes a trading pause triggered by Limit Up Limit Down, a halt based on Extraordinary Market Activity, a trading halt triggered by a Market-Wide Circuit Breaker, and a SIP Halt.''

[9] The ''Primary Listing Market'' is defined in Section X.A.8 as ''the national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchange, Primary Listing Market means the exchange on which the security has been listed the longest.''

[10] SIP Outage is defined in Section X.A.13 as ''a situation in which the Processor has ceased, or anticipates being unable, to provide updated and/or accurate quotation or last sale price information in one or more securities for a material period that exceeds the time thresholds for an orderly failover to backup facilities established by mutual agreement among the Processor, the Primary Listing Market for the affected securities, and the Operating Committee unless the Primary Listing Market, in consultation with the Processor and the Operating Committee, determines that resumption of accurate data is expected in the near future.''

[11] Material SIP Latency is defined in Section X.A.5 as ''a delay of quotation or last sale price information in one or more securities between the time data is received by the Processor and the time the Processor disseminates the data over the high speed line or over the ''high speed line'' under the CQ Plan, which delay the Primary Listing Market determines, in consultation with, and in accordance with, publicly disclosed guidelines established by the Operating Committee, to be (a) material and (b) unlikely to be resolved in the near future.''

[12] Extraordinary Market Activity is defined in Section X.A.1 as ''a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact, on a market-wide basis, on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers or their members; or (iii) the unavailability of quoting, order, transaction information, or regulatory messages for a sustained period.'' In the originally proposed amendment in 2016, Extraordinary Market Activity was defined to include disruptions or malfunctions on a market. After discussions with SEC Staff, the Participants revised this provision to solely limit the definition to disruptions or malfunctions that occur on a market-wide basis.

[13] *See* Section X.C. In the originally proposed amendment in 2016, the Primary Listing Market could have declared a Regulatory Halt ''when otherwise necessary to maintain a fair and orderly market or in the public interest.'' After discussions with SEC Staff, the Participants revised this provision as part of the current Amendment in order to provide greater detail as to when a Regulatory Halt may be declared. The definitions of SIP Outage, Material SIP Latency, and Extraordinary Market Activity appear in Section X.A.

[14] SIP Halt Resume Time is defined in Section X.A.12 as ''the time that the Primary Listing Market determines as the end of a SIP Halt.''

[15] *See* Section X.H.

[16] *See id.*

become operational upon approval by the Commission.

D. Development and Implementation Phases

The amendment proposed herein would be implemented to coincide with amendments filed by the equity exchanges and approved by the Commission.

E. Analysis of Impact on Competition

The amendment proposed herein does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the amendment simply incorporates into the UTP Plan the processes for Regulatory Halts that will be proposed by the equity exchanges. The Participants do not believe that the proposed amendment introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Act.

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

Not applicable.

G. Approval by Sponsors in Accordance With Plan

Section IV(C)(1)(a) of the UTP Plan requires the Participants to unanimously approve the amendment proposed herein. They so approved it.

H. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

I. Terms and Conditions of Access

Not applicable.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Regulation NMS Rule 601(a) (Solely in Its Application to the Amendment to the UTP Plan)

A. Equity Securities for Which Transaction Reports Shall Be Required by the Plan

Not applicable.

B. Reporting Requirements

Not applicable.

C. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

D. Manner of Consolidation

Not applicable.

E. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

G. Terms of Access to Transaction Reports

Not applicable.

H. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

The Commission seeks comments on the Amendment. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendment is consistent with the Act and the rules and regulations thereunder applicable to national market system plans. 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 S7–24–89 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 S7–24–89. 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 website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all written statements with respect to the proposed Amendment that are filed with the Commission, and all written communications relating to the proposed Amendment 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 website viewing and printing at the principal office of the Plan. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number S7–24–89 and should be submitted on or before March 22, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–04089 Filed 2–26–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91191; File No. SR–CboeEDGX–2021–010]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Order Start Times During Its Early Trading Session

February 23, 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 11, 2021, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to amend order start times during its Early Trading Session. The text of the

[17] 17 CFR 200.30–3(a)(85).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.1 to allow Users to designate their orders to become eligible for execution at 7:00 a.m. Eastern Time (''ET'') during the new Early Trading Session extended hours.

The Exchange currently offers four distinct trading sessions where the Exchange accepts orders for potential execution: (1) The ''Early Trading Session,'' which begins at 4:00 a.m. ET and continues until 8:00 a.m. ET,[3] (2) the ''Pre-Opening Session,'' which begins at 8:00 a.m. ET and continues until 9:30 a.m. ET,[4] (3) ''Regular Trading Hours,'' which begin at 9:30 a.m. ET and continue until 4:00 p.m. ET,[5] and (4) the ''Post-Closing Trading Session,'' which begins at 4:00 p.m. ET and continues until 8:00 p.m. ET.[6]

The Exchange recently submitted an immediately effective rule filing which amended the Early Trading Session to extend its hours from a 7:00 a.m. ET start to a 4:00 a.m. ET start, and to allow Users to begin entering orders into the System prior to the Early Trading Session at 3:30 a.m. ET.[7] The Exchange intends to launch the new Early Trading Session extended hours on March 8, 2021.[8] As amended, Rule 11.1 now provides that the Exchange will not accept the following orders prior to 4:00 a.m. ET: Orders with a Post Only instruction, ISOs, Market Orders other than those with a TIF instruction of Regular Hours Only or a Stop Price, orders with a Minimum Execution Quantity instruction that also include a TIF instruction of Regular Hours Only, and all orders with a TIF instruction of IOC or FOK. Further, at the commencement of the Early Trading Session, orders entered between 3:30 a.m. and 4:00 a.m. ET will be handled in time sequence, beginning with the order with the oldest time stamp, and will be placed on the EDGX Book, routed, cancelled, or executed in accordance with the terms of the order.

In light of the planned extension of the Early Trading Session, the Exchange seeks to continue to provide Users with the option to submit orders that become eligible for execution during the Early Trading Session beginning at 7:00 a.m. ET. In particular, the proposed rule change amends Rule 11.1 to provide that at the commencement of the Early Trading Session, orders entered between 3:30 a.m. and 4:00 a.m. ET, will become eligible for execution (''4:00 a.m. Start''), unless designated as eligible for execution during the Early Trading Session beginning at 7:00 a.m. ET (''7:00 a.m. Start''). Orders with a 7:00 a.m. Start designation may be entered between 3:30 a.m. and 7:00 a.m. ET. At each Start time that orders may become eligible for execution in the Early Trading Session (4:00 a.m. or 7:00 a.m. ET), orders will be handled in time sequence, beginning with the order with the oldest time stamp, and will be placed on the EDGX Book, routed, cancelled, or executed in accordance with the terms of the order.[9] The Exchange will not accept the following orders prior to 4:00 a.m. Eastern Time or prior to 7:00 a.m. Eastern Time for orders eligible for a 7:00 a.m. Start: Orders with a Post Only instruction, ISOs, Market Orders other than those with a TIF instruction of Regular Hours Only or a Stop Price, orders with a Minimum Execution Quantity instruction that also include a TIF instruction of Regular Hours Only, and all orders with a TIF instruction of IOC or FOK.

The proposed rule change allows Users to continue to be able to choose to submit orders that become eligible for execution during the Early Trading Session beginning at 7:00 a.m. ET, as they may today in connection with the current Early Trading Session hours.[10] As the Exchange's Early Trading Session currently begins at 7:00 a.m. ET and other equities exchanges, including the Exchange's affiliated equities exchanges,[11] have early trading sessions that begin at 7:00 a.m. ET,[12] the Exchange understands that many market participants have configured their systems for trading beginning at 7:00 a.m. ET and find 7:00 a.m. ET to be a time at which there are additional opportunities across the industry to access and source liquidity. For example, the Exchange understands that retail brokerage firms generally have standard agreements in place with their retail customers which provide that retail customer orders may not become eligible for execution until a specific time, and is aware of at least one such firm on the Exchange that has standard agreements in place with their retail customers that limit this time to 7:00 a.m. ET. The Exchange also understands that multiple liquidity providers wish to continue to participate in the Early Trading Session beginning at 7:00 a.m. given the particular liquidity and activity present across the U.S. equity markets at this specific time.[13] Without a 7:00 a.m. Start designation available, certain retail investors may be limited in their ability to source liquidity that is available at this time during the Exchange's Early Trading Session, and liquidity providers may similarly choose not to participate in this trading session, thereby reducing liquidity available to other market participants and investors.[14]

[3] ''Early Trading Session'' means the time between 4:00 a.m. and 8:00 a.m. ET. *See* Rule 1.5(ii).

[4] ''Pre-Opening Session'' means the time between 8:00 a.m. and 9:30 a.m. ET. *See* Rule 1.5(s).

[5] ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. ET. *See* Rule 1.5(y).

[6] ''Post-Closing Trading Session'' means the time between 4:00 p.m. and 8:00 p.m. ET. *See* Rule 1.5(r).

[7] *See* Securities Exchange Act Release No. 90509 (November 24, 2020), 85 FR 77310 (December 1, 2020) (SR–CboeEDGX–2020–056).

[8] The Exchange will announce the implementation of the extended Early Trading Session to Members in advance via Trade Desk Notice.

[9] A User will be able to designate orders with a 7:00 a.m. Start through the use of a port setting. *See also infra* note 14.

[10] The Exchange notes that the extended hours are intended to provide market participants with additional opportunities to source and access liquidity for their orders on the Exchange. *See supra* note 7.

[11] The Exchange's affiliated equities exchange are Cboe BZX Exchange, Inc. (''BZX''), Cboe BYX Exchange, Inc. (''BYX''), and Cboe EDGA Exchange, Inc. (''EDGA'').

[12] *See e.g.,* BZX Rule 1.5(ee), BYX Rule 1.5(ee), EDGA Rule 1.5(ii), NYSE Rule 7.34(a)(1), NYSE American Rule 7.34E, and Nasdaq BX Rule 4120(b)(4), each of which provide that their respective early trading sessions open at 7:00 a.m. ET.

[13] *See id.*

[14] The Exchange is aware are at least one liquidity provider that has expressed that it will not

As such, the proposed rule change is intended to alleviate potential difficulty for Users that generally begin participating in the markets beginning at 7:00 a.m. ET, and to facilitate a fair and orderly market on the Exchange where retail investors and other market participants can benefit from trading opportunities present in the Exchange's Early Trading Session. As such, the proposed 7:00 a.m. Start designation will provide Users with greater control over their orders and more flexibility to carry out their investment strategies and manage their needs based on market conditions. In turn, Users may continue to provide meaningful liquidity and benefit from trading opportunities present on the Exchange throughout the duration of the Early Trading Session.

The Exchange notes that, as proposed, orders eligible for execution beginning at 7:00 a.m. ET will function in the same manner as they currently do today upon the 7:00 a.m. ET commencement of the Early Trading Session (and as they will upon the 4:00 a.m. ET commencement for the extended Early Trading Session hours). That is, Users will submit orders eligible for a 7:00 a.m. ET Start during the Early Trading Session in the same manner as they may currently submit orders eligible for execution during the Early Trading Session, and will continue to be able to submit all such orders at the beginning of the early order acceptance period. As orders with a 7:00 a.m. Start designation will not be activated until 7:00 a.m., Users will have through 7:00 a.m. to submit such orders. The Exchange will continue not to accept the same order types listed in Rule 11.1 prior to the commencement of an order's eligible start time in the Early Trading Session. The proposed rule change makes it clear that orders with a Post Only instruction, ISOs, Market Orders other than those with a TIF instruction of Regular Hours Only or a Stop Price, orders with a Minimum Execution Quantity instruction that also include a TIF instruction of Regular Hours Only, and all orders with a TIF instruction of IOC or FOK will continue to be rejected prior to an order's eligible start time in the Early Trading Session, as they are today. Additionally, the System will continue to handle all orders eligible for execution during the Early Trading Session, including those with a 7:00 a.m. Start designation, pursuant to Rule 11.1. In particular, the proposed rule language makes it clear that all orders eligible for execution during the Early Trading Session will continue to be handled in time sequence, beginning with the order with the oldest time stamp, and will be placed on the EDGX Book, routed, cancelled, or executed in accordance with the terms of the order, beginning at the Start time (either 4:00 a.m. or 7:00 a.m. ET) at which they become eligible for execution in the Early Trading Session.[15] At 7:00 a.m., orders with a 7:00 a.m. Start designation will simply be handled as any incoming order is handled during the Early Trading Session, and merge, in time sequence, onto the already active EDGX Order Book for the Early Trading Session. A User must continue to select the appropriate TIF to allow the order to execute in the Early Trading and a port setting will merely permit a User to designate an order that is already marked for the Early Trading Session to become active later in the Early Trading Session. The Exchange notes that the proposal does not extend or otherwise modify any trading hours during which trading is currently permissible on the Exchange but simply permits a User to activate an order at a specific time during an ongoing trading session.

Additionally, the Exchange notes that permitting Users to designate a 7:00 a.m. ET Start for which orders may become active during an early trading session that begins at 4:00 a.m. is consistent with the rules currently in place on Nasdaq Stock Market LLC (''Nasdaq''). Nasdaq's early trading session currently begins at 4:00 a.m. and continues until the 9:30 a.m. commencement of Nasdaq's regular trading hours.[16] Nasdaq Rule 4703(a) allows participants to designate a time at which certain orders [17] may become active and includes 7:00 a.m. ET as an available time at which participants may activate such orders entered prior to 7:00 a.m. ET.[18]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[19] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [20] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [21] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change to allow Users to submit orders that become eligible for execution beginning at 7:00 a.m. ET, once the Exchange extends its Early Trading Session hours to begin at 4:00 a.m. ET, will remove impediments to and perfect the mechanism of a free and open market and national market system and will benefit investors by continuing to provide Users with the option to activate their orders for execution beginning at 7:00 a.m. ET and thus the opportunity to continue to source and access liquidity at a specific time in which there are additional trading opportunities in the markets. The Exchange does not believe that the proposed rule change will present any unique or novel issues nor affect the maintenance of a fair and orderly market, as many market participants have configured their systems for trading beginning at 7:00 a.m. ET in line with the commencement of the early trading sessions on other equities exchanges, including the Exchange's affiliated equities exchanges.[22] Rather, the proposed rule change is designed to benefit investors, as well as overall liquidity in the Early Trading Session, by providing Users with the option to continue to activate their orders for execution during the Early Trading

participate in the Early Trading Session without a 7 a.m. Start feature.

[15] The System may delay the release of 7:00 a.m. Start orders if the System is experiencing an unusually significant amount of orders with a 7:00 a.m. Start designation that would potentially impact other System performance and processing functions during the Early Trading Session. The Exchange does not anticipate an occasion in which the System would have to implement a delayed release for orders with a 7:00 a.m. Start during the Early Trading Session. As the System does not have unlimited capacity, the proposed System flexibility to delay the release of orders with a 7:00 a.m. Start designation is a reasonable preventative measure to ensure that the System has the capacity to maintain fair and orderly markets in the event that there is an unusually significant amount of orders queued for 7:00 a.m. ET activation.

[16] *See* Nasdaq Rule 4701(g).

[17] Orders using the SCAN or RTFY routing strategy available on Nasdaq.

[18] The Exchange notes that the designation for orders to become active at 7:00 a.m. ET on Nasdaq is similarly a port level setting. *See* Securities Exchange Act Release No. 83125 (April 27, 2018), 83 FR 19586 (May 3, 2018) (SR–NASDAQ–2017–088).

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *Id.*

[22] *See supra* note 12.

Session beginning at 7:00 a.m. ET when the Exchange extends its Early Trading Session hours. As described above, certain market participants, such as retail investors and liquidity providers, may be limited in their ability to source liquidity that is available in the Exchange's Early Trading Session or choose not to participate in the Early Trading Session without the availability of a 7:00 a.m. Start designation, thereby reducing liquidity available to other market participants and investors. Thus, the proposed rule change will alleviate potential difficulties for Users that generally begin participating in in the markets at 7:00 a.m. ET (as these Users would not have to time the entry of their orders to occur as close to 7:00 a.m. ET as possible), and will facilitate a fair and orderly market on the Exchange by allowing retail investors and other market participants to benefit from trading opportunities present at this specific time during the Exchange's Early Trading Session. Overall, the proposed rule change will serve to protect investors and the public interest by providing Users with greater control over their orders and more flexibility to carry out their investment strategies and manage their needs based on market conditions, thereby allowing them to continue to provide meaningful liquidity and benefit from trading opportunities present on the Exchange throughout the duration of the Early Trading Session.

The proposed rule change will not affect the protection of investors as it would simply provide Users with the opportunity to choose whether orders entered for potential execution in the Early Trading Session will become active at the new 4:00 a.m. ET commencement of that trading session, or will instead continue to become active at 7:00 a.m. ET, as they do today. The System will continue to accept all orders eligible for execution during the Early Trading Session beginning at the early acceptance time, will continue to reject the same list of order types prior to the time an order is eligible to start trading in the Early Trading Session, and will continue to process all orders that are queued for participation in the Early Trading Session in time priority pursuant to Rule 11.1.[23] That is, orders with a 7:00 a.m. Start designation will be handled as any incoming order is handled during the Early Trading Session, and merge, in time sequence, onto the already active EDGX Order Book for the Early Trading Session. As described above, a User must continue to select the appropriate TIF to allow the order to execute in the Early Trading Session and a port setting step will just permit an order already marked for execution in the Early Trading Session to become active later in the Early Trading Session. The proposed rule change does not extend or otherwise modify any trading hours during which trading is currently permissible on the Exchange but simply permits Users to choose to activate their orders at a specific time during an ongoing trading session.

The Exchange also notes that, as with any order eligible for trading in the Early Trading Session, market participants must monitor market conditions to ensure compliance with best execution obligations [24] for their orders with a 7:00 a.m. Start designation and will be able to cancel or modify their orders with a 7:00 a.m. Start time designation at any time prior to their activation, thus allowing them to react to market conditions that may cause them to violate their best execution obligations. FINRA Rule 5310(a)(1) provides that a member must use reasonable diligence to ascertain the best market for a security and buy or sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions. FINRA Rule 5310(a)(1)(A) states that one of the factors that will be considered in determining whether a member has used ''reasonable diligence'' is ''the character of the market for the security (*e.g.,* price, volatility, relative liquidity, and pressure on available communication).'' [25] The Exchange believes that Users are accustomed to this additional analysis and will continue to apply such in determining whether to designate an activation at 7:00 a.m. ET. The regulatory guidance with respect to best execution anticipates the continued evolution of execution venues:

> [B]est execution is a facts and circumstances determination. A broker-dealer must consider several factors affecting the quality of execution, including, for example, the opportunity for price improvement, the likelihood of execution . . ., the speed of execution and the trading characteristics of the security, together with other non-price factors such as reliability and service.[26]

To the extent there may be best execution obligations at issue, they are no different than the best execution obligations faced by brokers in the current market structure, including the current use of orders that become eligible for execution at the start of the Early Trading Session, Pre-Opening Session or Regular Trading Hours, depending on the TIF selected by the User. A User may use continue to use TIF instructions to forgo a possible execution at the start of one trading session, or at a 7 a.m. Start time, as proposed, if they believe doing so is consistent with their best execution obligations as they anticipate that the market for the security may improve upon the start of another trading session, or at 7:00 a.m. ET, as proposed. Applicable best execution guidance contains no formulaic mandate as to whether or how brokers should direct orders. The optionality created by the proposed rule change simply represents one tool available to User to meet their best execution obligations.

The Exchange also notes that Users are required to implement regulatory risk management controls and procedures that are reasonably designed to prevent the entry of orders that fail to comply with regulatory requirements that apply on a pre-order entry basis pursuant to the Market Access Rule under 15c3–5of the Act.[27] These pre-trade controls must, for example, be reasonably designed to assure compliance with Exchange trading rules and Commission rules under Regulation SHO [28] and Regulation NMS.[29] In accordance with the Market Access Rule, a User's procedures must be reasonably designed to ensure compliance with their applicable regulatory requirements, not just at the time the order is routed to the Exchange, but also at the time the order becomes eligible for execution.

In addition to this, the proposed rule change will not affect the protection of investors as it is generally consistent

[23] *See also supra* note 15.

[24] A member's best execution obligation may also include cancelling an order when market conditions deteriorate and could result in an inferior execution or informing customers where the execution of their order may be delayed intentionally as the member utilizes reasonable diligence to ascertain the best market for the security. See FINRA Rule 5130. See also FINRA Regulatory Notice 15–46, Best Execution. Guidance on Best Execution Obligations in Equity, Options, and Fixed Income Markets, (November 2015).

[25] These characteristics are reflected in the disclosure requirements mandated by Exchange Rule 3.21 before a Member may accept an order from a customer for execution in the Pre-Opening, Post-Closing, and proposed Early Trading Sessions.

[26] *See* Securities Exchange Act Release No. 43950 (November 17, 2000), 65 FR 75414 (December 1, 2000) (''Disclosure of Order Execution and Routing Practices release'').

[27] *See* Securities Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69792 (November 15, 2010) (File no. S7–03–10).

[28] *See e.g.,* Question 2.6 of the Division of Trading and Markets: Response to Frequently Asked Questions Concerning Regulations SHO, available at *https://www.sec.gov/divisions/marketreg/mrfaqregsho1204.htm.*

[29] 17 CFR 240.610–611.

with Nasdaq Rule 4703(a), as previously approved by the Commission,[30] which allows participants to designate 7:00 a.m. ET as a time in which certain orders entered prior to 7:00 a.m. ET may become active during Nasdaq's early trading session, which likewise commences at 4:00 a.m. ET. Unlike Nasdaq Rule 4703(a), which limits the types of orders that may be designated to begin at 7:00 a.m. ET, the proposal will provide Users with the control and flexibility to designate a 7 a.m. Start time for any of their same orders currently eligible to execute in the Early Trading Session, thereby providing the opportunity for all orders eligible for the Early Trading Session to access the additional liquidity and execution opportunities present in the markets at this particular time, as they may today.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because all Users will be able to designate their orders to become eligible for execution during the Early Trading Session beginning at 7:00 a.m. ET. All Users' orders submitted with a 7:00 a.m. Start designation will become eligible for execution at 7:00 a.m. ET in the same time sequence as they are today and will be subject to the same order type restrictions as are currently in place. The Exchange also does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, and may promote competition, because the proposed activation time is substantially similar to that which is currently in place on Nasdaq, as previously approved by the Commission, and other equities exchanges currently begin their early trading sessions at 7:00 a.m. ET. Therefore, the proposal will also allow the Exchange to compete with those exchanges that allow for a 7:00 a.m. ET start time.

[30] *See supra* note 16.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[31] and Rule 19b–4(f)(6) thereunder.[32] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[33] and Rule 19b–4(f)(6) thereunder.[34]

A proposed rule change filed under Rule 19b–4(f)(6)[35] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[36] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. This will allow the Exchange to implement the proposal at the same time as the Exchange's new extended Early Trading Session hours, which the Exchange plans to launch on March 8, 2021. In seeking this waiver, the Exchange asserts that this proposal neither introduces any new or novel issues nor extends or otherwise modifies trading hours during which trading is currently permissible on the Exchange. Rather, the Exchange states that this proposal will allow market participants and investors to continue to submit orders that become eligible for execution at 7:00 a.m. ET, as they already do today, once the Exchange extends its Early Trading Session hours to begin at 4:00 a.m. ET. Based on the foregoing, the Commission believes that allowing this proposed rule change to become operative upon filing is consistent with the protection of investors and the public interest. The Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[37]

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–CboeEDGX–2021–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2021–010. 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

[31] 15 U.S.C. 78s(b)(3)(A)(iii).

[32] 17 CFR 240.19b–4(f)(6).

[33] 15 U.S.C. 78s(b)(3)(A).

[34] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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.

[35] 17 CFR 240.19b–4(f)(6).

[36] 17 CFR 240.19b–4(f)(6)(iii).

[37] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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 offices 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–CboeEDGX–2021–010, and should be submitted on or before March 22, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–04090 Filed 2–26–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91193]

Order Granting Application by Cboe C2 Exchange, Inc. for Exemption Pursuant to Section 36(a) of the Exchange Act From the Rule Filing Requirements of Section 19(b) of the Exchange Act With Respect to Certain Rules Incorporated by Reference

February 23, 2021.

Cboe C2 Exchange, Inc. (''C2'' or the ''Exchange'') has filed with the Securities and Exchange Commission (the ''Commission'') an application for an exemption under Section 36(a)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] from the rule filing requirements of Section 19(b) of the Exchange Act[2] with respect to certain rules of Cboe Exchange, Inc. (''Cboe'') that the Exchange seeks to incorporate by reference.[3] Section 36(a)(1) of the Exchange Act,[4] subject to certain limitations, authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class thereof, from any provision of the Exchange Act or rule thereunder, if necessary or appropriate in the public interest and consistent with the protection of investors.

The Exchange filed a proposed rule change[5] under Section 19(b) of the Exchange Act to update various C2 Rules and Chapters to reflect changes to the Cboe Options rulebook. Namely, in the proposed rule change, the Exchange proposed to incorporate by reference rule changes made to each Cboe Options rule cross-referenced in the following C2 chapters or sections: Chapter 3, Section B (TPH Registration);[6] Chapter 4, Section A (Equity and ETP Options);[7] Chapter 4, Section B (Index Options);[8] Chapter 5 (Business Conduct);[9] Chapter 6, Section E (Intermarket Linkage);[10] Chapter 6, Section F (Exercises and Deliveries);[11] Chapter 7, Section A;[12] Chapter 7, Section B;[13] Chapter 9 (Doing Business with the Public);[14] Chapter 10 (Margin Requirements);[15] Chapter 1 (Net Capital Requirements);[16] Chapter 12 (Summary Suspension);[17] Chapter 13 (Discipline);[18] Chapter 14 (Arbitration);[19] and Chapter 15 (Hearings and Review)[20] (the ''Cboe Incorporated Rules'').

The Commission notes it previously granted C2 an exemption from the rule filing requirements of Section 19(b) of the Act for the rules of the Cboe set forth in the C2 rules referenced above.[21] Since that time, the Cboe has renumbered and relocated the previously incorporated rules within its rulebook. As a result, C2 has submitted this exemptive request to reflect rule number changes in the Cboe Options rulebook. Specifically, the Exchange is now requesting, pursuant to Rule 0–12 under the Exchange Act,[22] that the Commission grant an exemption from the rule filing requirements of Section 19(b) of the Exchange Act for changes to the Chapters 3–7 and 9–15 of the Exchange's rules that are effected solely by virtue of a change to a Cboe Incorporated Rule. The Exchange requests that it be permitted to incorporate by reference changes made to the Cboe Incorporated Rules without the need for the Exchange to file separately the same proposed rule change pursuant to Section 19(b) of the Exchange Act.[23]

The Exchange represents that the Cboe Incorporated Rules are not trading rules.[24] Moreover, the Exchange states that it proposes to incorporate by reference a category of rules (rather than individual rules within a category).[25] The Exchange also represents that, as a condition of this exemption, the Exchange will provide written notice to its applicants and members whenever Cboe proposes a change to a Cboe Incorporated Rule.[26]

According to the Exchange, this exemption is necessary and appropriate to maintain consistency between C2 rules and the Cboe Incorporated Rules, thus helping to ensure identical regulation of C2 Permit Holders that are also Cboe Trading Permit Holders with respect to the incorporated provisions as

[38] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78mm(a)(1).

[2] 15 U.S.C. 78s(b).

[3] *See* letter from Rebecca Tenuta, Counsel, Cboe C2 Exchange, Inc. to Vanessa Countryman, Secretary, Commission, dated February 9, 2021 (''Exemptive Request'').

[4] 15 U.S.C. 78mm(a)(1).

[5] *See* Securities Exchange Act Release No. 87646 (December 2, 2019), 84 FR 66938 (December 6, 2019) (SR–C2–2019–025).

[6] Incorporates by reference Cboe Options Chapter 3, Section B.

[7] Incorporates by reference Cboe Options Chapter 4, Section A.

[8] Incorporates by reference Cboe Options Chapter 4, Section B.

[9] Incorporates by reference Cboe Options Chapter 8.

[10] Incorporates by reference Cboe Options Chapter 5, Section E.

[11] Incorporates by reference Cboe Options Chapter 6, Section B.

[12] Incorporates by reference Cboe Options Chapter 7, Section A.

[13] Incorporates by reference Cboe Options Chapter 7, Section B.

[14] Incorporates by reference Cboe Options Chapter 9. *See* also Securities Exchange Act Release No. 87646 (December 2, 2019), 84 FR 66938 (December 6, 2019) (SR–C2–2019–025), which relocated former Rule 3.19 to Rule 9.20 in order to include Cboe Options Rule 9.20 in C2 Chapter 9's incorporation of Cboe Options Chapter 9 by reference, as former Rule 3.19 is identical to Cboe Options Rule 9.20 and it is within the same category of exchange rules otherwise incorporated into C2 Chapter 9 by reference to Cboe Options Chapter 9 (*i.e.,* rule related to doing business with the public).

[15] Incorporates by reference Cboe Options Chapter 10.

[16] Incorporates by reference Cboe Options Chapter 11.

[17] Incorporates by reference Cboe Options Chapter 12.

[18] Incorporates by reference Cboe Options Chapter 13.

[19] Incorporates by reference Cboe Options Chapter 14.

[20] Incorporates by reference Cboe Options Chapter 15.

[21] *See* Securities Exchange Act Release Nos. 61152 (December 10, 2009), 74 FR 66699 (December 16, 2009); and 80339 (March 29, 2017), 82 FR 16442 (April 4, 2017).

[22] 17 CFR 240.0–12.

[23] *See* Exemptive Request, *supra* note 3.

[24] *Id.*

[25] *Id.*

[26] The Exchange states that it will provide such notice via a posting on the same website location where the Exchange posts its own rule filings pursuant to Rule 19b–4(l) within the timeframe required by such Rule. In addition, the Exchange states that the website posting will include a link to the location on Cboe's website where the applicable proposed rule change is posted. *Id.*

well as helping to ensure that C2-only Permit Holders are subject to consistent regulation as Cboe Trading Permit Holders.[27] The Exchange believes that, without such an exemption, such Permit Holders could be subject to two different standards.[28]

The Commission has issued exemptions similar to the Exchange's request.[29] In granting similar exemptions, the Commission stated that it would consider future exemption requests, provided that:

- A self-regulatory organization (''SRO'') wishing to incorporate rules of another SRO by reference has submitted a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, has identified the applicable originating SRO(s), together with the rules it wants to incorporate by reference, and otherwise has complied with the procedural requirements set forth in the Commission's release governing procedures for requesting exemptive orders pursuant to Rule 0–12 under the Exchange Act; [30]
- The incorporating SRO has requested incorporation of categories of rules (rather than individual rules within a category) that are not trading rules (*e.g.,* the SRO has requested incorporation of rules such as margin, suitability, or arbitration); and
- The incorporating SRO has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO.[31]

The Commission believes that the Exchange has satisfied each of these conditions. Further, the Commission also believes that granting the Exchange an exemption from the rule filing requirements under Section 19(b) of the Exchange Act will promote efficient use of the Commission's and the Exchange's resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO. The Commission therefore finds it appropriate in the public interest and consistent with the protection of investors to exempt the Exchange from the rule filing requirements under Section 19(b) of the Exchange Act with respect to the above-described rules it incorporates by reference. This exemption is conditioned upon the Exchange promptly providing written notice to its applicants and members whenever Cboe changes a Cboe Incorporated Rule.

Accordingly, *it is ordered,* pursuant to Section 36 of the Exchange Act,[32] that the Exchange is exempt from the rule filing requirements of Section 19(b) of the Exchange Act solely with respect to changes to the rules identified in the Exemptive Request, provided that the Exchange promptly provides written notice to its applicants and members whenever Cboe proposes to change a Cboe Incorporated Rule.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–04092 Filed 2–26–21; 8:45 am]

BILLING CODE 8011–01–P

[27] *See* Exemptive Request, *supra* note 3.

[28] *See id.*

[29] *See, e.g.,* Securities Exchange Act Release Nos. 86896 (September 6, 2019), 84 FR 48186 (September 12, 2019) (order granting exemptive request from Nasdaq BX, Inc. relating to rules of The Nasdaq Stock Market LLC incorporated by reference) (''Nasdaq BX Order''); 86422 (July 22, 2019), 84 FR 36151 (July 26, 2019) (order granting exemptive request from Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, and Nasdaq Phlx LLC relating to rules of The Nasdaq Stock Market LLC incorporated by reference); 80338 (March 29, 2017), 82 FR 16464 (April 4, 2017) (order granting exemptive request from MIAX PEARL, LLC relating to rules of Miami International Securities Exchange, LLC incorporated by reference); and 72650 (July 22, 2014), 79 FR 44075 (July 29, 2014) (order granting exemptive requests from NASDAQ OMX BX, Inc. and the NASDAQ Stock Market LLC relating to rules of NASDAQ OMX PHLX LLC incorporated by reference).

[30] *See* 17 CFR 240.0–12 and Securities Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998) (''Commission Procedures for Filing Applications for Orders for Exemptive Relief Pursuant to Section 36 of the Exchange Act; Final Rule'').

[31] *See* Nasdaq BX Order, *supra* note 29.

[32] 15 U.S.C. 78mm.

[33] 17 CFR 200.30–3(a)(76).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91180; File No. SR–NYSEAMER–2021–11]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change Amending the NYSE American Options Fee Schedule To Introduce Pricing for the Use of a New AON Functionality in Single-Leg and Complex Customer Best Execution Auctions

February 22, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on February 16, 2021, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE American Options Fee Schedule (''Fee Schedule'') to introduce pricing for the use of a new AON functionality in Single-Leg and Complex Customer Best Execution (''CUBE'') auctions. The Exchange proposes to implement the fee change effective February 16, 2021.[4] The proposed change is available on the Exchange's website at *www.nyse.com,* 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 self-regulatory organization 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 those 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify the Fee Schedule to introduce pricing for the Exchange's newly approved optional all-or-none (''AON'') functionality for larger-sized orders in Single-Leg and Complex CUBE auctions (together, ''AON CUBE'').[5] The

[4] On January 27, 2021, the Exchange filed to implement the AON functionality for Complex CUBE auctions, which functionality was operative on an immediately effective basis retroactive to the date of filing given the waiver of the 30-day operative delay, as well as to make clarifications to the AON functionality for Single-Leg CUBE auctions. *See* Securities Exchange Release No. 91068 (February 5, 2021), 86 FR 9112 (February 11, 2021) (NYSEAMER–2021–06).

[5] *See* Securities Exchange Release Nos. 90584 (December 7, 2020), 85 FR 80196 (December 11,

Continued

Exchange proposes to introduce the pricing on February 16, 2021.

The Exchange proposes to define ''AON CUBE Order'' as a ''Single-Leg CUBE Order of at least 500 contracts or a Complex CUBE Order of at least 500 contracts on the smallest leg, that is designated AON per Rule 971.1NY Commentary .05 and Rule 971.2NY Commentary .04, respectively.'' [6] Similarly, the Exchange proposes to define an AON Contra Order as ''principal interest or solicited interest an Initiating Participant is using to guarantee the execution of an AON CUBE Order in a Single-Leg or Complex CUBE Auction.'' [7]

Section I.G. of the Fee Schedule sets forth the rates for per contract fees and credits for executions associated with CUBE Auctions. The Exchange proposes to include an additional table of fees and credits under Section I.G. to apply to certain contracts executed in AON CUBE Auctions, whether Single-Leg or Complex.[8]

The process for commencing an AON CUBE auction mirrors that of non-AON CUBE auctions. In particular, the AON CUBE auction process begins with the entry of an AON CUBE Order and a paired AON Contra Order. As with non-AON CUBE auctions, the Exchange similarly proposes to not charge for AON CUBE Order executions on behalf of a Customer or for Customer executions against AON CUBE Orders (*i.e.,* Customer Request for Responses (''RFR'') to an AON CUBE Order). The Exchange proposes to charge $0.20 per contract for non-Customer executions of AON CUBE Orders and Customer and non-Customer AON Contra Orders alike.

As with non-AON CUBE Auctions, the Exchange proposes to charge executions of non-Customer RFR Responses to an AON CUBE Auction $0.50 per contract in Penny issues and $1.05 per contract executed in non-Penny issues.

The Exchange proposes an Initiating Participant Credit for each contract in an AON Contra Order that does not trade with the AON CUBE Order because it is replaced in the auction, including when the AON Contra Order is replaced entirely by RFR Responses. As proposed, the Initiating Participant Credit for AON CUBE Orders would be $0.30 per contract in Penny issues and $0.70 per contract in non-Penny issues.

The Exchange also proposes an ACE Initiating Participant Rebate payable to Initiating Participants that are ATP Holders who qualify for Tiers 1, 2, 3, 4 or 5 of the ACE Program. The proposed $0.12 per contract rebate would be paid to a qualifying Initiating Participant in an AON Single-Leg CUBE Auction for each of the first 5,000 contracts of an AON CUBE Order executed and/or to a qualifying Initiating Participant in an AON Complex CUBE Auction for each of the first 1,000 contracts per leg of an AON CUBE Order executed.

The Exchange also proposes a Floor Broker Initiating Participant Rebate of $0.12 per contract payable to Floor Brokers that execute a minimum of 2,500 contracts average daily volume (''ADV'') in AON CUBE Orders in either an AON Single-Leg or AON Complex CUBE auction.[9] As with the ACE Initiating Participant Rebate, the Floor Broker Initiating Participant Rebate is paid to a qualifying Initiating Participant for each contract in an AON CUBE Order and applies to each of the first 5,000 contracts of an AON CUBE Order executed in an AON Single-Leg CUBE Auction, or to the first 1,000 contracts per leg of an AON CUBE Order in an AON Complex CUBE Auction.

The Exchange's fees are constrained by intermarket competition, as ATP Holders may direct their order flow to any of the 16 options exchanges, including those with similar auction functionalities and corresponding fees.[10] Thus, ATP Holders have a choice of where they direct their order flow, including electronic auction volume.

To the extent that the proposed fees and credits relating to the use of the AON CUBE auction functionality encourage ATP Holders to direct their order flow to the Exchange, all market participants stand to benefit from increased order flow, which promotes market depth, facilitates tighter spreads and enhances price discovery.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[12] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [13]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[14] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in November 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity and ETF options trades.[15]

2020) (NYSEAMER–2020–64) (approving AON functionality for Single-Leg CUBE auction); 91068 (February 5, 2021), 86 FR 9112 (February 11, 2021) (NYSEAMER–2021–06) (approving AON functionality for Complex CUBE auction).

[6] *See* proposed Fee Schedule, Key Terms and Definitions. *See generally* Rules 971.1NY (regarding Single-Leg CUBE auctions) and 971.2NY (regarding Complex CUBE auctions).

[7] *See* proposed Fee Schedule, Key Terms and Definitions.

[8] *See* proposed Fee Schedule, Section I.G., CUBE Auction Fees & Credits (setting forth applicable fees and credits for AON Single-Leg and AON Complex CUBE Auctions).

[9] AON CUBE Orders executed by a Floor Broker on behalf of an ATP Holder may only be counted towards the Floor Broker's eligibility for the Floor Broker Initiating Participant Rebate. An ATP Holder's AON CUBE Orders that are executed by a Floor Broker are not eligible for the ACE Initiating Participant Rebate.

[10] *See, e.g.,* Nasdaq ISE LLC (''Nasdaq ISE''), Options 7, Pricing Schedule, *available here: https://listingcenter.nasdaq.com/rulebook/ise/rules/ise-options-7 (setting forth pricing for Solicited Order Mechanism and Complex Solicited Order Mechanism);* Cboe EDGX Exchange, Inc. (''Cboe EDGX'') fee schedule, available here: *https://www.cboe.com/us/options/membership/fee_schedule/edgx/(setting forth pricing for* Solicitation Auction Mechanism (''SAM''). *See* Statutory Basis below in ''*The Proposed Rule Change is Reasonable*'' section for discussion in greater detail, including *infra* notes 15 [sic] and 16.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4) and (5).

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[14] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[15] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.,* the Exchange's market share in multiply-listed equity and ETF options increased from 8.06% for the month of November 2019 to 9.09% for the month of November 2020.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated otherwise, changes to exchange transaction fees and rebates can have a direct effect on the ability of an exchange to compete for order flow, including auction volume.

The proposed rule change is designed to incent ATP Holders to direct liquidity to the Exchange in AON CUBE Auction executions, similar to other exchange programs with competitive pricing programs, thereby promoting market depth, price discovery and improvement and enhancing order execution opportunities for market participants. Specifically, the Exchange believes that the proposed fee structure for AON CUBE Orders is reasonably designed to incent ATP Holders to direct liquidity to the Exchange in the form of AON CUBE Auction executions, which increased order flow would improve the overall competitiveness and strengthen the market quality of the Exchange to the benefit of all market participants. The Exchange notes that the proposed structure of fees and credits for AON CUBE Auctions is reasonable because it is both consistent with fees and credits already in place for the same types of orders in Single-Leg and Complex CUBE auctions and is likewise within the range of fees and credits assessed by other exchanges employing similar fee structures for auction mechanisms.[16] Consistent with this proposal, competing options exchanges similarly offer different fees and credits for initiating orders, contra-side orders, and responders to an auction, and competing options exchanges likewise charge different rates for transactions in their price improvement mechanisms for Customers versus non-Customers.[17]

The Exchange also believes that it is reasonable for AON CUBE Orders and AON Contra Orders to be assessed lower fees than those providing RFR Responses, as structuring fees in this manner would incent market participants to direct orders to initiate AON CUBE Auctions (rather than simply respond to them). Further, the Exchange believes that the proposed fees for responding to AON CUBE Auctions would not deter market participants from providing price improvement, as they are consistent with fees for responding to a non-AON CUBE auction—whether Single-Leg or Complex—and are also consistent with fees charged to responders on options exchanges offering similar auction mechanisms.

The Exchange also believes that the qualification bases to achieve the ACE Initiating Participant Rebate are reasonably designed to encourage ATP Holders to utilize the optional AON CUBE functionality, which may lead to greater opportunities to trade—and for price improvement—for all participants. In addition, the Exchange believes that the proposed Floor Broker Initiating Participant Rebate would encourage Floor Brokers to use the AON CUBE mechanism to execute larger-size orders (both Single-Leg and Complex), which would also lead to greater opportunities to trade for all participants because such order flow will be exposed to additional market participants. The Exchange also believes that the proposed rebates are reasonably designed because they are (as mentioned above) similar to rebates currently available to participants in non-AON CUBE auctions and, to the extent the proposed rebates are higher than existing rebates, the Exchange believes that they represent a reasonable effort to incent the use of a new functionality.

Further, the Exchange believes the proposed fees and credits in connection with AON CUBE auctions would attract more volume and liquidity to the Exchange generally and would therefore benefit all market participants (including those that do not participate in auction mechanisms) through increased opportunities to trade at potentially improved prices as well as enhancing price discovery. To the extent the proposed fees and credits encourage greater volume and liquidity directed to the Exchange, the proposed changes would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants.

The Proposed Rule Change Is an Equitable Allocation of Fees and Rebates

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits. The proposal is based on the amount and type of business transacted on the Exchange, and ATP Holders can opt to avail themselves of the auction mechanism or not. To the extent that the proposed change attracts more auction executions to the Exchange, this increased order flow would make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed fees and credits would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Exchange also believes that the proposed fees and credits are equitable because they would apply equally among Customers and would also apply equally among all non-Customers. With respect to Customers, all similarly situated orders for Customers are subject to the same transaction fee schedule. Furthermore, the Exchange believes that it is equitable that Customers be charged lower fees in AON CUBE Auctions than other market participants, as the exchanges in general have historically aimed to improve markets for investors and develop various features within market structure for customer benefit.[18] The Exchange may in some instances assess Customers lower or no transactions fees [19] because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants, and customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may encourage a corresponding increase in order flow from other market participants.

The Exchange also believes that it is equitable for AON CUBE Orders and AON Contra Orders to be assessed lower fees than those providing RFR Responses, as structuring fees in this manner would incent market participants to direct orders to participate in AON CUBE Auctions. The Exchange believes that it is equitable to

[16] *See, e.g.,* Cboe EDGX fee schedule, *supra* note 10 (providing, for example, $0.20 per contract fee for non-customer agency orders and $0.20 per contract fee for non-customer contra orders in a SAM auction, in line with the Exchange's proposed $0.20 per contract fee for non-Customer AON CUBE Orders and AON Contra Orders); Nasdaq ISE Pricing Schedule, *supra* note 10 (providing, for example, $0.20 per contract fee for non-customer contra orders in Solicited Order Mechanism, in line with the Exchange's proposed $0.20 per contract fee for non-Customer AON Contra Orders).

[17] *See, e.g.,* Cboe EDGX fee schedule and Nasdaq ISE Pricing Schedule, *supra* note 10 (providing, for example, $0.20 per contract fee for non-customer initiating orders and no fee for customer initiating orders, consistent with the Exchange's proposal).

[18] The Exchange also notes that, as discussed above, certain non-Customers may be eligible for various credits and rebates, which would offset their transaction costs.

[19] For example, the Exchange offers Customers preferential rates for other trades executed on the Exchange such as for Qualified Contingent Cross orders.

assess fees to responders to AON CUBE Auctions and credits to another participant to provide incentive for participants to submit order flow.

The Proposed Rule Change Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory because the proposed fees and credits would be available to all similarly-situated market participants on an equal and non-discriminatory basis. The Exchange's proposed fees and credits for AON CUBE Auctions are designed to encourage greater use of the AON CUBE Auction, which may lead to greater opportunities to trade—and for price improvement—for all participants.

To the extent that there is a differentiation between proposed fees assessed to Customers as compared to non-Customers, the Exchange believes that this is not unfairly discriminatory because preferential pricing to Customers is a long-standing options industry practice to incentivize increased Customer order flow through a fee and rebate schedule in order to attract professional liquidity providers. To the extent the proposed fees serve to enhance Customer volume on the Exchange, the Exchange believes increased Customer volume would attract liquidity, including Market Maker activity, by providing more trading opportunities. Increased Market Maker activity could, in turn, facilitate tighter spreads and increased order flow from other market participants, contributing to increased price discovery and overall enhanced quality of the market.

The Exchange also believes that the proposed fee structure is not unfairly discriminatory because it is based on the amount and type of business transacted on the Exchange, and ATP Holders are not obligated to participate in AON CUBE Auctions. Rather, the proposal is designed to encourage participants to utilize the Exchange as a primary trading venue (if they have not done so previously) or increase Electronic (auction) volume sent to the Exchange. To the extent that the proposed fees and credits are successful in incenting ATP Holders to utilize AON CUBE Auctions, this increased order flow would improve price discovery and make the Exchange a more competitive venue for order execution, which, in turn, would improve market quality for all market participants (including those that do not participate in AON CUBE Auctions).

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity for larger-sized orders to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [20]

Intramarket Competition. The proposed change is designed to attract order flow to the Exchange by offering competitive rates and credits based on increased volumes on the Exchange, which would enhance the quality of quoting and may increase the volumes of contracts traded on the Exchange. To the extent that this purpose is achieved, all of the Exchange's market participants should benefit from the continued market liquidity. Enhanced market quality and increased transaction volume that results from the increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange.

The Exchange believes that the proposed change to adopt fees and credits for the use of AON CUBE Auctions would not impose any burden on intramarket competition, but rather, would serve to promote intramarket competition by incentivizing order flow to the Exchange, and in particular, Customer orders, thereby providing for more opportunities to compete at improved prices.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its mechanisms and fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange currently has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[21] Therefore, no exchange currently possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in November 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity and ETF options trades.[22]

The Exchange believes that the proposed rule change reflects this competitive environment because it introduces new fees and rebates designed to encourage ATP Holders to direct trading interest to the Exchange, to provide liquidity, and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market quality and increased opportunities for price improvement.

The Exchange believes that the proposed changes could promote competition between the Exchange and other execution venues, including those that currently offer similar auction mechanisms for larger-sized orders, by encouraging additional orders to be sent to the Exchange for execution.[23]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [24] of the Act and subparagraph (f)(2) of Rule 19b–4 [25] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

[20] *See* Reg NMS Adopting Release, *supra* note 13, at 37499.

[21] *See supra* note 14.

[22] Based on OCC data, *supra* note 15, the Exchange's market share in equity- and ETF-based options increased from 8.06% for the month of November 2019 to 9.09% for the month of November 2020.

[23] *See, e.g., supra* note 10 (regarding Nasdaq ISE's Solicited Order Mechanism and Complex Solicited Order Mechanism).

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 240.19b–4(f)(2).

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [26] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSEAMER–2021–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEAMER–2021–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEAMER–2021–11, and should be submitted on or before March 22, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–04177 Filed 2–26–21; 8:45 am]

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[26] 15 U.S.C. 78s(b)(2)(B).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, March 4, 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 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 25, 2021.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–04273 Filed 2–25–21; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91184; File No. SR–OCC–2021–801]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Advance Notice Relating to OCC's Establishment of Persistent Minimum Skin-In-The-Game

February 23, 2021.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) [2] under the Securities Exchange Act of 1934 (''Exchange Act''),[3] notice is hereby given that on February 10, 2021, the Options Clearing Corporation (''OCC'' or ''Corporation'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') an advance notice as described in Items I, II and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the advance notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This advance notice is submitted in connection with proposed changes that would amend OCC's Rules, Capital Management Policy, and certain other OCC policies to establish a persistent minimum level of OCC's own pre-funded financial resources (commonly referred to as ''skin-in-the-game'') that OCC would contribute to cover default losses or liquidity shortfalls. Amendments to OCC's Rules are included in Exhibit 5a of filing SR–OCC–2021–801. Amendments to OCC's Capital Management Policy are included in confidential Exhibit 5b of filing SR–

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] 15 U.S.C. 78a *et seq.*

OCC–2021–801. OCC would also make conforming changes to the Default Management Policy, Clearing Fund Methodology Policy, and Recovery and Orderly Wind-Down Plan (''RWD Plan''), which can be found in confidential Exhibits 5c, 5d, and 5e of filing SR–OCC–2021–801, respectively, to reflect the amended default waterfall (*i.e.,* the financial resources OCC would use to address default losses and liquidity shortfalls, listed in the order OCC would utilize them). Material proposed to be added is marked by underlining, and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[4]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the advance notice and discussed any comments it received on the advance notice. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections A and B below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the advance notice and none have been received. OCC will notify the Commission of any written comments received by OCC.

(B) Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing, and Settlement Supervision Act

Description of the Proposed Change

OCC is proposing to amend OCC's Rules, Capital Management Policy, and certain other policies to establish a persistent minimum level of skin-in-the-game that OCC would contribute to cover default losses or liquidity shortfalls, which would consist of a minimum amount of OCC's own pre-funded resources that OCC would charge prior to charging a loss to the Clearing Fund (as defined below, the ''Minimum Corporate Contribution'') and, as OCC's Rules currently provide, applicable funds held in trust in respect to OCC's Executive Deferred Compensation Plan (''EDCP'') (such funds, as defined in OCC's Rules, being the ''EDCP Unvested Balance'') that would be charged *pari passu* with the Clearing Fund deposits of non-defaulting Clearing Members. The persistent minimum level of skin-in-the-game would establish a floor for the pre-funded resources OCC would contribute to cover default losses and liquidity shortfalls. In addition to this minimum, OCC would continue to commit its liquid net assets funded by equity (''LNAFBE'')[5] greater than 110% of its Target Capital Requirement prior to charging a loss to the Clearing Fund.

Background

In January 2020, OCC implemented its Capital Management Policy, by which OCC (a) determines the amount of Equity[6] sufficient for OCC to meet its regulatory obligations and to serve market participants and the public interest (as defined in OCC's Rules, the ''Target Capital Requirement''), (b) monitors Equity and LNAFBE levels to help ensure adequate financial resources are available to meet general business obligations; and (c) manages Equity levels, including by (i) adjusting OCC's fee schedule (as appropriate) and (ii) establishing a plan for accessing additional capital should OCC's Equity fall below certain thresholds (the ''Replenishment Plan'').[7] In addition, OCC's Rules, the Capital Management Policy, and associated policies provide for the use of OCC's current and retained earnings in excess of 110% of the Target Capital Requirement (*i.e.,* the ''Early Warning'' threshold under OCC's Replenishment Plan) to cover losses arising from a Clearing Member's default.[8] While OCC's Rules previously provided for OCC to contribute its own capital to cover default losses at the Board's discretion, the Capital Management Policy changes made the contribution of such excess capital obligatory.[9]

In the event of a Clearing Member default, OCC would contribute excess capital to cover losses remaining after applying the margin assets and Clearing Fund contribution of the defaulting Clearing Member and before charging the Clearing Fund contributions of non-defaulting Clearing Members. Should OCC's excess capital be insufficient to cover the loss, OCC also has another tranche of OCC resources in addition to the Clearing Fund; namely, the EDCP Unvested Balance.[10] In the event of a default loss, the EDCP Unvested Balance is contributed *pari passu* with the Clearing Fund contributions of non-defaulting Clearing Members.

The implementation of OCC's Capital Management Policy marked the first time OCC committed OCC's own pre-funded financial resources into OCC's approach to capital management and resiliency. In particular, OCC believes that the inclusion of the EDCP Unvested Balance is a powerful alignment of interest between management and Clearing Members. OCC takes seriously the interest of the industry and international regulators in seeing more significant skin-in-the-game commitments at central counterparties.

To that end, OCC has reviewed feedback received in connection with the initial filing of the Capital Management Plan, relevant papers from industry participants and stakeholders concerning skin-in-the-game, and regulatory regimes in jurisdictions outside the United States. For one, a comment submitted in connection with the Capital Management Policy's filing urged OCC to implement a ''minimum amount of skin-in-the-game that 'scales with risk and is defined and funded upfront' and . . . 'to define a level of [skin-in-the-game] *ex ante* that would always be readily available in case of a default loss.' ''[11] OCC has also reviewed the paper, ''A Path Forward for CCP Resilience, Recover, and Resolution,'' originally released in October 2019 with nine signatories and re-released in March of 2020 with ten additional signatories, representing major buy-side and sell-side firms in the markets OCC

[4] OCC's By-Laws and Rules can be found on OCC's public website: *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

[5] International standards and the Commission's Rules established minimum LNAFBE requirements for financial market infrastructures and covered clearing agencies, respectively. See CPSS–IOSCO, *Principles for financial market infrastructures,* at Principle 15 (Apr. 16, 2012), available at *http://www.bis.org/publ/cpss101a.pdf;* 17 CFR 240.17Ad–22(e)(15). The Capital Management Policy defines ''LNAFBE'' as the level of cash and cash equivalents, no greater than Equity, less any approved adjustments (*i.e.,* agency-related liabilities such as Section 31 fees held by OCC).

[6] The Capital Management Policy defines ''Equity'' as shareholders' equity as shown on OCC's Statement of Financial Condition.

[7] *See* Exchange Act Release No. 88029 (Jan. 24, 2020), 85 FR 5500 (Jan. 30, 2020) (File No. SR–OCC–2019–007) (hereinafter, ''Order Approving Capital Management Policy'').

[8] *Id.* at 5502.

[9] Use of excess capital to cover losses arising from the default of a bank or other clearing agency that is not otherwise associated with a Clearing Member default remains at the Board's discretion. *See* Rule 1006(e)(ii).

[10] As defined in OCC's Rules, the EDCP Unvested Balance consists of funds (x) deposited on or after January 1, 2020 in respect of its EDCP and (y) in excess of amounts necessary to pay for benefits accrued and vested under the EDCP at such time.

[11] Order Approving Capital Management Policy, 85 FR at 5507 (quoting comments submitted by FIA).

serves.[12] One of the paper's significant recommendations is that central counterparties should have skin-in-the-game in a more defined manner.[13] In contrast, OCC's current variable approach to skin-in-the-game does not guarantee a defined amount would be available as skin-in-the-game. Additionally, as OCC seeks recognition in the European Union and the United Kingdom, OCC is cognizant of the European Market Infrastructure Regulation's (''EMIR'') expectation that skin-in-the-game be a minimum of 25% of the central counterparty's regulatory capital requirement.[14] Under the current Capital Management Policy, excess capital is not dedicated solely as skin-in-the-game and it is possible that OCC's capital in excess of 110% of its Target Capital Requirement would be less than 25% of OCC's Target Capital Requirement.

To address the concerns raised by these market participants, further strengthen OCC's pre-funded financial resources, further align the interests of OCC's management and Clearing Members, and align OCC's skin-in-the-game with international standards, OCC is filing an advance notice, which would establish a persistent minimum amount of skin-in-the-game that would be used to cover default losses and liquidity shortfalls. This skin-in-the-game proposal is part of a broader set of decisions announced by OCC to lower the cost of clearing for its members,[15] including a fee decrease effective September 1, 2020.[16] OCC also discussed these changes on calls with OCC's Non-Equity Exchanges, Clearing Members, and other market participants, including discussions with the SIFMA Options Committee and FIA and open calls with OCC Clearing Members. Members expressed that the proposed addition of a minimum level of skin-in-the-game would be a welcome enhancement by OCC. One market participant expressed its appreciation for OCC's commitment to resiliency, but renewed concerns it had raised in connection with OCC's Capital Management Policy about increases in OCC's capital and, if OCC were sold, a more commercial orientation monetized with higher fees. As OCC stated with respect to the establishment of the Capital Management Policy,[17] OCC believes that this view is well outside the scope of the Capital Management Policy and this advance notice, but will continue to engage with Clearing Members and other market participants to address any concerns. While questions were raised in these conversations, no specific suggestions were made.

Proposed Changes

In order to establish a persistent minimum amount of skin-in-the-game, OCC is proposing to: (a) Amend OCC's Rules to define the Minimum Corporate Contribution, insert the Minimum Corporate Contribution in OCC's default waterfall as provided in Rule 1006, provide for how OCC would calculate any LNAFBE greater than 110% of its Target Capital Requirement OCC would contribute in addition to the Minimum Corporate Contribution, and provide a time by which OCC would reestablish the Minimum Corporate Contribution if and when OCC uses it to cover default losses; (b) amend the Capital Management Policy to exclude the Minimum Corporate Contribution from OCC's measurement of its LNAFBE against its Target Capital Requirement and from OCC's calculation of the Early Warning and Trigger Event, to ensure that OCC may maintain the Minimum Corporate Contribution exclusively for default losses while retaining access to replenishment capital in the event OCC suffers an operational loss that reduces its Equity below those thresholds; and (c) apply conforming changes to the Default Management Policy, Clearing Fund Methodology Policy, and the RWD Plan to reflect that in the event of a default loss or liquidity shortfall, the Minimum Corporate Contribution would be charged after contributing the margin and Clearing Fund deposit of a default member and before the contribution of OCC's LNAFBE in excess of 110% of OCC's Target Capital Requirement, both before OCC charges the Clearing Fund deposits of non-default Clearing Members and the EDCP Unvested Balance on a pro rata basis.

(a) Amendments to OCC's Rules

To establish and maintain a persistent minimum level of skin-in-the-game, OCC proposes to amend its Rules to (1) define the Minimum Corporate Contribution; (2) revise OCC's default waterfall to more clearing define the skin-in-the-game resources OCC would contribute to a default loss; (3) provide for how OCC would calculate any LNAFBE greater than 110% of the Target Capital Requirement it would contribute after exhausting the Minimum Corporate Contribution; and (4) provide for how OCC would replenish the Minimum Corporate Contribution after each chargeable default loss.

(1) Defining the Minimum Corporate Contribution

OCC would establish a persistent minimum level of skin-in-the-game by first amending OCC's Rules to define the Minimum Corporate Contribution in Chapter I of the Rules to mean the minimum level of OCC's own funds maintained exclusively to cover credit losses or liquidity shortfalls, the level of which OCC's Board shall determine from time to time. As OCC's own funds, OCC would hold the Minimum Corporate Contribution in accordance with OCC's By-Laws governing the investment of OCC's funds[18] and OCC's policies and procedures governing cash and investment management. Specifically, OCC maintains uninvested OCC cash in demand deposits and any investments of funds maintained to satisfy the Minimum Corporate Contribution would be limited to overnight reverse repurchase agreements involving U.S. Government Treasury Securities, consistent with

[12] *See* ABN AMRO Clearing Bank N.V., et al., A Path Forward for CCP Resilience, Recovery, and Resolution (March 10, 2020), *available at https://www.jpmorgan.com/solutions/cib/markets/a-path-forward-for-ccp-resilience-recovery-and-resolution.*

[13] While OCC agrees with the paper's authors that central counterparties should have meaningful skin-in-the-game, OCC does not agree with the level of skin-in-the-game recommended in the paper. *See* Optimizing Incentives, Resilience and Stability in Central Counterparty Clearing: Perspectives on CCP Issues from a Utility Model Clearinghouse (September 22, 2020), *available at https://www.theocc.com/Newsroom/Insights/2020/09-22-Optimizing-Incentives,-Resilience-and-Stabil.*

[14] Though OCC, as a non-EU central counterparty, would not be subject directly to the EMIR standards or the supervision of the European Securities and Markets Authority (''ESMA''), OCC has considered the EMIR standards as part of its bid to seek third-country recognition in Europe and the United Kingdom. OCC is seeking recognition to address European bank capital requirements set to go into effect next year that would require European banks to set aside additional capital for exposure to central counterparties that are not ''qualified CCPs'' in Europe. In order to become a qualified CCP, ESMA and the regulatory authority in a non-EU jurisdiction must reach an agreement that their regulatory regimes for central counterparties are equivalent. As of the date of this filing, the Commodity Futures Trading Commission (''CFTC'') has reached an agreement with ESMA on the equivalence of their regulatory regimes.

[15] OCC announced these decisions in a press release and letter to Clearing Members. *See* Press Release, OCC To Lower Costs for Users of U.S. Equity Derivatives Markets (Aug. 3, 2020), *available at https://www.theocc.com/Newsroom/Press-Releases/2020/08-03-OCC-To-Lower-Costs-for-Users-of-US-Equity-De;* ''Letter to Clearing Member Firms—OCC to Lower Costs for Users of U.S. Equity Derivative Markets'' (Aug. 3, 2020), *available at https://www.theocc.com/Newsroom/Views/2020/08-03-Letter-to-Clearing-Member-Firms.*

[16] *See* Exchange Act Release No. 89534 (Aug. 12, 2020), 85 FR 50858 (Aug. 18, 2020) (File No. SR–OCC–2020–009).

[17] *See* Exhibit 3g to File No. SR–OCC–2019–007.

[18] *See* OCC By-Laws Art. IX, Sec. 1.

OCC's same-day liquidity needs for such funds.

While the proposed definition would give OCC's Board discretion in setting the Minimum Corporate Contribution, the Board has approved an initial Minimum Corporate Contribution that sets OCC's total persistent skin-in-the-game (*i.e.,* the sum of the Minimum Corporate Contribution and OCC's current EDCP Unvested Balance) at 25% of OCC's Target Capital Requirement. In setting the initial Minimum Corporate Contribution, OCC's Board considered factors including, but not limited to, the regulatory requirements in each jurisdiction in which OCC is registered or in which OCC is actively seeking recognition, the amount similarly situated central counterparties commit of their own resources to address participant defaults, the EDCP Unvested Balance, OCC's LNAFBE greater than 110% of its Target Capital Requirement, projected revenue and expenses, and other projected capital needs.

(2) Revising OCC's Default Waterfall

OCC would also amend OCC Rule 1006 to insert the Minimum Corporate Contribution in OCC's default waterfall after contributing a defaulting Clearing Member's margin and Clearing Fund deposit, and before contributing OCC's LNAFBE greater than 110% of OCC's Target Capital Requirement, both of which OCC would exhaust before charging a loss to the Clearing Fund and the EDCP Unvested Balance, *pari passu* with the Clearing Fund deposits of non-defaulting Clearing Members. So placed, OCC believes that the Minimum Corporate Contribution would demonstrate OCC's institutional commitment to its ongoing financial surveillance of clearing members and the establishment and maintenance of a prudent and effective margin methodology. A draw against the Minimum Corporate Contribution and the associated requirement to replenish, as discussed below, would provide fewer resources to meet other corporate commitments. Accordingly, the proposal would further align OCC's and its management's interests with those of non-defaulting Clearing Members.

OCC would also remove references to ''retained earnings'' or ''current or retained earnings'' in OCC Rule 1006(b), Rule 1006(e)(i), Rule 1006(e)(ii), and the second sentence of Rule 1006(e)(iii), and replace them with references to the contribution of the ''Minimum Corporate Contribution'' and ''the Corporation's liquid net assets funded by equity that are greater than 110% of its Target Capital Requirement.'' The refences to ''retained earnings'' or ''current or retained earnings'' are legacy terms used prior to OCC's implementation of the Capital Management Policy.[19] OCC is proposing to replace these references in OCC's Rules to better identify the funds OCC's would contribute in terms that align with OCC's Capital Management Policy.

(3) Calculating LNAFBE Available as Skin-In-The-Game

Because OCC proposes to replace references to ''current or retained earnings,'' OCC would also delete the first sentence of Rule 1006(e)(iii), which currently provides for how OCC determines its ''current earnings'' for purposes of the amount available to cover losses under Rule 1006(e)(i) and Rule 1006(e)(ii). In its place, the first sentence of Rule 1006(e)(iii) would set out how OCC would determine its LNAFBE for purposes of contributing LNAFBE greater than 110% of the Target Capital Requirement to cover default losses and liquidity shortfalls. Specifically, similar to how the Rules currently provide for the calculation of ''current earnings,'' OCC would determine its LNAFBE based on OCC's unaudited financial statements at the close of the calendar month immediately preceding the occurrence of the loss or deficiency under paragraphs (e)(i) or (e)(ii), less an amount equal to the aggregate of all refunds made or authorized to be made or deemed to have been made during the fiscal year in which such loss or deficiency occurs if the refund is not reflected on such unaudited financial statements. Accordingly, OCC would retain the priority given to the payment of refunds that OCC has declared, but not yet issued, as currently provided by OCC Rule 1106(e)(iii), when calculating the amount of LNAFBE available to cover a default loss after contributing the Minimum Corporate Contribution.

OCC would further amend Rule 1006(e)(iii) to provide that in no event shall OCC be required to contribute an amount that would cause OCC's LNAFBE to fall below 110% of the Target Capital Requirement at the time changed. The Capital Management Policy, in accordance with SEC Rule 17Ad–22(e)(15)(ii)(A),[20] currently requires that the funds OCC maintains to satisfy its Target Capital Requirement be separate from OCC's resources to cover participant defaults and liquidity shortfalls. Accordingly, should a default occur in a month during which OCC suffers an operational loss that decreases the value of its excess capital available as skin-in-the-game below what is reflected on the unaudited financial statement at the close of the previous month,[21] OCC would be able to take into account the decrease in its excess capital when calculating its available LNAFBE above 110% of the Target Capital Requirement. In addition, OCC would renumber as Rule 1006(e)(iv) the last sentence of Rule 1006(e)(iii). That sentence, which concerns a defaulting Clearing Member's continuing obligation for losses OCC charges to OCC's own capital, is conceptually distinct from the rest of Rule 1006(e)(iii) and, accordingly, deserves to be addressed separately.

(4) Replenishing the Minimum Corporate Contribution

Finally, OCC would add a new paragraph to Rule 1006(e)—Rule 1006(e)(v)—to provide for a 270 calendar-day period during which the Minimum Corporate Contribution, once charged, would be reduced to the remaining unused portion. OCC believes that 270 calendar days, or approximately nine months, is sufficient time for OCC to accumulate the funds necessary to reestablish the Minimum Corporate Contribution. In making this determination, OCC used the same analysis employed to set the Early Warning and Trigger Event under its Replenishment Plan, both of which are based on the time OCC estimates it would take to accumulate 10% of its Target Capital Requirement.[22] Specifically, OCC took into account its typical monthly earnings and the amount of earnings that would be needed to replenish the Minimum Corporate Contribution on an after-tax basis. Proposed Rule 1006(e)(v) would also provide that OCC shall notify Clearing Members of any such reduction

[19] OCC first established discretionary use of OCC's current or retained earnings to cover default losses in Article VIII (Clearing Fund) of OCC's By-Laws. *See* Exchange Act Release No. 15493 (Jan. 4, 1979), 44 FR 3802 (Jan. 18, 1979) (File No. SR–OCC–79–01). When OCC moved the provisions governing the Clearing Fund from OCC's By-Laws to the Rules in 2018, the provisions governing the usage of the Clearing Fund became Rule 1006(e). *See* Exchange Act Release No. 83735 (July 27, 2018), 83 FR 37855 (Aug. 2, 2018) (File No. SR–OCC–2018–008).

[20] 17 CFR 240.17Ad–22(e)(15)(ii)(A).

[21] Under OCC's current rules, LNAFBE greater than 110% of the Target Capital Requirement and the EDCP Unvested Balance are committed to cover both operational losses and default losses. In the event OCC experiences operational losses and default losses in short succession, OCC would contribute these resources in the manner specified by OCC's Rules to the event that occurred first.

[22] *See* Order Approving Capital Management Policy, 85 FR at 5510–11. OCC has included this analysis as part of confidential Exhibit 3 to File No. SR–OCC–2021–801.

to the Minimum Corporate Contribution.

Each chargeable loss would trigger a new 270-day period. As such, proposed Rule 1006(e)(v) is designed to allow OCC to manage multiple defaults within a 270-day period by eliminating the risk that a successive default would exhaust the resources needed to reestablish the Minimum Corporate Contribution by the end of the initial 270-day period. And while a successive default loss that does not impact excess LNAFBE [23] available to replenish the Minimum Corporation Contribution would nevertheless trigger another 270-day period during which the Minimum Corporate Contribution would be reduced to the remaining unused portion after the first two defaults, any LNAFBE greater than 110% of the Target Capital Requirement would continue to be available to cover successive default losses. In the very unlikely event that OCC experiences an operational loss or a drop in revenue from clearing fees that threatens its ability to reestablish the Minimum Corporate Contribution at the end of the 270-day period, OCC would likely file a rule change to extend the period rather than act to lower the Minimum Corporate Contribution, dependent on the Board's consideration of the same non-exclusive list of factors that the Board would consider when determining whether to adjust the Minimum Corporate Contribution, discussed below.

(b) Amendments to the Capital Management Policy

Consistent with the proposed changes to OCC's Rules, OCC would amend the portions of the Capital Management Policy that concern OCC's usage of excess capital to cover default losses to more specifically identify the resources OCC would contribute to default losses; namely, the Minimum Corporate Contribution and LNAFBE above 110% of the Target Capital Requirement. OCC would clarify that after exhausting the Minimum Corporate Contribution, OCC would continue to offset default losses with LNAFBE, rather than ''Equity,'' above 110% of the Target Capital requirement. This change is not intended to change OCC's current obligations. Rather, OCC intends to conform the Capital Management Policy so that the terms are consistent with those used in the proposed Rules, other requirements in the Capital Management Policy, and OCC's regulatory obligations. Specifically, the Capital Management Policy provides that the resources held to meet the Target Capital Requirement must be liquid assets separate from OCC's resources to cover participant defaults and liquidity shortfalls, consistent with SEC Rule 17Ad–22(e)(15)(ii)(A).[24] Because Equity typically exceeds LNAFBE and because any funds OCC would contribute to cover a default loss would need to be liquid assets, contributing liquid assets in excess of LNAFBE greater than 110% of the Target Capital Requirement would be inconsistent with the Capital Management Policy.

In addition, OCC would amend the Capital Management Policy's list of capital management actions with a material impact on current or future levels of Equity, replacing ''use of current and retained earnings greater than 100% of the Target Capital Requirement'' with ''use of excess capital,'' to align with the title of the Capital Management Policy's ''Excess Capital Usage'' section. That section would also be updated to include a discussion of the factors that the Board would consider in establishing and adjusting the Minimum Corporate Contribution. Factors the Board would consider include, but are not limited to, the regulatory requirements in each jurisdiction in which OCC is registered or in which OCC is actively seeking recognition, the amount similarly situated central counterparties commit of their own resources to address participant defaults, the current and projected level of the EDCP Unvested Balance, OCC's LNAFBE greater than 110% of its Target Capital Requirement, projected revenue and expenses, and other projected capital needs. While the Capital Management Policy would provide that the Board would review Minimum Corporate Contribution annually, the Board would retain authority to change the Minimum Corporate at its discretion. In addition, the Capital Management Policy would be updated to include the substance of and references to proposed Rule 1006(e)(v), which, as discussed above, provides for a 270-day period following a chargeable loss during which the Minimum Corporate Contribution is reduced to its remaining unused portion.

OCC would also amend the definition of LNAFBE in the Capital Management Policy to specifically exclude the Minimum Corporate Contribution, which would be dedicated to cover default losses. The Capital Management Policy defines LNAFBE as the level of cash and cash equivalents, no greater than Equity, less any approved adjustments. The definition currently specifies the exclusion of ''agency-related liabilities, such as Section 31 fees'' as the only approved adjustment. OCC would amend the definition to add the Minimum Corporate Contribution as another example of an approved exemption to the calculation of LNAFBE. As discussed in more detail in the discussion of the statutory basis for these proposed changes below, this proposed amendment to the definition of LNAFBE is intended to ensure that OCC does not double count resources committed to cover default losses as resources available to satisfy regulatory requirements concerning the amount of LNAFBE or other financial resources OCC must maintain to cover operational costs and potential business losses. For similar reasons, OCC would amend the Capital Management Policy's discussion of OCC's Replenishment Plan to add that in the event of an operational loss, OCC shall first use Equity, ''less the Minimum Corporate Contribution,'' above 110% of Target Capital. This amendment reflects that the funds maintained for the Minimum Corporate Contribution are not funds available to cover operational losses.

With respect to OCC's Replenishment Plan, OCC would also amend the definitions of the Early Warning and Trigger Event to exclude the Minimum Corporate Contribution from the calculation of those thresholds so that OCC maintains access to replenishment capital in the event operational losses materialize while still maintaining the Minimum Corporate Contribution exclusively to cover default losses. As described above, the Early Warning and Trigger Event are the thresholds for actions under OCC's Replenishment Plan. Currently, the Early Warning and Trigger Event thresholds are defined with respect to OCC's Equity falling below certain thresholds. OCC is proposing to amend those definitions so that the Early Warning and Trigger Event occur when Equity ''less the Minimum Corporate Contribution'' falls below those same thresholds. These changes would ensure that OCC may maintain the Minimum Corporate Contribution exclusively to address default losses—the effect of which would be to increase Equity relative to LNAFBE—while still maintaining access to its Replenishment Plan should OCC's Equity, less the Minimum

[23] As described below, OCC is proposing to amend the Capital Management Policy to exclude the Minimum Corporate Contribution from the definition of LNAFBE. As a result, a second default loss covered exclusively by the Minimum Corporate Contribution would not impact OCC's level of LNAFBE.

[24] *See* 17 CFR 240.17Ad–22(e)(15)(ii)(A).

Corporate Contribution, fall close to or below the Target Capital Requirement.

(c) Amendments to the Default Management Policy, Clearing Fund Methodology Policy, and RWD Plan

To accommodate the proposed establishment of the Minimum Corporate Contribution, OCC proposes conforming changes to other rule-filed policies that describe OCC's default waterfall, as set forth in OCC Rule 1006. In the Default Management Policy, OCC would delete the passage concerning ''Current and Retained Earnings'' in the current discussion of OCC's default waterfall and replace it with the Minimum Corporate Contribution and LNAFBE greater than 110% of the Target Capital Requirement, as provided in the proposed amendments to Rule 1006 above. OCC would also amend the Default Management Policy's definition of ''financial resources'' to include the Minimum Corporate Contribution as among those available to address Clearing Member defaults and suspensions. In the Clearing Fund Methodology Policy, OCC would similarly revise the discussion of the default waterfall in that policy's section covering Clearing Fund charges and assessments to incorporate the Minimum Corporate Contribution, consistent with the proposed amendments to Rule 1006 above. OCC would also amend the Clearing Fund Methodology Policy's definitions of OCC's ''Pre-Funded Financial Resources'' for the purposes of sizing or measuring the sufficiency of the Clearing Fund to include the Minimum Corporate Contribution. Finally, OCC would amend the RWD Plan to replace all references to ''current or retained earnings'' with the Minimum Corporate Contribution and LNAFBE greater than 110% of the Target Capital Requirement, or ''skin-in-the-game'' for short, modify certain example scenarios concerning use of OCC's Enhanced Risk Management and Recovery Tools to account for the proposed Minimum Corporate Contribution, and make certain other conforming changes concerning use of skin-in-the-game to address liquidity shortfalls and, in the case of LNAFBE greater than 110% of the Target Capital Requirement, OCC's authority to use skin-in-the-game to address losses resulting from bank or securities or commodities clearing organization failures, including custody or investment losses.

Anticipated Effect on and Management of Risk

OCC believes that the proposed changes would reduce the nature and level of risk presented by OCC because they would enhance the overall resilience of OCC's capital management and default management processes. Establishing a Minimum Corporate Contribution, which OCC would apply after a defaulting Clearing Member's margin and Clearing Fund deposits, would ensure a minimum level of OCC's own pre-funded financial resources available to cover credit losses. By applying the Minimum Corporate Contribution before charging the Clearing Fund, the proposed change helps protect non-defaulting Clearing Members from default losses of another Clearing Member, which in turn helps reduce OCC's overall level of risk and ensure the prompt and accurate clearance and settlement of its cleared products. In addition, the proposed changes to OCC's Rules, Capital Management Policy and other rule-filed policies intended to account for the use of OCC's Minimum Corporate Contribution and LNAFBE greater than 110% of the Target Capital Requirement would help ensure that OCC continues to hold LNAFBE sufficient to meet its regulatory obligations and maintain access to its Replenishment Plan in the event that an operational loss causes Equity, less the Minimum Corporate Contribution reserved for default losses, to fall close to or below regulatory requirements. Together these features of the Capital Management Policy help ensure that OCC maintains levels of capital sufficient to allow it to absorb substantial business losses and meet its responsibilities as a systemically important financial market utility, which in turn helps reduce OCC's overall level of risk.

Consistency With the Clearing Supervision Act

The stated purpose of the Clearing Supervision Act is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[25] Section 805(a)(2) of the Clearing Supervision Act[26] also authorizes the Commission to prescribe risk management standards for the payment, clearing and settlement activities of designated clearing entities, like OCC, for which the Commission is the supervisory agency. Section 805(b) of the Clearing Supervision Act[27] states that the objectives and principles for risk management standards prescribed under Section 805(a) shall be to promote robust risk management, promote safety and soundness, reduce systemic risks, and support the stability of the broader financial system.

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act and the Exchange Act in furtherance of these objectives and principles.[28] Rule 17Ad–22 requires registered clearing agencies, like OCC, to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[29] Therefore, the Commission has stated[30] that it believes it is appropriate to review changes proposed in advance notices against Rule 17Ad–22 and the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act.[31]

OCC believes the proposed changes are consistent with the objectives and principles of Section 805(b) of the Clearing Supervision Act.[32] The proposed changes are generally designed to enhance OCC's resiliency by establishing a Minimum Corporate Contribution that would be used to absorb losses or liquidity shortfalls arising from the default of a Clearing Member. While OCC's current rules commit OCC to contribute a contingent amount of capital to address default losses or liquidity shortfalls, the proposed changes would commit to a minimum amount, subject to a replenishment period if OCC charges a loss to the Minimum Corporate Contribution. Ensuring a minimum amount of skin-in-the-game would reduce the amount OCC may need to charge the Clearing Fund deposits of non-defaulting Clearing Member. In this way, OCC believes that the proposed establishment of the Minimum Corporate Contribution and attendant changes would improve OCC's resilience as a systemically important market utility by promoting robust risk management, promoting safety and

[25] 12 U.S.C. 5461(b).

[26] 12 U.S.C. 5464(a)(2).

[27] 12 U.S.C. 5464(b).

[28] 17 CFR 240.17Ad–22. *See* Exchange Act Release Nos. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11) (''Clearing Agency Standards''); 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7–03–14) (''Standards for Covered Clearing Agencies'').

[29] 17 CFR 240.17Ad–22.

[30] *See, e.g.,* Exchange Act Release No. 86182 (June 24, 2019), 84 FR 31128, 31129 (June 28, 2019) (SR–OCC–2019–803).

[31] 12 U.S.C. 5464(b).

[32] *Id.*

soundness, reducing systemic risks, and supporting the stability of the broader financial system.

OCC also believes that the proposed changes are consistent with the risk management standards adopted by the Commission under Section 805(a)(2) of the Clearing Supervision Act; [33] specifically, Rules 17Ad–22(e)(4), [34] 17Ad–22(e)(15)(ii)(A),[35] 17Ad–22(e)(15)(iii),[36] Rules 17Ad–22(e)(2)(i),[37] and 17Ad–22(e)(23) [38] thereunder for the reasons described below.

Rule 17Ad–22(e)(4) under the Exchange Act provides, in part, that OCC establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor and manage its credit exposures to participants and those arising from its payment, clearing and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[39] By providing that OCC shall maintain a minimum level of skin-in-the-game—in addition to OCC's LNAFBE greater than 110% of its Target Capital Requirement, contributed prior to charging the Clearing Fund, as OCC's Rules currently provide—OCC is providing for a minimum level of pre-funded financial resources available to cover losses in the event of a Clearing Member default, and reducing the amount OCC would charge the Clearing Fund contributions of non-defaulting Clearing Members. Therefore, OCC believes the amendments to its Rules, the Capital Management Policy, and other related policies to establish the Minimum Corporate Contribution are consistent with Rule 17Ad–22(e)(4).

OCC also believes that the proposed changes to the definition of LNAFBE in OCC's Capital Management Policy, which exclude the Minimum Corporate Contribution from the calculation of LNAFBE, are consistent with Rule 17Ad–22(e)(15)(ii)(A) under the Exchange Act.[40] Rule 17Ad–22(e)(15)(ii)(A) requires that the LNAFBE held by OCC to satisfy the minimum LNAFBE required by Rule 17Ad–22(e)(15)(ii) [41] shall be in addition to resources held to cover participant defaults or other credit or liquidity risks.[42] The proposed revision to OCC's definition of LNAFBE is designed to satisfy Rule 17Ad–22(e)(15)(ii)(A) by providing that the proposed Minimum Corporate Contribution, which would be held exclusively to cover participant defaults and liquidity shortfalls, would be in addition to the LNAFBE that OCC holds to meet or exceed its regulatory capital requirements under Rule 17Ad–22(e)(15)(ii)—*i.e.,* LNAFBE in an amount equal to 110% of OCC's Target Capital Requirement. In addition, the proposed revisions to OCC Rule 1006(e)(iii) and the Capital Management Policy—which would specify that OCC's committed skin-in-the-game shall include the Minimum Corporate Contribution and LNAFBE greater than 110% of the Target Capital Requirements—are reasonably designed to ensure that OCC would not be obligated to contribute an amount of skin-in-the-game that would cause its LNAFBE to fall below the Early Warning threshold intended to ensure OCC maintains sufficient LNAFBE to meet its regulatory obligations. As a result, OCC believes the proposed amendments to the Capital Management Policy are designed to comply with Rule 17Ad–22(e)(15)(ii)(A).

In addition, OCC believes that the proposed amendments to OCC's definition of the Early Warning and Trigger Event thresholds under OCC's Replenishment Plan are consistent with Rule 17Ad–22(e)(15)(iii) [43] because excluding the Minimum Corporate Contribution from those thresholds would ensure that OCC may continue to access replenishment capital in the unlikely event that OCC experiences an operational loss while continuing to maintain the Minimum Corporate Contribution exclusively to cover default losses. Rule 17Ad–22(e)(15)(iii) requires, in part, that OCC establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor, and manage OCC's general business risk, including by maintaining a viable plan for raising additional Equity should its Equity fall close to or below the amount required under Rule 17Ad–22(e)(15)(ii).[44] By setting the threshold triggers by reference to the Target Capital Requirement, OCC's Replenishment Plan is designed to require OCC to act to raise capital should its Equity fall close to or below the amounts required under Rule 17Ad–22(e)(15)(ii). However, the effect of holding the Minimum Corporate Contribution would be to increase OCC's Equity relative to LNAFBE available to cover potential operational losses. To help ensure that OCC holds LNAFBE above its Target Capital Requirement and maintains access to replenishment capital, the proposed change would exclude the Minimum Corporate Contribution when measuring OCC's Equity against the Early Warning and Trigger Event thresholds under its Replenishment Plan. Accordingly, OCC believes that the proposed amendments to the definitions of the Early Warning and Trigger Event thresholds are consistent with Rule 17Ad–22(e)(15)(iii).

OCC also believe that the proposed changes are consistent with Rule 17Ad–22(e)(2)(i), which requires that covered clearing agencies maintain written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent.[45] The proposed changes would align the terminology used in OCC's Rules and other rule-filed policies with the terminology of the Capital Management Policy, providing better clarity and consistency between OCC's governing documents. Specifically, OCC would amend its Rules, Capital Management Policy, Default Management Policy, Clearing Fund Methodology Policy and RWD Plan to identify OCC's sources of skin-

[33] 12 U.S.C. 5464(a)(2).

[34] 17 CFR 240.17Ad–22(e)(4).

[35] 17 CFR 240.17Ad–22(e)(15)(ii).

[36] 17 CFR 240.17Ad–22(e)(15)(iii).

[37] 17 CFR 240.17Ad–22(e)(2)(i).

[38] 17 CFR 240.17Ad–22(e)(23).

[39] 17 CFR 240.17Ad–22(e)(4)(i).

[40] 17 CFR 240.17Ad–22(e)(15)(ii)(A).

[41] Rule 17Ad–22(e)(15)(ii), in turn, requires that OCC hold LNAFBE to the greater of (x) six months of OCC's current operating expenses, or (y) the amount determined by the Board to be sufficient to ensure a recovery or orderly wind-down of critical operations and services. 17 CFR 240.17Ad–22(e)(15)(ii). OCC's Capital Management Policy is reasonably designed to meet this requirement, and Rule 17Ad–22(e)(15) more broadly, by providing that OCC sets its Target Capital Requirement at a level sufficient to maintain LNAFBE at least equal to the greater of: (x) Six months of OCC's current operating expenses, (y) the amount determined by the Board to be sufficient to ensure a recovery or orderly winddown of critical operations and services, and (z) the amount determined by the Board to be sufficient for OCC to continue operations and services as a going concern if general business losses materialize. *See* Order Approving Capital Management Policy, 85 FR at 5501–02. In addition, in setting the Target Capital Requirement, OCC's Board considers OCC's projected rolling twelve-months' operating expenses to ensure that OCC maintains Equity and other financial resources approved by the CFTC, as required by CFTC Rule 39.11(a)(2). *See id.* at 5501 n.19 (citing 17 CFR 39.11(a)(2)).

[42] *Id.* Similarly, CFTC Rule 39.11(b)(3) provides that a derivatives clearing organization (''DCO'') may allocate financial resources to satisfy requirements that the DCO possess financial resources (i) to enable the DCO to meet obligations notwithstanding a default by the clearing member creating the largest financial exposure for the DCO in extreme but plausible market conditions, and (ii) to enable the DCO to cover its operational costs, but not both. *See* 17 CFR 39.11(b)(3).

[43] 17 CFR 240.17Ad–22(e)(15)(iii).

[44] *Id.* As discussed in note 41, *supra,* OCC's Target Capital Requirement is reasonably designed to meet or exceed the minimum LNAFBE required to satisfy Rule 17Ad–22(e)(15)(ii).

[45] 17 CFR 240.17Ad–22(e)(2)(i).

in-the-game (the Minimum Corporation Contribution, LNAFBE greater than 110% of the Target Capital Requirement, and the EDCP Unvested Balance) and their places within OCC's default waterfall. The proposed amendments to the Capital Management Policy would also identify factors the Board would consider in setting and adjusting the Minimum Corporate Contribution. Accordingly, OCC believes conforming the terms in these governance arrangements and identifying factors OCC would consider in adjusting the Minimum Corporate Contribution is consistent with Rule 17Ad–22(e)(2)(i).

Finally, OCC believe that the proposed changes are consistent with Rule 17Ad–22(e)(23), which requires covered clearing agencies to maintain written policies and procedures reasonably designed to, among other things, provide for publicly disclosing all relevant rules and material procedures, including key aspects of its default rules and procedures.[46] The proposed changes would amend OCC's Rules to remove the pre-Capital Management Policy references to use of ''retained earnings'' or ''current and retained earnings'' with respect to the sources of OCC's skin-in-the-game, and instead identify the Minimum Corporate Contribution and LNAFBE greater than 110% of the Target Capital Requirement. The proposed changes would also provide greater clarity about how OCC calculates the amount of LNAFBE greater than 110% of the Target Capital Requirement based upon the unaudited financial statements from the close of the prior month; provided, however, that OCC would not be required to contribute an amount that would cause its LNAFBE to fall below 110% of the Target Capital Requirement at the time charged. The proposed changes to OCC Rules would, in turn, be made available on OCC's website. Therefore, OCC believes the proposed changes would disclose relevant default rules and procedures to the public and to Clearing Members.

For the foregoing reasons, OCC believes that the proposed changes are consistent with Section 805(b) of the Clearing Supervision Act[47] and Rules 17Ad–22(e)(4), [48] 17Ad–22(e)(15)(ii)(A),[49] 17Ad–22(e)(15)(iii),[50] Rules 17Ad–22(e)(2)(i),[51] and 17Ad–22(e)(23)[52] under the Exchange Act.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date the proposed change was filed with the Commission or (ii) the date any additional information requested by the Commission is received. OCC shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

OCC shall post notice on its website of proposed changes that are implemented. The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the advance notice is consistent with the Clearing Supervision 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–OCC–2021–801 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–OCC–2021–801. 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 advance notice that are filed with the Commission, and all written communications relating to the advance notice 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 self-regulatory organization.

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–OCC–2021–801 and should be submitted on or before March 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[53]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–04087 Filed 2–26–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91192]

Order Granting Application by MIAX PEARL, LLC for an Exemption Pursuant to Section 36(a) of the Exchange Act From the Rule Filing Requirements of Section 19(b) of the Exchange Act With Respect to Certain Rules Incorporated by Reference

February 23, 2021.

MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') has filed with the Securities and Exchange Commission

[46] 17 CFR 240.17Ad–22(e)(23).

[47] 12 U.S.C. 5464(b).

[48] 17 CFR 240.17Ad–22(e)(4).

[49] 17 CFR 240.17Ad–22(e)(15)(ii).

[50] 17 CFR 240.17Ad–22(e)(15)(iii).

[51] 17 CFR 240.17Ad–22(e)(2)(i).

[52] 17 CFR 240.17Ad–22(e)(23).

[53] 17 CFR 200.30–3(a)(91).

(''Commission'') an application for an exemption under Section 36(a)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] from the rule filing requirements of Section 19(b) of the Exchange Act [2] with respect to certain rules of the Financial Industry Regulatory Authority, Inc. (''FINRA'') and Miami International Securities Exchange, LLC (''MIAX''), an affiliate of MIAX PEARL, that the Exchange seeks to incorporate by reference.[3] Section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class thereof, from any provision of the Exchange Act or rule thereunder, if necessary or appropriate in the public interest and consistent with the protection of investors.

On August 14, 2020, the Commission approved the Exchange's proposal to adopt rules to govern the trading of cash equities and establish an equities trading facility of the Exchange.[4] Among other things, these MIAX PEARL Equities Rules include conduct and operational rules applicable to a new category of Exchange member participation, referred to as ''Equity Members.''

MIAX PEARL has requested, pursuant to Rule 0–12 under the Exchange Act,[5] that the Commission grant the Exchange an exemption from the rule filing requirements of Section 19(b) of the Act for changes to those MIAX PEARL Equities Rules that are effected solely by virtue of a change to a cross-referenced FINRA or MIAX rule.[6] Specifically, the Exchange requests that it be permitted to incorporate by reference changes made to each FINRA or MIAX rule (or series of rules as the case may be) that is cross-referenced in the following MIAX PEARL Equities Rules, without the need for the Exchange to file separately the same proposed rule changes pursuant to Section 19(b) of the Act: [7]

- Rule 2101 (Violations Prohibited) cross-references MIAX Rule 300 (Adherence to Law),
- Rule 2104 (Communications with the Public) cross-references FINRA Rule 2210 (Communications with the Public) (except for paragraph (c) of FINRA Rule 2210),
- Rule 2105 (Know Your Customer) cross-references FINRA Rule 2090 (Know Your Customer),
- Rule 2107 (Suitability) cross-references FINRA Rule 2111 (Suitability),
- Rule 2119 (Telemarketing) cross-references MIAX Rule 1325 (Telemarketing),
- Rule 2200 (General Requirements) cross-references FINRA Rule 4511 (General Requirements),
- Rule 2201 (Customer Account Information) cross-references FINRA Rule 4512 (Customer Account Information),
- Rule 2203 (Record of Written Complaints) cross-references FINRA Rule 4513 (Records of Written Customer Complaints),
- Rule 2204 (Disclosure of Financial Condition) cross-references MIAX Rule 1313 (Statement of Financial Condition to Customers),
- Rule 2302 (Annual Certification of Compliance and Supervisory Processes) cross-references FINRA Rule 3130 (Annual Certification of Compliance and Supervisory Processes),
- Rule 2303 (Prevention of the Misuse of Material, Non-Public Information) cross-references MIAX Rule 303 (Prevention of the Misuse of Material Non-Public Information),
- Rule 2304 (Anti-Money Laundering Compliance Program) cross-references MIAX Rule 315 (Anti-Money Laundering Compliance Program),
- Rule 2305 (Transactions for or by Associated Persons) cross-references FINRA Rule 3210 (Accounts at Other Broker-Dealers and Financial Institutions),
- Rule 2712 (Trading Ahead of Research Reports) cross-references MIAX Rule 320 (Trading Ahead of Research Reports),
- Rule 2714 (Front Running of Block Transactions) cross-references FINRA Rule 5270 (Front Running of Block Transactions), and
- Rule 2715 (Disruptive Quoting and Trading Activity Prohibited) cross-references MIAX Rule 322 (Disruptive Quoting and Trading Activity Prohibited).

The Exchange states that the direct incorporations by reference of FINRA and MIAX rules, which are regulatory in nature,[8] are intended to be a comprehensive integration of the relevant FINRA and MIAX rules into the MIAX PEARL Equities Rules.[9] As the Exchange notes, the MIAX PEARL Rules currently incorporate by reference Chapters III and XIII of the MIAX Rules, and the Exchange has previously received an exemption from the rule filing requirements of Section 19(b) with respect to these rules.[10] Equity Members are a subset of MIAX PEARL Members,[11] and MIAX PEARL Members are currently subject to the MIAX Rules that are already incorporated by reference.[12] According to the Exchange, the recently approved MIAX PEARL Equities Rules cross-reference to these MIAX Rules for completeness and to remove doubt as to whether an Equity Member would be subject to these cross-referenced MIAX Rules.[13]

The Exchange represents that, as a condition to the requested exemption from Section 19(b) of the Act, the Exchange will provide written notice to its members whenever FINRA or MIAX proposes a change to a cross-referenced rule.[14] Such notice will alert Exchange members to the proposed rule change and give them an opportunity to comment on the proposal.[15] The Exchange further represents that it similarly will inform members in

[1] 15 U.S.C. 78mm(a)(1).

[2] 15 U.S.C. 78s(b).

[3] *See* Letter from Christopher Solgan, VP, Senior Counsel, MIAX PEARL, to Vanessa Countryman, Secretary, Commission, dated January 15, 2021 (''Exemptive Request''). The Exchange submitted the Exemptive Request in connection with its proposal to adopt rules to govern the trading of equity securities on the Exchange (referred to herein as ''MIAX PEARL Equities Rules''). *See* Securities Exchange Act Release Nos. 88132 (February 6, 2020), 85 FR 8053 (February, 12, 2020) (Notice of Filing of a Proposed Rule Change To Adopt Rules Governing the Trading of Equity Securities); and 88859 (May 12, 2020), 85 FR 29759 (May 18, 2020) (Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Establish Rules Governing the Trading of Equity Securities).

[4] *See* Securities Exchange Act Release No. 83289 (August 14, 2020), 85 FR 51510 (August 20, 2020) (SR–PEARL–2020–03).

[5] 17 CFR 240.0–12.

[6] *See* Exemptive Request, *supra* note 3, at 2.

[7] *Id.* at 2–3.

[8] *See id.* at 4. The Exchange represents that the FINRA and MIAX rules proposed to be incorporated by reference are not trading rules. In addition, the Exchange notes that several other self-regulatory organizations (''SROs'') incorporate by reference certain regulatory rules of another SRO and have received from the Commission similar exemptions from Section 19(b) of the Exchange Act. *See id.* at 4 n.7.

[9] *See id.* at 4.

[10] *See id.* at 3; Securities Exchange Act Release No. 79543 (December 13, 2016), 81 FR 92901 (December 20, 2016) (File No. 10–227) (In the Matter of the Application of MIAX PEARL, LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission) (granting the application of MIAX PEARL for registration as a national securities exchange, and conditionally exempting MIAX PEARL from the rule filing requirements of Section 19(b) of the Act with respect to the MIAX, Chicago Board Options Exchange, Incorporated (''CBOE''), New York Stock Exchange LLC, and FINRA rules that MIAX PEARL proposed to incorporate by reference, including MIAX Rules Chapters III and XIII).

[11] *See* MIAX PEARL Rule 2000.

[12] *See* MIAX PEARL Rules Chapters III and XIII.

[13] *See* Exemptive Request, *supra* note 3, at 4.

[14] The Exchange represents that it will provide such notice on its website in the same section it uses to post its own proposed rule change filings pursuant to Rule 19b–4(l) within the same time period required by such Rule. The MIAX PEARL website will also include a link to the FINRA or MIAX website where the proposed rule change filings are located. *See id.*

[15] *See id.* at 4 n.8.

writing when the Commission approves any such proposed rule changes.[16]

According to the Exchange, this exemption is necessary and appropriate because it would result in the MIAX PEARL Equities Rules being consistent with the relevant cross-referenced FINRA and MIAX rules at all times, thus ensuring identical regulation of joint members of the Exchange, FINRA, and/or MIAX with respect to such rules.[17] Without such an exemption, joint members of the Exchange, FINRA, and/or MIAX could be subject to two different standards.[18] In addition, the Exchange believes that the exemption would ensure consistency between certain MIAX PEARL Equities Rules and FINRA rules that are covered by the Exchange's regulatory services agreement (''RSA'') with FINRA, which would facilitate FINRA's provision of services to the Exchange under the RSA within the scope of those MIAX PEARL Equities Rules.[19]

The Commission has issued exemptions similar to the Exchange's request.[20] In granting one such exemption in 2010, the Commission repeated a prior, 2004 Commission statement that it would consider similar future exemption requests from other SROs, provided that:

- An SRO wishing to incorporate rules of another SRO by reference has submitted a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, has identified the applicable originating SRO(s), together with the rules it wants to incorporate by reference, and otherwise has complied with the procedural requirements set forth in the Commission's release governing procedures for requesting exemptive orders pursuant to Rule 0–12 under the Exchange Act; [21]
- The incorporating SRO has requested incorporation of categories of rules (rather than individual rules within a category) that are not trading rules (*e.g.,* the SRO has requested incorporation of rules such as margin, suitability, or arbitration); and
- The incorporating SRO has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO.[22]

The Commission believes that the Exchange has satisfied each of these conditions. The Commission also believes that granting the Exchange an exemption from the rule filing requirements under Section 19(b) of the Exchange Act will promote efficient use of Commission and Exchange resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO.[23] The Commission therefore finds it appropriate in the public interest and consistent with the protection of investors to exempt the Exchange from the rule filing requirements under Section 19(b) of the Exchange Act with respect to the above-described rules it has incorporated by reference. This exemption is conditioned upon the Exchange promptly providing written notice to its members whenever FINRA or MIAX changes a rule that the Exchange has incorporated by reference.

Accordingly, *it is ordered,* pursuant to Section 36 of the Exchange Act,[24] that the Exchange is exempt from the rule filing requirements of Section 19(b) of the Exchange Act solely with respect to changes to the MIAX PEARL Equities Rules identified in its request that incorporate by reference certain FINRA and MIAX rules that are the result of changes to such FINRA or MIAX rules, provided that the Exchange promptly provides written notice to its members whenever FINRA or MIAX proposes to change a rule that the Exchange has incorporated by reference.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–04091 Filed 2–26–21; 8:45 am]

BILLING CODE 8011–01–P

[16] *See id.*

[17] *See id.* at 3.

[18] *See id.*

[19] *See id.*

[20] *See, e.g.,* Securities Exchange Act Release Nos. 83296 (May 21, 2018), 83 FR 24362 (May 25, 2018) (order granting NYSE National, Inc.'s exemptive request relating to rules of FINRA incorporated by reference); 83040 (April 12, 2018), 83 FR 17198 (April 18, 2018) (order granting MIAX PEARL's exemptive request relating to rules of MIAX incorporated by reference); 78101 (June 17, 2016), 81 FR 41141, 41165 (June 23, 2016) (order granting application for registration as a national securities exchange of Investors' Exchange, LLC and exemptive request relating to rules of FINRA incorporated by reference); 76998 (January 29, 2016), 81 FR 6066, 6083–84 (February 4, 2016) (order granting application for registration as a national securities exchange of ISE Mercury, LLC (now known as Nasdaq MRX, LLC) and exemptive request relating to rules of the International Securities Exchange, LLC (now known as Nasdaq ISE, LLC) (''ISE'') incorporated by reference, including index options rules); 70050 (July 26, 2013), 78 FR 46622, 46642 (August 1, 2013) (order granting application for registration as a national securities exchange of Topaz Exchange, LLC (now known as Nasdaq GEMX, LLC) and exemptive request relating to rules of ISE incorporated by reference, including index options rules); 61152 (December 10, 2009), 74 FR 66699, 66709–10 (December 16, 2009) (order granting application for registration as a national securities exchange of C2 Options Exchange, Incorporated and exemptive request relating to rules of CBOE incorporated by reference, including index options rules). *See also, e.g.,* Securities Exchange Act Release No. 61534 (February 18, 2010), 75 FR 8760 (February 25, 2010) (order granting BATS Exchange, Inc.'s exemptive request relating to rules incorporated by reference by the BATS Exchange Options Market rules) (''BATS Options Market Order'').

[21] *See* 17 CFR 240.0–12; Securities Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998) (Commission Procedures for Filing Applications for Orders for Exemptive Relief Pursuant to Section 36 of the Exchange Act).

[22] *See* BATS Options Market Order, *supra* note 20 (citing Securities Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004) (order granting exemptive request relating to rules incorporated by reference by several SROs) (''2004 Order'')).

[23] *See id.* at 8761. *See also* 2004 Order, *supra* note 22, at 8502.

[24] 15 U.S.C. 78mm.

[25] 17 CFR 200.30–3(a)(76).

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0295]

Northcreek Mezzanine Fund I, 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. 05/05–0295 issued to Northcreek Mezzanine Fund I, L.P., said license is hereby declared null and void.

United States Small Business Administration.

Thomas G. Morris,

Acting Associate Administrator, Director, Office of SBIC Liquidation, Office of Investment and Innovation.

[FR Doc. 2021–04138 Filed 2–26–21; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16876 and #16877; TEXAS Disaster Number TX–00591]

Presidential Declaration of a Major Disaster for the State of Texas

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–4586–DR), dated 02/19/2021.

Incident: Severe Winter Storms.

Incident Period: 02/11/2021 and continuing.

DATES: Issued on 02/19/2021.

Physical Loan Application Deadline Date: 04/20/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 11/19/2021.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 02/19/2021, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):

Angelina, Aransas, Bastrop, Bee, Bell, Bexar, Blanco, Brazoria, Brazos, Brown, Burleson, Caldwell, Calhoun, Cameron, Chambers, Collin, Comal, Comanche, Cooke, Coryell, Dallas, Denton, Dewitt, Ellis, Falls, Fort Bend, Galveston, Gillespie, Grimes, Guadalupe, Hardin, Harris, Hays, Henderson, Hidalgo, Hood, Jasper, Jefferson, Johnson, Kaufman, Kendall, Lavaca, Liberty, Madison, Matagorda, Maverick, McLennan, Montague, Montgomery, Nacogdoches, Nueces, Orange, Palo Pinto, Panola, Parker, Polk, Rockwall, Sabine, San Jacinto, San Patricio, Scurry, Shelby, Smith, Stephens, Tarrant, Travis, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wharton, Wichita, Williamson, Wilson, Wise.

Contiguous Counties (Economic Injury Loans Only):

Texas: Anderson, Archer, Atascosa, Austin, Bandera, Baylor, Borden, Bosque, Brooks, Burnet, Callahan, Camp, Cherokee, Clay, Coleman, Colorado, Dimmit, Eastland, Erath, Fannin, Fayette, Fisher, Freestone, Garza, Goliad, Gonzales, Grayson, Gregg, Hamilton, Harrison, Hill, Houston, Howard, Hunt, Jack, Jackson, Jim Wells, Karnes, Kenedy, Kent, Kerr, Kimble, Kinney, Kleberg, Lampasas, Lee, Leon, Limestone, Live Oak, Llano, Marion, Mason, McCulloch, Medina, Milam, Mills, Mitchell, Morris, Navarro, Newton, Nolan, Rains, Refugio, Robertson, Rusk, San Augustine, San Saba, Shackelford, Somervell, Starr, Throckmorton, Trinity, Uvalde, Washington, Webb, Wilbarger, Willacy, Wood, Young, Zavala.

Louisiana: Caddo, Calcasieu, Cameron, De Soto, Sabine.

Oklahoma: Cotton, Jefferson, Love, Tillman.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	2.500
Homeowners without Credit Available Elsewhere	1.250
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	3.000
Non-Profit Organizations with Credit Available Elsewhere	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.000
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 16876 7 and for economic injury is 16877 0.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2021–04198 Filed 2–26–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16878 and #16879; Colorado Disaster Number CO–00130]

Administrative Declaration of a Disaster for the State of Colorado

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Colorado dated 02/23/2021.

Incident: Wildfires.

Incident Period: 09/06/2020 through 11/05/2020.

DATES: Issued on 02/23/2021.

Physical Loan Application Deadline Date: 04/26/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 11/23/2021.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Grand.

Contiguous Counties:

Colorado: Boulder, Clear Creek, Eagle, Gilpin, Jackson, Larimer, Routt, Summit.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	2.375
Homeowners without Credit Available Elsewhere	1.188
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	3.000
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.000
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16878 5 and for economic injury is 16879 0.

The State which received an EIDL Declaration # is Colorado.

(Catalog of Federal Domestic Assistance Number 59008)

Tami Perriello,

Acting Administrator.

[FR Doc. 2021–04135 Filed 2–26–21; 8:45 am]

BILLING CODE 8026–03–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2021–0003]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA

Comments: https://www.reginfo.gov/public/do/PRAMain. Submit your comments online referencing Docket ID Number [SSA–2021–0003].

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

Or you may submit your comments online through *https://www.reginfo.gov/public/do/PRAMain,* referencing Docket ID Number [SSA–2021–0003].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than April 30, 2021. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Certification by Religious Group—20 CFR 404.1075—0960–0093. SSA is responsible for determining whether religious groups meet the qualifications exempting certain members and sects from payment of Self-Employment Contribution Act taxes under the Internal Revenue Code, Section 1402(g). SSA sends Form SSA–1458, Certification by Religious Group, to a group's authorized spokesperson to complete and verify organizational members meet or continue to meet the criteria for exemption. The respondents are spokespersons for religious groups or sects.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA–1458	142	1	45	107	* $25.72	** $2,752

* We based this figure on the average U.S. citizen's hourly salary, as reported by the U.S. Bureau of Labor Statistics (*https://www.bls.gov/oes/current/oes_nat.htm*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. Filing Claims Under the Federal Tort Claims Act—20 CFR 429.101–429.110—0960–0667. The Federal Tort Claims Act (FTCA) is the mechanism for compensating people who Federal employees injured through negligent or wrongful acts that occurred during the performance of those employees' official duties. SSA accepts claims filed under the FTCA for damages against the United States; loss of property; personal injury; or death resulting from an SSA employee's wrongful act or omission. The various types of claims included under this information collection request require claimants to provide information SSA can use to determine whether to make an award, compromise, or settlement under the FTCA. The respondents are individuals or entities making a claim under the FTCA.

Type of Request: Revision of an OMB-approved information collection.

Regulation citations	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) **	Total annual opportunity cost (dollars) ***
429.102; 429.103 *	1	1	1	0	** $25.72	*** $0
429.104(a)	11	1	5	1	** 25.72	*** 26
429.104(b)	43	1	5	4	** 25.72	*** 103
429.104(c)	1	1	5	0	** 25.72	*** 0
429.106(b)	8	1	10	1	** 25.72	*** 26
Totals	64			6		*** 155

* We are including a one-hour placeholder burden for 20 CFR 429.102 and 429.103, as respondents complete OMB-approved Form SF–95, OMB No. 1105–0008. Since the burden for these citations is covered under a separate OMB number, we are not double-counting the burden here.

** We based this figure on the average U.S. citizen's hourly salary, as reported by the U.S. Bureau of Labor Statistics (*https://www.bls.gov/oes/current/oes_nat.htm*).

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

3. Application for Extra Help with Medicare Prescription Drug Plan Costs—20 CFR 418.3101—0960–0696. The Medicare Modernization Act of 2003 mandated the creation of the Medicare Part D prescription drug coverage program and the provision of subsidies for eligible Medicare beneficiaries. SSA uses Form SSA–1020, or the internet version, i1020, the Application for Extra Help with Medicare Prescription Drug Plan Costs, to obtain income and resource information from Medicare beneficiaries, and to make a subsidy decision. The respondents are Medicare beneficiaries applying for the Part D low-income subsidy.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA–1020 (paper applications)	448,836	1	30	224,418	*$25.72	0	***$5,772,031
i1020 (online applications)	365,871	1	25	152,446	25.72	0	*** 3,920,911
Field Office Interviews	85,873	1	30	42,937	*25.72	**24	*** 1,987,796
Totals	900,580			419,801			*** 11,680,738

* We based this figure on the average U.S. citizen's hourly salary, as reported by the U.S. Bureau of Labor Statistics (*https://www.bls.gov/oes/current/oes_nat.htm*).

** We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

4. Rules of Conduct and Standards of Responsibility for Appointed Representatives—20 CFR 404.1740(b)(5), 404.1740(b)(6), 404.1740(b)(9), 416.1540(b)(5), 416.1540(b)(6), and 416.1540(b)(9)—0960–0804. Section 205(a) of the Social Security Act (Act) authorizes SSA's Commissioner to make rules and regulations and to establish procedures which are necessary or appropriate. Section 1631(d)(1) of the Act incorporates section 205(a) and applies it to Title XVI of the Act. Additionally, sections 206(a) and 1631(d)(2) of the Act provide that the Commissioner has the authority to establish rules and regulations governing the recognition of individuals who represent claimants before the Commissioner. Individuals appointed to represent claimants before SSA must report to SSA in writing whenever one of the following situations in our revised regulations occurs:

- *20 CFR 404.1740(b)(5) and 416.1540(b)(5)*—These sections require representatives to disclose to SSA in writing, at the time a medical or vocational opinion is submitted to SSA, or as soon as the representative is aware of the submission to us, if the representative's employee or any individual contracting with the representative drafted, prepared, or issued a medical or vocational opinion about a claimant's disability, or if the representative referred or suggested that the claimant seek an examination from, treatment by, or the assistance of the individual providing opinion evidence;
- *20 CFR 404.1740(b)(6) and 416.1540(b)(6)*—These sections require representatives to disclose to SSA immediately if the representative discovers that his or her services are or were used by the claimant to commit fraud against SSA;
- *20 CFR 404.1740(b)(7) and 416.1540(b)(7)*—These sections require representatives to disclose to SSA whether the representative is or has been disbarred or suspended from any bar or court to which he or she was previously admitted to practice, including instances in which a bar or court took administrative action to disbar or suspend the representative in lieu of disciplinary proceedings; If the disbarment or suspension occurs after the appointment of the representative, the representative will immediately disclose the disbarment or suspension to SSA;
- *20 CFR 404.1740(b)(8) and 416.1540(b)(8)*—These sections require representatives to disclose to SSA whether the representative is or has been disqualified from participating in or appearing before any Federal program or agency, including instances in which a Federal program or agency took administrative action to disqualify the representative in lieu of disciplinary proceedings. If the disqualification occurs after the appointment of the representative, the representative will immediately disclose the disqualification to SSA; and
- *20 CFR 404.1740(b)(9) and 416.1540(b)(9)*—These sections require representatives to disclose to SSA whether the representative has been removed from practice or suspended by a professional licensing authority for reasons that reflect on the representative's character, integrity, judgment, reliability, or fitness to serve as a fiduciary. If the removal or suspension occurs after the appointment of the representative, the representative will immediately disclose the removal or suspension to SSA.

A representative's obligation to report these events is ongoing, and SSA requires representatives to report any time one or more of these events occurs. We consider this information essential to ensure the integrity of our administrative process and to safeguard the rights of all claimants. SSA requires representatives to notify SSA in writing, but there is no prescribed format for these reports. The respondents are individuals appointed to represent claimants before SSA.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
404.1740(b)(5)/416.1540(b)(5)	43,600	1	5	3,633	* $26.45*	** $96,093
404.1740(b)(6)/416.1540(b)(6)	2	1	5	0	* 69.86	** 0
404.1740(b)(7)/416.1540(b)(7)	50	1	5	4	* 69.86	** 279
404.1740(b)(8)/416.1540(b)(8)	10	1	5	1	* 69.86	** 70
404.170(b)(9)/416.1540(b)(9)	10	1	5	1	* 69.86	** 70
Totals	43,672			3,639		** 96,512

* We based these figures on average hourly wages for paralegals/legal assistants and lawyers as posted by the U.S. Bureau of Labor Statistics (*https://www.bls.gov/oes/current/oes_nat.htm*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than March 31, 2021. Individuals can obtain copies of these OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. Letter to Employer Requesting Information About Wages Earned By Beneficiary—20 CFR 404.1520, 404.1571–404.1576, 404.1584–404.1593, and 416.971–416.976—0960–0034. Social Security disability recipients receive payments based on their inability to engage in substantial gainful activity (SGA) because of a physical or mental condition. If the recipients work, SSA must evaluate if they continue to meet the disability requirements of the law. When an individual is unable to provide earnings information and SSA does not have access to proof of earnings, we use Form SSA–L725 to request monthly earnings information from the recipient's employer. SSA employees send the paper from SSA–L725 to the employer to complete, and use the earnings data we receive from the employers to determine whether the recipient is engaging in SGA, since work above SGA level can cause a cessation of disability payments. The respondents are businesses that employ Social Security disability recipients.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA–L725	170,000	1	40	113,333	* $22.79	** $2,582,859

* We based this figure on the average Payroll and Timekeeping Clerks hourly salary, as reported by the Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes433051.htm*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. Request for Review of Hearing Decision/Order—20 CFR 404.967–404.981, 416.1467–416.1481—0960–0277. Claimants have a right under current regulations to request review of a judge's hearing decision, or dismissal of a hearing request on Title II and Title XVI claims. Claimants may request Appeals Council review by filing a written request using paper Form HA–520, or the internet application, i520. SSA uses the information we collect to establish the claimant filed the request for review within the prescribed time, and to ensure the claimant completed the requisite steps permitting the Appeals Council review. The Appeals Council then uses the information to: (1) Document the claimant's reason(s) for disagreeing with the judge's decision or dismissal; (2) determine whether the claimant has additional evidence to submit; and (3) determine whether the claimant has a representative or wants to appoint one. The respondents are claimants requesting review of a judge's decision or dismissal of hearing.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
HA–520—Paper	37,900	1	10	6,317	* $10.95	** 24	*** $235,173
i520—Internet	113,700	1	15	28,425	* 10.95		*** 311,254
Totals	151,600			34,742			*** 546,427

* We based this figure on average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*).

** We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

3. Authorization to Disclose Information to SSA—20 CFR 404.1512 and 416.912, 45 CFR 160 and 164—0960–0623. Sections 223(d)(5)(A) and 1614(a)(3)(H)(i) of the Act require claimants to provide medical and other evidence the Commissioner of Social Security may require to prove they are disabled. SSA must obtain sufficient evidence to make eligibility determinations for Title II and Title XVI payments. The applicants use Form SSA–827, or the internet counterpart, i827, to provide consent for the release of medical records, education records, and other information related to their ability to perform tasks. Once the applicant completes Form SSA–827, or the i827, SSA or the State DDS sends the form to the designated source(s) to obtain pertinent records. The respondents are applicants for Title II and Title XVI disability payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA–827 with electronic signature (EDCS & eAuthorization)	4,189,270	1	9	628,391	* $10.95		*** $6,880,881
SSA–827 with wet signature (paper version)	1,055,807	1	10	175,968	* 10.95	** 24	*** 6,551,286
Totals	5,245,077			804,359			*** 13,432,167

* We based this figure on average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*).
** We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.
*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

4. State Death Match Collections—20 CFR 404.301, 404.310–404.311, 404.316, 404.330–404.341, 404.350–404.352, 404.371, and 416.912—0960–0700. SSA uses the State Death Match Collections to ensure the accuracy of payment files by detecting unreported or inaccurate deaths of beneficiaries. Under the Act, entitlement to retirement, disability, wife's, husband's, or parent's benefits terminate when the beneficiary dies. The states furnish death certificate information to SSA via the manual registration process or the Electronic Death Registration Process (EDR). Both death match processes are automated electronic transfers between the states and SSA. The respondents are the states' bureaus of vital statistics.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average cost per record request	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) **	Total annual opportunity cost (dollars) ***
State Death Match-CyberFusion/GSO: Non-EDR Records from EDR sites	39	68,621	$0.88	$2,355,072	** $21.09	*** $1,447,217
State Death Match-CyberFusion/GSO: Non-EDR sites	5	187,570	0.88	825,308	** 21.09	*** 3,955,851
Total: Non-EDR	44			3,180,380		5,403,068
State Death Match-EDR	48	2,573,956	2.05	253,277,270	** 21.09	*** 54,284,732
States Expected to Become—State Death Match-EDR Within the Next 3 Years **	5	62,600	3.17	992,210	** 21.09	*** 1,320,234
Totals: EDR and Expected EDR	53			254,269,480		*** 55,604,966
Grand Totals	97			257,449,860		*** 61,008,034

* Please note that both of these data matching processes are electronic and there is only a cost burden, and no hourly burden for the respondent to provide this information.
** We based this figure on the average State BVSs hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes434199.htm*).
*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: February 24, 2021.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2021–04165 Filed 2–26–21; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2020–0007]

Privacy Act of 1974; System of Records

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act, we are issuing public notice of our intent to modify an existing system of records entitled, Travel and Border Crossing Records (60–0389), last published on March 3, 2019. This notice publishes details of the modified system as set forth under the caption, **SUPPLEMENTARY INFORMATION**.

DATES: The system of records notice (SORN) is applicable upon its publication in today's **Federal Register**, with the exception of the routine uses, which are effective March 31, 2021. We invite public comment on the routine uses or other aspects of this SORN. In accordance with 5 U.S.C. 552a(e)(4) and (e)(11), the public is given a 30-day period in which to submit comments. Therefore, please submit any comments by March 31, 2021.

ADDRESSES: The public, Office of Management and Budget (OMB), and Congress may comment on this publication by writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, SSA, Room G–401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, or through the Federal e-Rulemaking Portal at *http://www.regulations.gov.* Please reference docket number SSA–2020–0007. All comments we receive will be available for public inspection at the above address and we will post them to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Navdeep Sarai, Government Information Specialist, Privacy Implementation Division, Office of Privacy and Disclosure, Office of the General Counsel, SSA, Room G–401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, telephone: 410–966–5855, email: *Navdeep.Sarai@ssa.gov.*

SUPPLEMENTARY INFORMATION: We are modifying the system manager to include up-to-date contact information per OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act.'' We are modifying the policies and practices for retention and disposal of records to include the National Archives and Records Administration (NARA) General Records Schedule (GRS) 4.2 Information Access and Protection Records, Item 130, Personally Identifiable Information Extracts. Lastly, we are modifying the notice throughout to correct miscellaneous stylistic formatting and typographical errors of the previously published notice to ensure the language reads consistently across multiple systems. We are republishing the entire notice for ease of reference.

In an effort to mitigate improper payments, we established the Travel and Border Crossing Records to collect information about applicants, beneficiaries, and recipients under Titles II, XVI, and XVIII who are or have been absent from the United States (U.S.) for certain periods of time. Generally, we rely on individuals to self-report their foreign travel. Oftentimes, we do not receive these reports or we receive them untimely, which results in improper payments. In general, we suspend Title II benefits to aliens who remain outside of the U.S. for more than six consecutive calendar months. We generally suspend Title II benefits to both U.S. citizens and non-U.S. citizens who travel to a country where payment is restricted by the U.S. Additionally, we suspend Title XVI payments to both citizen and non-citizen recipients who are outside of the U.S. for a full calendar month or 30 consecutive days or longer. SSA is not responsible for making Title XVIII payment determinations on claims for services submitted to the Centers for Medicare and Medicaid Services. However, the information collected in this system will be used for two purposes relating to Title XVIII. First, because Medicare enrollment criteria requires residence in the U.S., SSA will use this information to make initial and reconsideration decisions on Medicare entitlement claims. Second, SSA will use this information to make determinations on physical presence in the U.S. and will update the Master Beneficiary Record (MBR) system of records with those determinations. The Centers for Medicare and Medicaid Services may use information from the MBR in making decisions on whether a Medicare claim can be paid.

In accordance with 5 U.S.C. 552a(r), we provided a report to OMB and Congress on this modified system of records.

Matthew Ramsey,

Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

System Name and Number

Travel and Border Crossing Records, 60–0389.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Social Security Administration, Deputy Commissioner of Operations, Office of Electronic Services and Technology, Division of Programmatic Applications, 6401 Security Boulevard, Baltimore, MD 21235.

SYSTEM MANAGER(S):

Social Security Administration, Deputy Commissioner of Operations, Office of Electronic Services and Technology, Division of Programmatic Applications, 6401 Security Boulevard, Baltimore, MD 21235, 410–965–5855

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 202(n), (t), and (y), 1611(f), 1818 and 1836 of the Social Security Act (42 U.S.C. 402(n), (t), and (y), 1382(f), 1395i–2, and 1395o); 8 U.S.C. 1373(c).

PURPOSE(S) OF THE SYSTEM:

We will use the information in this system to identify applicants, beneficiaries, and recipients under Titles II, XVI, and XVIII of the Social Security Act who have had absences from the U.S. to establish or verify initial or ongoing entitlement to or eligibility for benefits or payments under Titles II, XVI, and XVIII of the Social Security Act.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants, recipients, and beneficiaries under Titles II, XVI, and XVIII of the Social Security Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system maintains information collected about applicants, recipients, or beneficiaries under Titles II, XVI, and XVIII of the Social Security Act who have had absences from the U.S. The information may include name, Social Security number (SSN), date of birth, gender, country of citizenship, country of travel, deportation information, alien registration number, immigration document type and number, travel mode, date and time of departure from

the U.S., and date and time of arrival into the U.S.

RECORD SOURCE CATEGORIES:

We obtain information in this system from applicants, recipients, and beneficiaries under Titles II, XVI and XVIII of the Social Security Act, and from the Department of Homeland Security, Customs and Border Protection's Arrival and Departure Information System under established data exchange agreements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

We will disclose records pursuant to the following routine uses, however, we will not disclose any information defined as ''return or return information'' under 26 U.S.C. 6103 of the Internal Revenue Code, unless authorized by statute, the Internal Revenue Service (IRS), or IRS regulations.

1. To a congressional office in response to an inquiry from that office made on behalf of, and at the request of, the subject of the record or third party acting on the subject's behalf.

2. To the Office of the President in response to an inquiry from that office made on behalf of, and at the request of, the subject of the record or a third party acting on the subject's behalf.

3. To the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906.

4. To appropriate agencies, entities, and persons when:

(a) SSA suspects or has confirmed that there has been a breach of the system of records;

(b) SSA has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, SSA (including its information systems, programs, and operations), the Federal Government, or national security; and

(c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connections with SSA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

5. To another Federal agency or Federal entity, when SSA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in:

(a) Responding to a suspected or confirmed breach; or

(b) 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.

6. To the Department of Justice (DOJ), a court or other tribunal, or another party before such court or tribunal, when:

(a) SSA, or any component thereof; or

(b) any SSA employee in his/her official capacity; or

(c) any SSA employee in his/her individual capacity where DOJ (or SSA, where it is authorized to do so) has agreed to represent the employee; or

(d) the United States or any agency thereof where SSA determines the litigation is likely to affect SSA or any of its components,

is a party to the litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before the tribunal is relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosures of the records to DOJ, court or other tribunal, or another party is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

7. To Federal, State and local law enforcement agencies and private security contractors, as appropriate, information necessary:

(a) To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace, the operation of SSA facilities, or

(b) to assist investigations or prosecutions with respect to activities that affect such safety and security or activities that disrupt the operations of SSA facilities.

8. To contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We disclose information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

9. To student volunteers, individuals working under a personal services contract, and other workers who technically do not have the status of Federal employees when they are performing work for SSA, as authorized by law, and they need access to personally identifiable information (PII) in SSA records in order to perform their assigned agency functions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

We will maintain records in this system in paper and electronic form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

We will retrieve records by the names, SSN, and date of birth of applicants, recipients, or beneficiaries under Titles II, XVI, and XVIII of the Social Security Act.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

In accordance with the approved NARA rules codified at 36 CFR 1225.16, we maintain records in accordance with NARA General Records Schedule 4.2 Information Access and Protection Records, Item 130 Personally Identifiable Information Extracts. See *https://www.archives.gov/files/records-mgmt/grs/grs04-2.pdf.*

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

We retain electronic and paper files with personal identifiers in secure storage areas accessible only by our authorized employees and contractors who have a need for the information when performing their official duties. Security measures include the use of codes and profiles, personal identification number (PIN) and password, and personal identification verification cards. We further restrict the electronic records by the use of the PIN for only those employees who are authorized to access the system. We keep paper records in locked cabinets within secure areas, with access limited to only those employees who have an official need for access in order to perform their duties.

We annually provide our employees and contractors with appropriate security awareness training that includes reminders about the need to protect PII and the criminal penalties that apply to unauthorized access to, or disclosure of, PII (*e.g.,* 5 U.S.C. 552a(i)(1)). Furthermore, employees and contractors with access to databases maintaining PII must sign a sanctions document annually, acknowledging their accountability for inappropriately accessing or disclosing such information.

RECORD ACCESS PROCEDURES:

Individuals may submit requests for information about whether this system contains a record about them by submitting a written request to the system manager at the above address, which includes their name, SSN, or other information that may be in this system of records that will identify

them. Individuals requesting notification of, or access to, a record by mail must include (1) a notarized statement to us to verify their identity or (2) must certify in the request that they are the individual they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

Individuals requesting notification of, or access to, records in person must provide their name, SSN, or other information that may be in this system of records that will identify them, as well as provide an identity document, preferably with a photograph, such as a driver's license. Individuals lacking identification documents sufficient to establish their identity must certify in writing that they are the individual they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

These procedures are in accordance with our regulations at 20 CFR 401.40 and 401.45.

CONTESTING RECORD PROCEDURES:

Same as record access procedures. Individuals should also reasonably identify the record, specify the information they are contesting, and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant. These procedures are in accordance with our regulations at 20 CFR 401.65(a).

NOTIFICATION PROCEDURES:

Same as record access procedures. These procedures are in accordance with our regulations at 20 CFR 401.40 and 401.45.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

84 FR 9195, Travel and Border Crossing Records.

[FR Doc. 2021–04084 Filed 2–26–21; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2021–0168]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Agricultural Aircraft Operations

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request Office of Management and Budget (OMB) approval to renew an information collection. The collection involves the submission of FAA Form 8710–3 for the certification process of agricultural aircraft operators, and other reporting and recordkeeping activities required of agricultural aircraft operators. The information to be collected is necessary to evaluate the applicants' qualifications for certification. This collection also involves the submission of information in petitions for exemption by agricultural aircraft operators, plans for operations over congested areas, and recordkeeping requirements for agricultural aircraft operators.

DATES: Written comments should be submitted by April 30, 2021.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Dwayne C. Morris, 800 Independence Ave. SW, Washington, DC 20591.

By email: chris.morris@faa.gov.

FOR FURTHER INFORMATION CONTACT: Raymond Plessinger by email at: *raymond.plessinger@faa.gov;* phone: 717–443–7296.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0049.

Title: Agricultural Aircraft Operations.

Form Numbers: FAA Form 8710–3.

Type of Review: Renewal.

Background: This collection involves the application for issuance or amendment of a 14 CFR part 137 Agricultural Aircraft Operator Certificate. Application for an original certificate or amendment of a certificate issued under 14 CFR part 137 is made on a form, and in a manner prescribed by the Administrator. The FAA form 8710–3 may be obtained from an FAA Flight Standards District Office, or online at *https://www.faa.gov/forms/index.cfm/go/document.information/documentID/1020386.* The completed application is sent to the district office that has jurisdiction over the area in which the applicant's home base of operation is located.

The information collected includes: Type of application, operator's name/DBA, telephone number, mailing address, physical address of the principal base of operations, chief pilot/designee name, airman certificate grade and number, and aircraft make/model and registration numbers to be used.

This information collection also includes safety mitigation plans and public interest statements in petitions for exemption; plans for operations over congested areas; and recordkeeping requirements.

Respondents: There are 1,763 active agricultural aircraft operators. Approximately 50 operators are certificated annually, and approximately 50 certificates are surrendered or revoked.

Frequency: New applications when needed; current 14 CFR part 137 certificate do not expire, but may need to be amended on occasion.

Estimated Average Burden per Response: The FAA anticipates 100 applications for new certificates, at 0.5 hours each; 100 applications for amendment, at 0.5 hours each; 100 petitions for exemption, at 0.5 hours each; and 350 submissions of plans for operations over congested areas, at 0.5 hours each. The total reporting burden is thus 650 responses and 325 hours.

All operators certificated under part 137 are required to maintain certain records for a minimum of 12 months. The FAA estimates this recordkeeping burden at 4.5 hours per operator. Assuming a universe of 1,763 operators, the annual recordkeeping burden is 7,934 hours.

Estimated Total Annual Burden: 325 reporting hours + 7,934 recordkeeping hours = 8,259 total hours.

Issued in Washington, DC, on February 23, 2021.

Dwayne C. Morris,

Project Manager, Flight Standards Service, General Aviation and Commercial Division.

[FR Doc. 2021–04072 Filed 2–26–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No.—2021–2055]

Petition for Exemption; Summary of Petition Received; Billings Flying Service

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 22, 2021.

ADDRESSES: Send comments identified by docket number FAA–2020–1161 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: Jesse Holston (202) 267–0810, 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–2020–1161.

Petitioner: Billings Flying Service.

Section(s) of 14 CFR Affected: §§ 61.58(g) and 142.59(a)(1–2).

Description of Relief Sought: The requested exemption seeks relief from §§ 61.58(g) and 142.59(a)(1–2) of Title 14 Code of Federal Regulations (14 CFR). The exemption, if granted would allow a pilot trained by the operator, Billings Flight Service, utilizing an approved 14 CFR part 91 training program, to use a purpose built CH–47D Chinook and UH–60A/L Blackhawk simulator to conduct proficiency checks, flight crewmember training, and evaluations events.

[FR Doc. 2021–04094 Filed 2–26–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final. The actions relate to a proposed extension of the eastbound truck climbing lane on Interstate 10 in the Counties of San Bernardino and Riverside, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before July 29, 2021. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Antonia Toledo, Senior Environmental Planner, Environmental Studies D, California Department of Transportation—District 8, 464 West 4th Street, MS–820, San Bernardino, CA 9240. Office Hours: 8:00 a.m.–5:00 p.m., Pacific Standard Time, telephone (909) 501–5741 or email *Antonia.Toldeo@dot.ca.gov.* For FHWA, contact David Tedrick of FHWA at (916) 498–5024 or email *David.Tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July I, 2007, FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Caltrans proposes to extend the eastbound (EB) truck climbing lane (TCL) on Interstate 10 (I–10) from its current terminus, at the existing EB off-ramp to the Live Oak interchange, to east of the County Line Road EB off-ramp, at the San Bernardino County and Riverside County line. I–10 serves as the major east/west urban corridor and commuter route between Los Angeles and San Bernardino and Riverside Counties. Rural areas in eastern Riverside County are connected to the urban centers to the west via the I–10. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (FEA)/Finding of No Significant Impact (FONSI) for the project, issued November 10, 2020, and in other documents in Caltrans' project records. The FEA, FONSI, and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans FEA, FONSI, and other project records can be viewed and downloaded from the project website at *https://www.gosbcta.com/project/i-10-*

truck-climbing-lane/. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations
2. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq*.
3. Federal-Aid Highway Act of 1970, 23 U.S.C. 109
4. MAP–21, the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141)
5. Clean Air Act Amendments of 1990 (CAAA)
6. Clean Water Act of 1977 and 1987
7. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 & 1987)
8. Federal Land Policy and Management Act of 1976 (Paleontological Resources)
9. Noise Control Act of 1972
10. Endangered Species Act of 1973
11. Executive Order 11990, Protection of Wetlands
12. Executive Order 13112, Invasive Species
13. Executive Order 13186, Migratory Birds
14. Fish and Wildlife Coordination Act of 1934, as amended
15. Migratory Bird Treaty Act
16. Executive Order 11988, Floodplain Management
17. Executive Order 12898, Federal Actions to Address Environmental Justice and Low-income Populations

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(Authority: 23 U.S.C. 139(l)(1))

Issued on: February 23, 2021.

Rodney Whitfield,

Director, Financial Services, Federal Highway Administration, California Division.

[FR Doc. 2021–04099 Filed 2–26–21; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning adopted ''aggregate treatment'' with respect to income inclusion amounts arising from section 951A (the global intangible low tax income inclusion or GILTI) for partnerships.

DATES: Written comments should be received on or before April 30, 2021 to be assured of consideration.

ADDRESSES: Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Paul Adams, at (737) 800–6149 or Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Paul.D.Adams@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: S Corporation Guidance under Section 958 (Rules for Determining Stock Ownership) and Guidance Regarding the Treatment of Qualified Improvement Property under the Alternative Depreciation System for Purposes of the QBAI Rules for FDII and GILTI.

OMB Number: 1545–2291.

Regulation Numbers: TD 9986 and Notice 2020–69.

Abstract: The Treasury Department and the IRS published final regulations (TD 9866) in the **Federal Register** (84 FR 29288) under § 951A (final regulations). The final regulations adopted ''aggregate treatment'' with respect to income inclusion amounts arising from section 951A (the global intangible low tax income inclusion or GILTI) for partnerships. Under aggregate treatment, for purposes of determining the GILTI inclusion amount of any partner of a domestic partnership, each partner is treated as proportionately owning the stock of a controlled foreign corporation (CFC) owned by the partnership within the meaning of § 958(a) in the same manner as if the domestic partnership were a foreign partnership. Because only a U.S. person that is a U.S. shareholder can have a GILTI inclusion amount, a partner that is not a U.S. shareholder of a partnership-owned CFC does not have a GILTI inclusion amount determined by reference to the partnership-owned CFC. Section 1.951A–1(e)(1) applies to taxable years of foreign corporations beginning after December 31, 2017, and to taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations' end. Current Actions: There are no changes being made to the regulations at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, or Households.

Estimated Number of Respondents: 3,688.

Estimated Time per Respondent: .5 minutes.

Estimated Total Annual Burden Hours: 1,844 hours.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 23, 2021.

Chakinna B. Clemons,

Supervisor Tax Analyst.

[FR Doc. 2021–04109 Filed 2–26–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Electronic Tax Administration Advisory Committee; Meeting of the Advisory Committee

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of meeting of Electronic Tax Administration Advisory Committee.

SUMMARY: Meeting of the Electronic Tax Administration Advisory Committee (ETAAC) will be held virtually and by teleconference (a portion of which will be open to the public).

DATES: The meeting will be held March 16–17, 2021.

ADDRESSES: Meeting of the ETAAC will be held virtually and by teleconference.

FOR FURTHER INFORMATION CONTACT: Mr. William S. Parman. Email: *PublicLiaison@irs.gov.* Telephone (202) 317–6247 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., that a meeting of the ETAAC will be held virtually by Zoom and teleconference on Tuesday, March 16, 2021, and Wednesday, March 17, 2021.

The purpose of the meeting is to discuss topics and questions that may be recommended for inclusion in a future report of the Committee.

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5. U.S.C. App. 2, that the portions of the meeting dealing with issue briefings and fact-finding related to securing the federal tax system against identity theft and refund fraud fall within the exceptions to the open meeting requirement set forth in 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with other topics will begin at 3 p.m. EST on March 17, 2021, and will continue for as long as necessary to complete the discussion, but not beyond 4 p.m. EST. Time permitting, after the close of this discussion by ETAAC members, interested persons may make statements germane to this subject. Persons wishing to make oral statements should contact Mr. William S. Parman at *PublicLiaison@irs.gov* and include the written text or outline of comments they propose to make orally. Such comments will be limited to 10 minutes in length. Persons who wish to attend the public session should contact Mr. William S. Parman at *PublicLiaison@irs.gov* to obtain teleconference access instructions. Notifications of intent to make an oral statement or to attend the meeting must be sent electronically no later than March 12, 2021. In addition, any interested person may file a written statement for consideration by the ETAAC by sending it to *PublicLiaison@irs.gov.*

Dated: Feb. 23, 2021.

John A. Lipold,

Designated Federal Officer, Electronic Tax Administration Advisory Committee.

[FR Doc. 2021–04080 Filed 2–26–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Research Advisory Committee on Gulf War Veterans' Illnesses; Amended Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee that the Research Advisory Committee on Gulf War Veterans' Illnesses will meet by teleconference on March 10, 2021. The open session will convene at 11:00 a.m. (EST) and end at 3:30 p.m. (EST). The open session will be available to the public by connecting to: Webex URL: *https://veteransaffairs.webex.com/webappng/sites/veteransaffairs/meeting/info/e5cfe05254aa4b6a81643d1a35bb053f?siteurl=veteransaffairs&MTID.* Or, Join by phone: 1–404–397–1596 USA Toll Number; Meeting number (access code): 199 853 4496. Meeting password: uiJMAfX*828.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on proposed research studies, research plans, and research strategies relating to the health consequences of military service in the Southwest Asia Theater of operations during the Gulf War in 1990–1991.

The Committee will review VA program activities related to Gulf War Veterans' illnesses and updates on relevant scientific research published since the last Committee meeting. This meeting will include presentations from the 2020 VA-DoD Gulf War Illness State of the Science Conference and recommend next steps.

The meeting will include time reserved for public comments 30 minutes before the meeting closes. Individuals who wish to address the Committee may submit a 1–2 page summary of their comments for inclusion in the official meeting record. Members of the public may submit written statements for the Committee's review or seek additional information by contacting Dr. Karen Block, Designated Federal Officer, at (202) 443–5600, or by email at *karen.block@va.gov*.

Dated: February 23, 2021.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2021–04085 Filed 2–26–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activity Under OMB Review: Survey of Individuals Using Their Entitlement to Educational Assistance Under the Educational Assistance Programs Administered by the Secretary of Veterans Affairs

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–NEW.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *Maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–NEW'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Survey of Individuals Using Their Entitlement to Educational Assistance Under the Educational Assistance Programs Administered by the Secretary of Veterans Affairs.

OMB Control Number: 2900–NEW.

Type of Review: New data collection.

Abstract: The Educational Assistance Program Feedback Survey is designed to measure experience of beneficiaries of educational assistance programs administered by the Veterans Affairs (VA), including under chapters 30, 32, 33, and 35 of title 38 United States Code. The information will help the VA improve programs and better serve Veterans interested in educational assistance. Educational Assistance Program feedback data will be collected using an online transactional survey or paper disseminated via an invitation email or mailed letter sent to selected beneficiaries. The survey questionnaire includes 52 questions, though in actuality due to branching depending on responses to each question respondents will complete anywhere from 8–49 questions (8 if respondents passed their benefit to dependents; 39–49 questions for all other respondents). The survey contains general rating-scale questions (*e.g.,* a scale of 1–5 from Very dissatisfied to Very satisfied; or Not at all effective to Extremely effective) to assess satisfaction with educational assistance programs, resources, training as well as questions assessing education/training outcomes (completion of program, current income level) and has been approved by the Education Service leadership. These questions have been mapped to the Public Law 114–315 (December 15, 2016) section 414. After the survey has been distributed, recipients will have two weeks to complete the survey. Invitees will receive a reminder email or mailed letter after one week. The sample will be distributed across four Education Benefit Programs: Post-9/11 GI Bill (Chapter 33), Montgomery GI Bill—Active Duty (Chapter 30), Veterans Education Assistance Program (VEAP; Chapter 32), and Survivors' and Dependents' Educational Assistance (DEA; Chapter 35). The overall sample size is determined so that the reliability of survey estimate is 3% Margin of Error at a 95% Confidence Level. Once data collection is completed, the participant responses in the survey will be weighted so that the samples more closely represent the overall population. Weighting models will rely on beneficiary age and gender.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 85 FR 246 on December 22, 2020, page 83682.

Affected Public: Individuals.

Estimated Annual Burden: 180 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,080.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–04158 Filed 2–26–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans and Community Oversight and Engagement Board, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, that the Veterans and Community Oversight and Engagement Board (Board) will meet virtually on March 23, 2021. The meeting will begin and end as follows:

Date	Time
March 23, 2021 ..	3 p.m. to 5:45 p.m. EST.

The meetings are open to the public and will be recorded. Members of the public can attend the meeting by registering at the link below: *https://veteransaffairs.webex.com/veteransaffairs/onstage/g.php?MTID=ecea73e104d4442bc037bee369429e952.*

The Board was established by the West Los Angeles Leasing Act of 2016 on September 29, 2016. The purpose of the Board is to provide advice and make recommendations to the Secretary of Veterans Affairs on: Identifying the goals of the community and Veteran partnership; improving services and outcomes for Veterans, members of the Armed Forces, and the families of such Veterans and members; and on the implementation of the Draft Master Plan approved by the Secretary on January 28, 2016, and on the creation and implementation of any successor master plans.

On March 23, the agenda will include opening remarks from the Committee Chair and the Executive Sponsor. There will be a general update from Veterans Administration Greater Los Angeles Healthcare System (VAGLAHS) on COVID–19 response, and an overview of active land use agreements: specifically, VAGLAHS/University of California Los Angeles (UCLA) second lease amendment for baseball practice infield (Branca Family Field), and a presentation from Brilliant Corners on strategies to house homeless Veterans. The Board's Master Plan with Services and Outcomes subcommittee and Outreach and Community Engagement with Services and Outcomes subcommittee, will report on activities since the last meeting, followed by an out brief to the full Board on any draft recommendations considered for forwarding to the SECVA.

A public comment session will occur from 4:55 p.m. to 5:45 p.m. Individuals wishing to make public comments are required to register during the WEBEX registration process. In the interest of time management, speakers will be held to a 5-minute time limit and selected in the order of event registration. If time expires and your name was not selected, or you did not register to provide public comment and would like to do so, you are asked to submit public comments via email at *VEOFACA@va.gov* for inclusion in the official meeting record.

To attend the meeting, use the registration instructions—Registration Instructions: Select the ''Register'' hyperlink in event status or the ''Register'' button located bottom center of the page. Attendees will then be asked to identify themselves by first name, last name, email address, affiliation (if any) and interest in making a public comment. Please select ''Submit'' to finish registration. You will receive a confirmation email from WEBEX shortly after registration. The confirmation email will include a calendar event invitation and instructions to join the meeting via web browser or telephone. Attempts to join the meeting will not work until the host opens the meeting approximately ten minutes prior to start time.

Any member of the public seeking additional information should contact Mr. Eugene W. Skinner Jr. at (202) 631–7645 or at *Eugene.Skinner@va.gov.*

Dated: February 24, 2021.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2021–04129 Filed 2–26–21; 8:45 am]

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List January 25, 2021

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—MARCH 2021

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	21 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	35 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
March 1	Mar 16	Mar 22	Mar 31	Apr 5	Apr 15	Apr 30	Jun 1
March 2	Mar 17	Mar 23	Apr 1	Apr 6	Apr 16	May 3	Jun 1
March 3	Mar 18	Mar 24	Apr 2	Apr 7	Apr 19	May 3	Jun 1
March 4	Mar 19	Mar 25	Apr 5	Apr 8	Apr 19	May 3	Jun 2
March 5	Mar 22	Mar 26	Apr 5	Apr 9	Apr 19	May 4	Jun 3
March 8	Mar 23	Mar 29	Apr 7	Apr 12	Apr 22	May 7	Jun 7
March 9	Mar 24	Mar 30	Apr 8	Apr 13	Apr 23	May 10	Jun 7
March 10	Mar 25	Mar 31	Apr 9	Apr 14	Apr 26	May 10	Jun 8
March 11	Mar 26	Apr 1	Apr 12	Apr 15	Apr 26	May 10	Jun 9
March 12	Mar 29	Apr 2	Apr 12	Apr 16	Apr 26	May 11	Jun 10
March 15	Mar 30	Apr 5	Apr 14	Apr 19	Apr 29	May 14	Jun 14
March 16	Mar 31	Apr 6	Apr 15	Apr 20	Apr 30	May 17	Jun 14
March 17	Apr 1	Apr 7	Apr 16	Apr 21	May 3	May 17	Jun 15
March 18	Apr 2	Apr 8	Apr 19	Apr 22	May 3	May 17	Jun 16
March 19	Apr 5	Apr 9	Apr 19	Apr 23	May 3	May 18	Jun 17
March 22	Apr 6	Apr 12	Apr 21	Apr 26	May 6	May 21	Jun 21
March 23	Apr 7	Apr 13	Apr 22	Apr 27	May 7	May 24	Jun 21
March 24	Apr 8	Apr 14	Apr 23	Apr 28	May 10	May 24	Jun 22
March 25	Apr 9	Apr 15	Apr 26	Apr 29	May 10	May 24	Jun 23
March 26	Apr 12	Apr 16	Apr 26	Apr 30	May 10	May 25	Jun 24
March 29	Apr 13	Apr 19	Apr 28	May 3	May 13	May 28	Jun 28
March 30	Apr 14	Apr 20	Apr 29	May 4	May 14	Jun 1	Jun 28
March 31	Apr 15	Apr 21	Apr 30	May 5	May 17	Jun 1	Jun 29