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FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–1754]

RIN 7100–AG 18

Regulation D: Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') is amending Regulation D, Reserve Requirements of Depository Institutions, to revise the rate of interest paid on balances maintained at Federal Reserve Banks by or on behalf of eligible institutions (''IORB'' rate). The final amendments specify that the IORB rate is 0.15 percent, an 0.05 percentage point increase from its prior level. The amendment is intended to establish the IORB rate at a level consistent with maintaining the Federal funds rate in the target range established by the Federal Open Market Committee (''FOMC'' or ''Committee''). This amendment does not reflect a change in the stance of monetary policy. The Board is also making certain conforming deletions for clarity to the provisions of Regulation D governing interest payable on balances at Reserve Banks.

DATES:

Effective date: The amendments to part 204 (Regulation D) are effective September 8, 2021.

Applicability date: The IORB rate change was applicable on July 29, 2021.

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison, Senior Special Counsel (202–452–3565), Legal Division, or Laura Lipscomb, Deputy Associate Director (202–834–2979), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact 202–263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 19 of the Federal Reserve Act (''Act'') provides that balances maintained by or on behalf of certain institutions in an account at a Federal Reserve Bank (''Reserve Bank'') may receive earnings to be paid by the Reserve Bank at least once each quarter, at a rate or rates not to exceed the general level of short-term interest rates.[1] Institutions that are eligible to receive earnings on their balances held at Reserve Banks (''eligible institutions'') include depository institutions and certain other institutions.[2] Section 19 also provides that the Board may prescribe regulations concerning the payment of earnings on balances at a Reserve Bank.[3]

On June 4, 2021, the Board published a final rule in the **Federal Register** amending Regulation D, effective July 29, to eliminate references to ''IORR'' and ''IOER'' and replace those references with references to a single ''IORB'' (interest on reserve balances) rate and to establish the IORB rate at 0.10 percent.[4]

II. Amendments to IORB

The Board is amending § 204.10(b)(1) of Regulation D to establish the IORB rate at 0.15 percent. The amendment represents a 0.05 percentage point increase in the IORB rate. This decision was announced on July 28, 2021, with an effective date of July 29, 2021, in the Federal Reserve Implementation Note (''Implementation Note'') that accompanied the FOMC's statement on July 28, 2021 (''FOMC Statement''). The FOMC Statement stated that the Committee decided to maintain the target range for the Federal funds rate at 0 to ¼ percent.

The Federal Reserve Implementation Note stated:

> The Board of Governors of the Federal Reserve System voted unanimously to establish the interest rate paid on reserve balances at 0.15 percent, effective July 29, 2021.

The Implementation Note further stated:

> As announced on June 2, 2021, the Federal Reserve Board approved a final rule, effective July 29, amending Regulation D to eliminate references to an interest on required reserves (IORR) rate and to an interest on excess reserves (IOER) rate and replace them with a single interest on reserve balances (IORB) rate. Therefore, the Board voted on one rate, the IORB rate, at this meeting and will continue to do so going forward.

As a result, the Board is amending § 204.10(b)(1) of Regulation D to establish the IORB rate at 0.15 percent. The amendment is intended to establish the IORB rate at a level consistent with maintaining the Federal funds rate in the target range established by the Committee. This amendment does not reflect a change in the stance of monetary policy.

Finally, the Board is also making certain conforming deletions for clarity to the provisions of Regulation D governing interest payable on balances at Reserve Banks.

III. Administrative Procedure Act

In general, the Administrative Procedure Act (''APA'') [5] imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to Congressionally-delegated authority): (1) Publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule's content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be ''unnecessary, impracticable, or contrary to the public interest.'' [6] Section 553(d) of the APA also provides that publication at least 30 days prior to a rule's effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds good cause for shortened notice and publishes its reasoning with the rule.[7]

The Board has determined that good cause exists for finding that the notice, public comment, and delayed effective

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

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

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

[4] Final Rule, 86 FR 29937 (June 4, 2021).

[5] 5 U.S.C. 551 *et seq.*

[6] 5 U.S.C. 553(b)(3)(A).

[7] 5 U.S.C. 553(d).

date provisions of the APA are unnecessary, impracticable, or contrary to the public interest with respect to these final amendments to Regulation D. The rate change for IORB that is reflected in the final amendment to Regulation D was made with a view towards accommodating commerce and business and with regard to their bearing upon the general credit situation of the country. Notice and public comment would prevent the Board's action from being effective as promptly as necessary in the public interest and would not otherwise serve any useful purpose. Notice, public comment, and a delayed effective date would create uncertainty about the finality and effectiveness of the Board's action and undermine the effectiveness of that action. Accordingly, the Board has determined that good cause exists to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to this final amendment to Regulation D.

IV. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (''RFA'') does not apply to a rulemaking where a general notice of proposed rulemaking is not required.[8] As noted previously, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (''PRA'') of 1995,[9] the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 204

Banks, Banking, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends 12 CFR part 204 as follows:

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

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

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

■ 2. Section 204.10 is amended by:
■ a. Revising paragraph (b)(1);
■ b. Removing paragraphs (b)(4) and (5) and (d)(5); and
■ c. Redesignating paragraph (d)(6) as paragraph (d)(5).

The revision reads as follows:

§ 204.10 Payment of interest on balances.

* * * * *

(b) * * *

(1) For balances maintained in an eligible institution's master account, interest is the amount equal to the interest on reserve balances rate (''IORB rate'') on a day multiplied by the total balances maintained on that day. The IORB rate is 0.15 percent.

* * * * *

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

Ann Misback,

Secretary of the Board.

[FR Doc. 2021–19280 Filed 9–7–21; 8:45 am]

BILLING CODE 6210–01–P

[8] 5 U.S.C. 603, 604.

[9] 44 U.S.C. 3506; see 5 CFR part 1320, appendix A.1.

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121 and 123

[Docket Number SBA–2021–0016]

RIN 3245–AH80

Disaster Loan Program Changes

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Interim final rule.

SUMMARY: This interim final rule implements changes to the Disaster Loan Program regulations. For applications for COVID–19 Economic Injury Disaster (COVID EIDL) loans, in this rule SBA is changing the definition of affiliation, the eligible uses of loan proceeds, and application of the size standard to certain hard-hit eligible entities, and is establishing a maximum loan limit for borrowers in a single corporate group. In addition, for all disaster assistance programs, in this rule, SBA is changing which SBA official may make the decision on the appeal of an application that has been declined for a second time.

DATES:

Effective date: The provisions of this interim final rule are effective September 8, 2021.

Applicability dates: The change to the regulation at 13 CFR 123.13 applies to applications submitted under all of SBA's Disaster Loan Programs on or after September 8, 2021. The changes to the regulation at 13 CFR 123.303 apply to COVID EIDL loan proceeds available on or after September 8, 2021, without regard to the date such proceeds were received from SBA. The other changes in this interim final rule apply to applications submitted under the COVID EIDL Program on or after September 8, 2021, through December 31, 2021, or until funds available for this purpose are exhausted, whichever is earlier. Additionally, with the exception of the regulation at 123.304, this interim final rule applies to original applications under the COVID EIDL Program that are submitted before but approved on or after September 8, 2021.

Comment date: Comments must be received on or before October 8, 2021.

ADDRESSES: You may submit comments, identified by number SBA–2021–0016 through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

SBA will post all comments on *www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *www.regulations.gov,* please send an email to *COVIDEIDLHelp@sba.gov.* All other comments must be submitted through the Federal eRulemaking Portal described above. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: An SBA Disaster Customer Service Representative at (800) 659–2955 (individuals who are deaf or hard of hearing may call (800) 877–8339), or a local SBA Field Office; the list of SBA field offices can be found at *https://www.sba.gov/tools/local-assistance/districtoffices.*

SUPPLEMENTARY INFORMATION:

I. Background Information

Section 7(b)(2) of the Small Business Act authorizes SBA to make EIDL loans to eligible small businesses and nonprofit organizations located in a disaster area. 15 U.S.C. 636(b)(2). On March 6, 2020, Congress deemed COVID–19 to be a disaster in Title II of the Coronavirus Preparedness and Response Supplemental Appropriations Act of 2020, Public Law 116–123, 134 Stat. 146, 147, allowing SBA to declare disasters and make EIDL loans available to small businesses and nonprofit organizations suffering substantial economic injury as a result of the COVID–19 pandemic. The Coronavirus

Aid, Relief, and Economic Security Act (CARES Act) Public Law 116–136, expanded eligibility and waived certain rules and requirements for COVID EIDL loans. Section 1110 of the CARES Act permitted SBA to waive rules related to personal guaranties on COVID EIDL loans of not more than $200,000 and the requirement that an applicant be unable to obtain credit elsewhere. Section 1110 also provided SBA with the authority to approve an applicant based solely on the credit score of the applicant or use alternative appropriate methods to determine an applicant's ability to repay. On April 24, 2020, the Paycheck Protection Program and Health Care Enhancement Act (PPP Enhancement Act) Public Law 116–139, provided additional funding for SBA to make EIDL loans and further expanded EIDL eligibility to include agricultural enterprises with not more than 500 employees, which are typically not eligible for SBA disaster assistance. Prior to the enactment of the PPP Enhancement Act, SBA had an existing $1.1 billion in credit subsidy funding, which it used to support between $7 billion and $8 billion in EIDL loans to businesses affected by the COVID–19 pandemic. The PPP Enhancement Act provided an additional $50 billion in loan credit subsidy to SBA. *See* 15 U.S.C. 636(b) and 13 CFR 123.300(c). On December 27, 2020, the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Economic Aid Act), Public Law 116–260, was enacted as part of the Consolidated Appropriations Act, 2021. Section 332 of the Economic Aid Act extended the authority to make COVID EIDL loans through December 31, 2021, and further modified the terms under which SBA approves COVID EIDL loans, and Section 331 provided SBA authority to make targeted EIDL advances. On March 11, 2021, the American Rescue Plan Act (ARPA), Public Law 117–2, was enacted, establishing the Restaurant Revitalization Fund (RRF) through Section 5003 to provide assistance to restaurants, beverage alcohol producers, and other entities, and providing authority to provide supplemental Targeted Advances.

In light of the COVID–19 emergency, many small businesses nationwide have experienced economic hardship as a direct result of the Federal, State, and local public health measures that have been taken to minimize the public's exposure to the virus. These measures, some of which were government-mandated, were implemented across the country. In addition, based on the advice of public health officials, other measures, such as keeping a safe distance from others or stay-at-home orders, were implemented, resulting in a dramatic decrease in economic activity as the public avoided malls, retail stores, and other businesses. On March 16, 2021, the SBA announced that it would extend deferment periods for all disaster loans, including COVID EIDL loans, until 2022. COVID EIDL loans made in calendar year 2020 will have the first payment due date extended from 12 months to 24 months from the date of the note. COVID EIDL loans made in calendar year 2021 will have the first payment due date extended from 12 months to 18 months from the date of the note. On March 24, 2021, the SBA announced that it would increase the maximum amount that can be borrowed under the COVID EIDL program from $150,000 (6 months of economic injury) to $500,000 (24 months of economic injury).

II. Comments and Immediate Effective Date

This interim final rule is being issued without advance notice and public comment. SBA has determined that there is good cause for dispensing with advance public notice and comment on the ground that it would be ''impracticable'' and ''contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B).

The intent of the statutory COVID financial assistance programs, including the COVID EIDL program, is that SBA provide relief to America's small businesses expeditiously. This intent, along with the continuing decrease in economic activity in key economic sectors as compared to 2019 and the reimposition of mask requirements and other public-health measures throughout the country because of the variants (including Delta) of COVID–19, provides good cause for SBA to dispense with advance notice and comment rulemaking, which would take months. Given that this rule is issuing in August, new changes could not go into effect until November, leaving just a few weeks to implement the new program and take applications before funding expires. This shortened program timeframe would be problematic because SBA believes, with basis, there is a tremendous demand and need for this program. Other SBA COVID relief programs have recently ended or have exhausted their funding (including the Paycheck Protection Program and the Restaurant Revitalization Fund), yet businesses and nonprofit organizations are still in need of support. As evidence of unmet need, the Restaurant Revitalization Fund received $28.6 billion in appropriations to provide assistance to the restaurant industry, but within 21 days, SBA received 278,304 applications seeking assistance in amounts totaling more than $72 billion, nearly three times the amount appropriated. Funding was quickly exhausted, leaving 177,300 businesses without assistance. Further, with the end of the Paycheck Protection Program, businesses and nonprofit organizations that are still struggling will turn to the COVID EIDL program for long-term recovery. Thus, the COVID EIDL program is more critical now than it was before, because of the lack of resources available through these other programs and because of the continuing economic instability. Issuing this rule without advance notice and comment will give small businesses, nonprofit organizations, qualified agricultural businesses, and independent contractors affected by this interim final rule the maximum amount of time to apply for COVID EIDL loans, and will give SBA the maximum amount of time to process applications before the program ends in less than five months—on December 31, 2021. In addition, 13 CFR 123.1 reserves to SBA authority to revise disaster regulations without advance notice, by publishing interim emergency regulations in the **Federal Register**.

Finally, given the short duration of this program and the unmet need for immediate assistance in key economic sectors, SBA has determined that it is impractical and not in the public interest to provide a delayed effective date. 5 U.S.C. 553(d). Limiting the availability of this program to a few weeks, given the needs, would result in significant avoidable economic losses—precisely the result that Congress was trying to avoid in passing and amending the COVID EIDL program. Therefore, SBA is of the view that delaying issuance to conduct notice and comment procedures would effectively void the effectiveness of these reforms to the COVID EIDL program, with significant harms resulting. Although this interim final rule is effective immediately, comments are solicited from interested members of the public on all aspects of the interim final rule. SBA will consider these comments and the need for making any revisions as a result of these comments.

III. Disaster Loan Program Changes

1. Definition of Affiliation for COVID EIDL Loans

Based on continuing confusion and burdensome analyses required by applicants and SBA, to simplify the program requirements of COVID EIDL such that applicants can more easily

complete the affiliation analysis and to expand the number of entities that will be eligible for COVID EIDL loans, SBA will align the definition of affiliation for COVID EIDL with the definition of ''affiliated business'' set forth in section 5003 of the ARPA for the Restaurant Revitalization Fund (RRF). Like the RRF program, COVID EIDL is a program where an applicant applies directly to SBA, without an intermediary lender to explain program rules and ensure compliance. In SBA's regular Business Loan Programs, the applicant relies on the lender intermediary to correctly interpret and apply the affiliation rules at 13 CFR 121.301, which require an applicant to consider affiliation based on ownership, stock options, convertible securities, agreements to merge, management, identity of interest, and franchise and license agreements. Congress mandated more simple affiliation rules in ARPA for RRF. Given the lack of intermediaries in the COVID EIDL program, SBA has determined that it is appropriate to use the same affiliation rules that Congress mandated for RRF.

Therefore, SBA is revising 13 CFR 121.301, ''What size standards and affiliation principles are applicable to financial assistance programs?'', to add a new paragraph (g) to state that for COVID EIDL loans, an affiliated business or affiliate is ''a business in which an eligible entity has an equity interest or right to profit distributions of not less than 50 percent, or in which an eligible entity has the contractual authority to control the direction of the business, provided that such affiliation shall be determined as of any arrangements or agreements in existence as of January 31, 2020.'' The new paragraph (g) also will include a cross reference to the exceptions to affiliation set forth in 13 CFR 121.103(b), which continue to apply to COVID EIDL loans.

In addition to simplifying the program requirements for COVID EIDL loans, this change will streamline the application process for SBA and facilitate the review of such applications prior to the deadline of December 31, 2021. This streamlining will expand the flow of funds to businesses and nonprofit organizations that still need relief from the COVID–19 pandemic.

2. Second Decline of Loan Application

The regulation at 13 CFR 123.13, ''What happens if my loan application is denied?'', requires that applicants appeal a second decline of a loan application directly to the Director, Disaster Assistance Processing and Disbursement Center (DAPDC). To enable timely consideration of appeals, SBA is changing the appeals process to allow the Director, DAPDC, or the Director's designee(s), to make the decision on appeals for all Disaster Loan Program loans. In addition, SBA is revising the regulation to clarify that the Administrator, solely within the Administrator's discretion, has the authority to review the matter and make the final decision.

Therefore, SBA is revising the regulation at 13 CFR 123.13, paragraphs (e) and (f), to state that, if SBA declines an application a second time, the Director, DAPDC, or the Director's designee(s), will make the decision. Further, SBA is revising the regulation to state that the Administrator, solely within the Administrator's discretion, may choose to review the matter and make the final decision. Such discretionary authority of the Administrator does not create additional rights of appeal on the part of an applicant not otherwise specified in SBA regulations. The changes to this regulation apply to all SBA Disaster Loan Programs.

3. Eligible Entities for COVID EIDL Loans

The Administrator has determined that, due to the extended duration and scope of the COVID–19 pandemic, as well as due to mandatory Federal, state, and local shut down and social distancing orders, businesses in certain sectors of the North American Industry Classification System (NAICS) continue to suffer from significant economic hardship. Specifically, the NAICS sectors and subsectors identified in Section 1112 of the CARES Act, as amended by section 325 of the Economic Aid Act, continue to need substantial help. These include Sector 61, Educational Services; Sector 71, Arts, Entertainment and Recreation; Sector 72, Accommodation and Food Services; Subsector 213, Support Activities for Mining; Subsector 315, Apparel Manufacturing; Subsector 448, Clothing and Clothing Accessories Stores; Subsector 451, Sporting Good, Hobby, Book, and Music Stores; Subsector 481, Air Transportation; Subsector 485, Transit and Ground Passenger Transportation; Subsector 487, Scenic and Sightseeing Transportation; Subsector 511, Publishing Industries (except internet); Subsector 512, Motion Picture and Sound Recording Industries; Subsector 515, Broadcasting (except internet); Subsector 532, Rental and Leasing Services; and Subsector 812, Personal and Laundry Services.

Additionally, certain industries were identified in Section 5003(a)(4) of the ARPA for additional assistance but may not have received funding due to program deadlines or the exhaustion of funds. As stated previously, the Restaurant Revitalization Fund (RRF) was unable to provide help to all eligible applicants due to a lack of funding, and many small businesses in that industry continue to suffer economic hardships caused by the pandemic. Most businesses eligible for RRF are in NAICS sector 72, Accommodation and Food Services; however, beverage manufacturers in NAICS Industry Group 3121, such as breweries, wineries, and distilleries were also eligible for RRF funding. Based on publicly available industry research and input from industry trade groups, SBA believes these beverage manufacturers continue to require additional help.

Under Section 1110 of the CARES Act, COVID EIDL loans are available to ''small business concerns, private nonprofit organizations, and small agricultural cooperatives,'' as defined in SBA's size standards in 13 CFR 121.201, or businesses that have 500 or fewer employees. To provide assistance to a greater number of businesses in the hard-hit industries described above, SBA is defining ''small business concern'' for purposes of the COVID EIDL program to extend eligibility to businesses in those industries that have 500 or fewer employees *per physical location.* SBA is revising 13 CFR 123.300, ''Is my business eligible to apply for an economic injury disaster loan?'', by adding a new paragraph (e) to state that certain hard-hit businesses identified by specific NAICS classifications will be able to qualify as eligible small business concerns for COVID EIDL loans based on the number of employees per physical location. Consistent with the standard in RRF, businesses using the per-physical location eligibility standard must, together with affiliates, have no more than 20 locations.

This rule merely provides an added basis of eligibility for COVID EIDL assistance. It does not make any entity that is eligible for COVID EIDL assistance on another basis ineligible for such assistance. For example, a business that has more than 20 business locations, but has fewer than 500 employees in the aggregate of all of its business locations is currently eligible for COVID EIDL loans because it meets the 500-employee size standard. Although this rule allows a business concern to be eligible for COVID EIDL assistance if it employs not more than 500 employees per physical location as long as it (together with its affiliates) has

no more than 20 locations, that provision does not change the current eligibility of a business concern that meets the general 500-employee size standard. For example, a business with 25 locations and 15 employees per location would not be ineligible, because the total number of employees is 375.

This rule also does not change the applicable size standards. The size standard itself remains at 500 employees (together with affiliates), as authorized by Section 1110(a)(2) of the CARES Act, or the size standard established in 13 CFR 121.201. Instead, the rule changes how the agency defines the term ''business concern'' for purposes of COVID EIDL assistance. The Small Business Act provides SBA with broad authority to define a ''small business concern.'' 15 U.S.C. 632(a)(2). By regulation, SBA generally defines a concern to be a business entity, although there are exceptions. 13 CFR 121.105. SBA applies its size standards to determine whether a concern is a small business eligible for SBA assistance, and, because of the general definition, the size standards generally apply at the entity level. In this interim final rule, based on how SBA applied the PPP's size standard at the per-physical location level for NAICS sector-72 businesses and other industries, SBA is adopting a program-specific definition of ''business concern'' as covering each individual physical location for industries in certain hard-hit economic sectors. As such, SBA will apply the program's size standards at the physical-location level for the identified industries. This does not change the size standards that apply to the COVID EIDL loan program. Instead, this program-specific provision changes the level at which the size standard applies—for businesses in certain sectors—*i.e.,* to each physical location, rather than to each entity in the aggregate.

4. COVID EIDL Uses of Proceeds

Currently, the EIDL program only permits loan proceeds to be used for working capital necessary to carry the business until resumption of normal operations and for expenditures necessary to alleviate the specific economic injury and does not permit payments on Federal debt or prepayment of non-Federal existing debt even if the debt has a balloon payment due. Prior to the pandemic, businesses, in the ordinary course of their operations, managed debt payments through cash flows of the business. Due to mandatory COVID–19 closures, some businesses did not have sufficient cash flow to service debt obligations. Despite several short-term emergency programs in the CARES Act and other statutes, many small businesses have not been able to return to normal operations, and now struggle with deferred debt, past due payments, and insufficient cash flow. With the expectation that the pandemic would not last for the duration that it has, many businesses took on short-term debt, often with unfavorable repayment terms, or negotiated deferments in debt payments in order to avoid default. In order to maximize relief from the debt burden businesses and nonprofit organizations have accrued, SBA is expanding COVID EIDL eligible uses of proceeds to include payments on all forms of business debt, including loans owned by a Federal agency (including SBA) or a Small Business Investment Company (SBIC) licensed under the Small Business Investment Act. COVID EIDL loan proceeds may be used to make debt payments including monthly payments, deferred interest, and pre-payment of business debt, except that pre-payments will not be permitted on any debt owned by a Federal agency (including SBA) or an SBIC. COVID EIDL loan proceeds may be used to pay debt incurred both before and after submitting the COVID EIDL loan application.

Therefore, SBA is revising the regulation at 13 CFR 123.303, ''How can my business spend my economic injury disaster loan?'', to permit COVID EIDL working capital loan proceeds to be used to pay any type of business debt, including loans owned by a Federal agency (including SBA) or an SBIC. SBA also is revising the regulation to clarify that COVID EIDL loan proceeds may be used to make debt payments including monthly payments, payments of deferred interest, and pre-payments, except that pre-payments will not be permitted on debt that is owned by a Federal agency (including SBA) or an SBIC.

5. Limits of COVID EIDL Loans to a Single Corporate Group

SBA is adding a new regulation to state that entities that are part of a single corporate group shall in no event receive more than $10,000,000 of COVID EIDL loans in the aggregate. For purposes of this limit, entities are part of a single corporate group if they are majority owned, directly or indirectly, by a common parent. Businesses are subject to this limitation even if the businesses are in certain hard-hit sectors and able to use the per-physical location application of the size standard as set forth in 13 CFR 123.300(e)(5).

Given the changes in the COVID EIDL maximum loan amount, eligibility, and increased outreach to industries that have been particularly hard hit by the pandemic (for example, restaurants, hotels, gyms, travel and tourism), SBA expects an increase in the number of applications submitted and average loan size. The Administrator determined that limiting the amount of COVID EIDL loans that a single corporate group may receive will promote the availability of COVID EIDL loans to the largest possible number of borrowers. The Administrator has concluded that a limitation of $10,000,000 strikes an appropriate balance between broad availability of COVID EIDL loans and program resource constraints. SBA's affiliation rules, which relate to an applicant's eligibility for COVID EIDL loans, continue to apply independent of this limitation.

6. Additional Information

SBA may provide further information through guidance that will be posted on SBA's website at *www.sba.gov,* if needed. Questions may be directed to an SBA Disaster Customer Service Representative at 1–800–659–2955 (individuals who are deaf or hard of hearing may call 1–800–877–8339), or a local SBA Field Office; the list of local SBA Field Offices may be found at *https://www.sba.gov/tools/local-assistance/districtoffices.*

Compliance With Executive Orders, the Congressional Review Act, Paperwork Reduction Act, and the Regulatory Flexibility Act

Executive Orders 12866 and 13563

OMB's Office of Information and Regulatory Affairs (OIRA) has determined that this interim final rule is economically significant for the purposes of Executive Orders 12866 and 13563. SBA, however, is proceeding under the emergency provision at Executive Order 12866 section 6(a)(3)(D), based on the need to move expeditiously to mitigate the current economic hardships and conditions arising from the COVID–19 emergency.

This rule is necessary to provide economic relief to small businesses and private nonprofit organizations nationwide adversely impacted by COVID–19. As evidence of unmet need, the Restaurant Revitalization Fund (RRF) received $28.6 billion in appropriations and in 21 days, received 278,304 RRF applications totaling more than $72 billion, which resulted in 177,300 businesses without assistance. Further, with the end of the Paycheck Protection Program (PPP), businesses

and nonprofit organizations that are still struggling will turn to the COVID EIDL program for long-term recovery. For these reasons, SBA anticipates that this rule will result in substantial benefits to small businesses, nonprofit organizations, their employees, and the communities they serve.

Executive Order 12988

SBA has drafted this rule, to the extent practicable, in accordance with the standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988, to minimize litigation, eliminate ambiguity, and reduce burden. The rule has no preemptive or retroactive effect.

Executive Order 13132

SBA has determined that this rule 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 layers of government. Therefore, SBA has determined that this rule has no federalism implications warranting preparation of a federalism assessment.

Congressional Review Act

OIRA has determined that this is a major rule for purposes of subtitle E of the Small Business Regulatory Enforcement and Fairness Act of 1996 (also known as the Congressional Review Act or CRA), 5 U.S.C. 804(2) *et seq*. Under the CRA, a major rule takes effect 60 days after the rule is published in the **Federal Register**. 5 U.S.C. 801(a)(3).

Notwithstanding this requirement, the CRA allows agencies to dispense with the requirements of section 801 when the agency for good cause finds that such procedure would be ''impracticable, unnecessary, or contrary to the public interest,'' and provides that the rule shall take effect at such time as the Federal agency promulgating the rule determines. 5 U.S.C. 808(2). Pursuant to section 808(2), SBA for good cause finds that a 60-day delay to provide public notice would be impracticable, unnecessary, and contrary to the public interest. Likewise, for the same reasons, SBA for good cause finds that there are grounds to waive the 30-day effective date delay under the Administrative Procedure Act. 5 U.S.C. 553(d)(3).

Other SBA COVID–19 relief programs have recently ended or exhausted the funding provided for the program (including PPP and RRF), yet businesses and nonprofit organizations are still in need of support. The COVID EIDL program is more critical now than it was before because of the lack of these other resources and the continuing economic instability. An immediate effective date will give small businesses, nonprofit organizations, qualified agricultural businesses, and independent contractors affected by this interim final rule the maximum amount of time to apply for loans and SBA the maximum amount of time to process applications before the program ends on December 31, 2021. Given the short duration of this program, SBA has determined that it is impractical and not in the public interest to provide a delayed effective date.

Paperwork Reduction Act, 44 U.S.C. Chapter 35

SBA has determined that this rule will require revisions to the COVID–19 Economic Injury Disaster Loan Application information collection (OMB Control Number 3245–0406). The application form will be revised to require the disclosure of the NAICS code for the applicant in order to determine the size of the applicant on a per-physical location basis and to add an option to identify the eligible entity as a business that is assigned a NAICS code beginning with 61, 71, 72, 213, 3121, 315, 448, 451, 481, 485, 487, 511, 512, 515, 532, or 812, employs not more than 500 employees per physical location, and together with affiliates has no more than 20 locations. In addition, to simplify and streamline the process for applicants, SBA has consolidated Forms 3501 (COVID–19 Economic Injury Disaster Loan Application), 3502 (Economic Injury Disaster Loan Supporting Information), and 3503 (Self-Certification for Verification of Eligible Entity for Economic Injury Disaster Loan) into one form. This will reduce the burden on applicants as they will only need to enter certain information once. SBA also added questions related to entity type and types of business activity to assist borrowers in making the eligibility certification. Further, SBA revised the questions related to the calculation of economic injury for clarity and to aid in automating the review process. Finally, SBA made additional technical edits to the form for clarity. SBA has obtained emergency approval of the revisions, including waiver of public comment notices. The collection is approved for use until February 28, 2022. SBA will take the necessary steps to solicit comments and revise the information collection, if necessary, before approval expires.

Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the Administrative Procedure Act or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604.

Rules that are exempt from notice and comment are also exempt from the RFA requirements, including conducting a regulatory flexibility analysis, such as when, among other exceptions, the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. SBA Office of Advocacy Guide: How To Comply with the Regulatory Flexibility Act, Ch.1. p.9. Since this rule is exempt from notice and comment, SBA is not required to conduct a regulatory flexibility analysis.

List of Subjects

13 CFR Part 121

Loan programs—business, Reporting and recordkeeping requirements, Small business.

13 CFR Part 123

Loan Program—disaster loan program.

For the reasons stated in the preamble, SBA amends 13 CFR parts 121 and 123 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for 13 CFR part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(a)(36), 662, and 694a(9); Pub. L. 116–136, Section 1114.

■ 2. Amend § 121.301 by adding paragraph (g) to read as follows:

§ 121.301 What size standards and affiliation principles are applicable to financial assistance programs?

* * * * *

(g) For COVID–19 Economic Injury Disaster (COVID EIDL) loans, an ''affiliated business'' or ''affiliate'' is a business in which an eligible entity has an equity interest or right to profit distributions of not less than 50 percent, or in which an eligible entity has the contractual authority to control the direction of the business, provided that such affiliation shall be determined as of any arrangements or agreements in existence as of January 31, 2020. For exceptions to affiliation, see § 121.103(b).

PART 123—DISASTER LOAN PROGRAM

■ 3. The authority citation for 13 CFR part 123 is revised to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 636(d), and 657n; Section 1110, Pub. L. 116–136, 134 Stat. 281; and Section 331, Pub. L. 116–260, 134 Stat. 1182.

■ 4. Amend § 123.13 by revising the first sentence of paragraph (e) and paragraph (f) to read as follows:

§ 123.13 What happens if my loan application is denied?

* * * * *

(e) If SBA declines your application a second time, you have the right to appeal in writing to the Director, Disaster Assistance Processing and Disbursement Center (DAPDC) or the Director's designee(s). * * *

(f) The decision of the Director, DAPDC or the Director's designee(s), is final unless:

(1) The Director, DAPDC or the Director's designee(s), does not have the authority to approve the requested loan;

(2) The Director, DAPDC or the Director's designee(s), refers the matter to the SBA Associate Administrator for Disaster Assistance (AA/DA);

(3) The AA/DA, upon a showing of special circumstances, requests that the Director, DAPDC or the Director's designee(s), forward the matter to him or her for final consideration; or

(4) The SBA Administrator, solely within the Administrator's discretion, chooses to review the matter and make the final decision. Such discretionary authority of the Administrator does not create additional rights of appeal on the part of an applicant not otherwise specified in SBA regulations.

* * * * *

■ 5. Amend § 123.300 by adding paragraph (e) to read as follows:

§ 123.300 Is my business eligible to apply for an economic injury disaster loan?

* * * * *

(e) COVID–19 Economic Injury Disaster (COVID EIDL) loans are available if, as of the date of application, you:

(1) Are a business, including an agricultural cooperative, aquaculture enterprise, nursery, or producer cooperative (but excluding all other agricultural enterprises), that is small under SBA Size Standards (as defined in part 121 of this chapter);

(2) Are an individual who operates under a sole proprietorship, with or without employees, or as an independent contractor;

(3) Are a private non-profit organization that is a non-governmental agency or entity that currently has an effective ruling letter from the Internal Revenue Service (IRS) granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954, or satisfactory evidence from the State that the non-revenue-producing organization or entity is a non-profit one organized or doing business under State law, or a faith-based organization;

(4) Are a business, cooperative, agricultural enterprise, Employee Stock Ownership Plan (as defined in 15 U.S.C. 632), or tribal small business concern (as described in 15 U.S.C. 657a(b)(2)(C)), with not more than 500 employees; or

(5) Are a business that is assigned a North American Industry Classification System (NAICS) code beginning with 61, 71, 72, 213, 3121, 315, 448, 451, 481, 485, 487, 511, 512, 515, 532, or 812, employs not more than 500 employees per physical location, and together with affiliates has no more than 20 locations.

■ 6. Amend § 123.303 by adding a sentence to the end of paragraph (a) and revising paragraph (b)(2) to read as follows:

§ 123.303 How can my business spend my economic injury disaster loan?

(a) * * * COVID EIDL loan proceeds also may be used to make debt payments including monthly payments, payment of deferred interest, and pre-payments on any business debts, except pre-payments are not permitted on any loans owned by a Federal agency (including SBA) or a Small Business Investment Company licensed under the Small Business Investment Act.

(b) * * *

(2) Except for COVID EIDL loan proceeds, make payments on loans owned by a Federal agency (including SBA) or a Small Business Investment Company licensed under the Small Business Investment Act;

* * * * *

■ 7. Add § 123.304 to read as follows:

§ 123.304 Is there a limit on the maximum loan amount to a single corporate group for COVID EIDL Loans?

Entities that are part of a single corporate group shall in no event receive more than $10,000,000 of COVID EIDL loans in the aggregate. For purposes of this limit, entities are part of a single corporate group if they are majority owned, directly or indirectly, by a common parent.

Isabella Casillas Guzman,

Administrator.

[FR Doc. 2021–19232 Filed 9–7–21; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0463; Project Identifier 2018–SW–050–AD; Amendment 39–21698; AD 2021–17–15]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Leonardo S.p.a. Model AB139 and AW139 helicopters with certain main rotor blades installed. This AD was prompted by a report of an in-flight loss of a main rotor blade (MRB) tip cap. This AD requires inspecting the MRB tip cap for disbonding. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 13, 2021.

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

ADDRESSES: For service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://customerportal.leonardocompany.com/en-US/*. You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0463.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0463; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, any comments received, and other information. The street address for

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

FOR FURTHER INFORMATION CONTACT: Bang Nguyen, Aerospace Engineer, Certification Section, Fort Worth ACO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4973; email *bang.nguyen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Leonardo S.p.a. Model AB139 and AW139 helicopters with an MRB that has less than 1,200 total hours time-in-service (TIS) and has part number (P/N) 3G6210A00131 with any serial number (S/N) listed in Table 1 of Leonardo Helicopters Alert Service Bulletin No. 139–520, dated April 26, 2018 (ASB 139–520), installed. The NPRM published in the **Federal Register** on June 16, 2021 (86 FR 31992). In the NPRM, the FAA proposed to require, within 50 hours TIS, tap inspecting each MRB tip cap for disbonding using a tap hammer or equivalent. If there is no disbonding, the NPRM proposed to require tap inspecting the MRB tip cap at intervals not to exceed 50 hours TIS. If there is any disbonding that does not exceed the specified limits in ASB 139–520, the NPRM proposed to require tap inspecting the MRB at intervals not to exceed 10 hours TIS. If there is any disbonding that exceeds the specified limits in ASB 139–520, the NPRM proposed to require removing the MRB from service before further flight. The NPRM also specified that the accumulation of 1,200 total hours TIS on the affected part without findings of any disbonded area or with findings of any disbonded area that is within the permitted limits in Annex A of ASB 139–520 would constitute terminating action for the proposed repetitive inspections. Finally, the NPRM proposed to prohibit installing any MRB that is identified in the applicability section of this AD on any helicopter.

The NPRM was prompted by reports of incorrect bonding procedures on certain MRBs, which if not detected and corrected, could result in loss of the MRB tip cap, severe vibrations, and subsequent loss of control of the helicopter.

The FAA issued AD 2018–03–01, Amendment 39–19174 (83 FR 4136, January 30, 2018) (AD 2018–03–01) for Agusta S.p.A. (now Leonardo S.p.a.) Model AB139 and AW139 helicopters with MRB P/N 3G6210A00131 with an S/N 3615, 3634, 3667, or 3729 installed. AD 2018–03–01 requires inspecting the MRB tip cap for disbonding and was prompted by EASA AD 2017–0175–E, dated September 13, 2017 (EASA AD 2017–0175–E), issued by EASA, which is the Technical Agent for the Member States of the European Union. EASA advised of an in-flight loss of an MRB tip cap on an AW139 helicopter where the pilot was able to safely land the helicopter. EASA further advised that an investigation determined the cause as incorrect bonding procedures used during production on MRB P/N 3G6210A00131, S/N 3615, 3634, 3667, and 3729. According to EASA, this condition could result in loss of an MRB tip cap, increased pilot workload, and reduced control of the helicopter. To address this unsafe condition, EASA AD 2017–0175–E requires a one-time inspection of the affected MRB tip caps within 5 flight hours (FH) and replacing the affected MRBs within 10 FH if not replaced as a result of the inspection. EASA AD 2017–0175–E also prohibits installing the affected MRBs on a helicopter. AD 2018–03–01 requires the same corrective actions.

After the FAA issued AD 2018–03–01, EASA issued EASA AD 2018–0130, dated June 18, 2018 (EASA AD 2018–0130), to correct the same unsafe condition for Leonardo S.p.a. Model AB139 and AW139 helicopters with additional serial-numbered MRBs installed. EASA advises that further investigations after EASA AD 2017–0175–E was issued determined that another batch of P/N 3G6210A00131 MRBs may have been subject to the incorrect bonding procedure, but to a less critical extent. EASA AD 2018–0130, which neither revises nor supersedes EASA AD 2017–0175–E, applies to the following serial-numbered MRBs with less than 1,200 FH: 2709, 3558, 3624, 3707, 3790, 3486, 3561, 3625, 3717, 3795, 3488, 3569, 3626, 3720, 3798, 3495, 3570, 3627, 3725, 3803, 3500, 3574, 3628, 3726, 3807, 3501, 3575, 3633, 3734, 3812, 3502, 3582, 3636, 3735, 3822, 3503, 3583, 3638, 3738, 3824, 3508, 3586, 3642, 3739, 3825, 3510, 3590, 3648, 3741, 3827, 3513, 3592, 3649, 3743, 3831, 3520, 3595, 3650, 3744, 3832, 3527, 3597, 3651, 3745, 3838, 3528, 3599, 3657, 3753, 3841, 3529, 3602, 3665, 3754, 3842, 3531, 3603, 3672, 3761, 3847, 3536, 3605, 3682, 3766, 3850, 3539, 3609, 3684, 3770, 3851, 3544, 3612, 3686, 3771, 3852, 3549, 3613, 3690, 3777, 3853, 3551, 3616, 3691, 3783, 3854, 3556, 3620, 3695, 3788, 3855, 3557, 3622, 3696, and 3789.

Accordingly, EASA AD 2018–0130 requires within 50 FH and thereafter at intervals not to exceed 50 FH, tap inspecting the MRB for disbonding. If there is disbonding within permitted limits, EASA AD 2018–0130 requires tap inspecting the disbonded area within 10 FH and thereafter at intervals not to exceed 10 FH. If disbonding that exceeds the permitted limits is found during any inspection, EASA AD 2018–0130 requires replacing the part. EASA AD 2018–0130 also prohibits installing the affected part unless it is a serviceable part and includes a terminating action for the repetitive inspections, which is accumulation of 1,200 FH by an affected part without findings of disbonded area, or findings of disbonded area within the limits specified in Annex A of ASB 139–520.

Discussion of Final Airworthiness Directive

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

Conclusion

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters.

Related Service Information Under 1 CFR Part 51

The FAA reviewed ASB 139–520. This service information specifies procedures for repetitively inspecting the tip cap on a certain batch of MRBs for disbonding using a tap test and replacing the MRB if disbonding is not within permitted limits.

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

Differences Between This AD and the EASA AD

EASA AD 2018–0130 allows replacing an affected part with a serviceable part, which is marked with the letter ''R'' (repaired tip cap) as the last digit of the S/N, as a terminating action for the repetitive inspections specified in that AD, whereas this AD does not.

Costs of Compliance

The FAA estimates that this AD affects 114 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Tap inspecting an MRB tip cap takes 1 work-hour, for a cost per helicopter of $85 per inspection cycle for a total U.S. fleet cost of $9,690 per inspection cycle. Replacing 1 MRB, if required, takes 4 work-hours, and required parts cost $141,725, for a total cost of $142,065 per MRB.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–17–15 Leonardo S.p.a.: Amendment 39–21698; Docket No. FAA–2021–0463; Project Identifier 2018–SW–050–AD.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.a. Model AB139 and AW139 helicopters, certificated in any category, with a main rotor blade (MRB) that has less than 1,200 total hours time-in-service (TIS) and has part number 3G6210A00131 with any serial number listed in Table 1 of Leonardo Helicopters Alert Service Bulletin No. 139–520, dated April 26, 2018 (ASB 139–520), installed.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6210, Main Rotor Blades.

(e) Unsafe Condition

This AD was prompted by a report of disbonding of an MRB tip cap, which if not detected and corrected, could result in loss of the MRB tip cap, severe vibrations, and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

(1) Within 50 hours TIS after the effective date of this AD, using a tap hammer or equivalent, tap inspect each MRB tip cap for disbonding in the area depicted in Figure 1 of ASB 139–520.

(i) If there is no disbonding, tap inspect each MRB tip cap as required by paragraph (g)(1) of this AD at intervals not to exceed 50 hours TIS.

(ii) If there is any disbonding that does not exceed the limits specified in Annex A, paragraphs 2.3 and 2.4 of ASB 139–520, tap inspect the MRB tip cap as required by paragraph (g)(1) of this AD at intervals not to exceed 10 hours TIS.

(iii) If there is any disbonding that exceeds the limits specified in Annex A, paragraphs 2.3 and 2.4 of ASB 139–520, remove the MRB from service before further flight.

(2) Accumulation of 1,200 total hours TIS on the affected part without findings of any disbonded area or with findings of any disbonded area that is within the permitted limits specified in Annex A, paragraphs 2.3 and 2.4 of ASB 139–520, constitutes terminating action for the repetitive inspections required by paragraphs (g)(1)(i) and (ii) of this AD.

(3) As of effective date of this AD, do not install any MRB that is identified in paragraph (c) of this AD on any helicopter.

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Related Information

(1) For more information about this AD, contact Bang Nguyen, Aerospace Engineer, Certification Section, Fort Worth ACO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4973; email *bang.nguyen@faa.gov.*

(2) The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2018–0130, dated June 18, 2018. You may view the EASA AD at *https://www.regulations.gov* in Docket No. FAA–2021–0463.

(j) Material Incorporated by Reference

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

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

(i) Leonardo Helicopters Alert Service Bulletin No. 139–520, dated April 26, 2018.

(ii) [Reserved]

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

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

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

Issued on August 13, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–19243 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0450; Project Identifier 2017–SW–100–AD; Amendment 39–21680; AD 2021–16–17]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH (AHD) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Airbus Helicopters Deutschland GmbH (AHD) Model MBB–BK 117 D–2 helicopters. This AD was prompted by the discovery that certain parts that are approved for installation on multiple helicopter models are life limited parts when installed on Model MBB–BK 117 D–2 helicopters and some helicopter delivery documents excluded the life limit information. This AD requires determining the total hours time-in-service (TIS) of a certain part-numbered rotor mast nut and re-identifying a certain part-numbered rotor mast nut. This AD also requires establishing a life limit for a certain part-numbered rotor mast nut and helical gear support, and removing each part from service before reaching its life limit. Additionally, this AD requires replacing a certain part-numbered main gearbox (MGB) with a not affected MGB as specified in a European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, which is incorporated by reference (IBR). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 13, 2021.

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

ADDRESSES: For EASA material incorporated by reference (IBR) in this AD, contact the EASA, *Konrad-Adenauer-Ufer 3*, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0450.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0450; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Rao Edupuganti, Aerospace Engineer, Dynamic Systems Section, Technical Innovation Policy Branch, Policy & Innovation Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *rao.edupuganti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA AD 2017–0037, dated February 22, 2017 (EASA AD 2017–0037), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters Deutschland GmbH (formerly Eurocopter Deutschland GmbH), Airbus Helicopters Inc. (formerly American Eurocopter LLC) Model MBB–BK 117 D–2 and MBB–BK117 D–2m helicopters.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Deutschland GmbH (AHD) Model MBB–BK 117 D–2 helicopters, with an affected MGB or affected rotor mast nut as identified in Note 1 of EASA AD 2017–0037. The NPRM published in the **Federal Register** on June 7, 2021 (86 FR 30218). The NPRM was prompted by the discovery that certain parts that are approved for installation on multiple helicopter models are life limited parts when installed on Model MBB–BK 117 D–2 helicopters and some helicopter delivery documents excluded the life limit information, The NPRM proposed to require accomplishing the actions specified in EASA AD 2017–0037, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this AD and EASA AD 2017–0037.'' The FAA is issuing this AD to address an unsafe condition on these products. See EASA AD 2017–0037 for additional background information.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

These helicopters been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

EASA AD 2017–0037 requires establishing a life limit for rotor mast nut part number (P/N) D632K1133–201 and helical gear support P/N D632K1113–201, and replacing these parts before exceeding their life limit. EASA AD 2017–0037 also requires replacing each rotor mast nut P/N D632K1133–201 for which the hours TIS are unknown and replacing certain part-numbered rotor mast nuts before accumulating 3,708 hours TIS since first installation on a helicopter. EASA AD 2017–0037 requires re-identifying each rotor mast nut P/N 117–12133–01 to P/N D632K1133–201 by following the specified service information. EASA AD 2017–0037 requires replacing any MGB P/N D632K1001–051 with serial number

(S/N) D2–0001 up to D2–0108 inclusive, D2–0123, D2–0126, D2–0127, or D2–0130 up to D2–0136 inclusive with a not affected MGB before the affected MGB accumulates 3,708 hours TIS. EASA AD 2017–0037 also prohibits installing an affected rotor mast nut or an affected MGB that has accumulated more than 3,708 hours TIS since first installation on a helicopter. Additionally, EASA AD 2017–0037 requires revising the Aircraft Maintenance Program (AMP).

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

Other Related Service Information

The FAA reviewed Airbus Helicopters Alert Service Bulletin MBB–BK117 D–2–63A–001, Revision 0, dated December 1, 2016 (ASB 63A–001), which is not incorporated by reference, which specifies procedures for re-identifying the rotor mast nut by using a vibrograph, crossing out the old P/N and marking the new P/N on the outer surface, engraving the letter ''A'' behind the S/N of each part, and updating the historical record and log card to confirm compliance with ASB 63A–001. ASB 63A–001 also specifies during the next MGB overhaul, making an entry in the log card to confirm re-identification of the helical gear support, and annotating the S/N of the helical gear support.

Differences Between This AD and EASA AD 2017–0037

EASA AD 2017–0037 applies to Model MBB–BK117 D–2 and D2m helicopters, whereas this AD only applies to Model MBB–BK117 D–2 helicopters because Model D–2m is not FAA type-certificated. If the total hours TIS for an affected rotor mast nut cannot be determined, this AD requires removing the rotor mast nut from service before further flight, whereas EASA AD 2017–0037 does not contain this requirement. EASA AD 2017–0037 requires using a vibrograph to re-identify certain rotor mast nuts, whereas this AD requires using a vibro etch instead. EASA AD 2017–0037 requires replacing certain parts, whereas this AD requires removing certain parts from service instead. EASA AD 2017–0037 requires revising the AMP, whereas this AD does not.

Costs of Compliance

The FAA estimates that this AD affects 30 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Determining the total hours TIS on an affected rotor mast nut takes about 1 work-hour for an estimated cost of $85 per helicopter and $2,550 for the U.S. fleet.

Re-identifying a rotor mast nut takes about 1.5 work-hours for an estimated cost of $128 per rotor mast nut.

Replacing a rotor mast nut takes about 6 work-hours and parts cost about $5,351 for an estimated cost of $5,861 per rotor mast nut.

Replacing a MGB, which includes replacing the helical gear support, takes about 42 work-hours and parts cost about $295,000 (overhauled) for an estimated cost of $298,570.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–16–17 Airbus Helicopters Deutschland GmbH (AHD): Amendment 39–21680; Docket No. FAA–2021–0450; Project Identifier 2017–SW–100–AD.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH (AHD) Model MBB–BK 117 D–2 helicopters, certificated in any category, with an affected main gearbox or affected rotor mast nut as identified in Note 1 of European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2017–0037, dated February 22, 2017 (EASA AD 2017–0037) installed.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6200 Main gearbox.

(e) Unsafe Condition

This AD was prompted by the discovery that certain parts that are approved for installation on multiple helicopter models are life limited parts when installed on Model MBB–BK 117 D–2 helicopters and some helicopter delivery documents excluded the life limit information. The FAA is issuing this AD to prevent certain parts from remaining in service beyond their fatigue life. The unsafe condition, if not addressed, could result in failure of the part and loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2017–0037.

(h) Exceptions to EASA AD 2017–0037

(1) Where EASA AD 2017–0037 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2017–0037 refers to flight hours (FH), this AD requires using hours time-in-service (TIS).

(3) Where paragraph (1) of EASA AD 2017–0037 requires determining the FH (total hours TIS) accumulated by the affected rotor mast nut since first installation on a helicopter, this AD requires removing the rotor mast nut from service before further flight if the total hours TIS cannot be determined.

(4) Where the service information referenced in Note 3 of EASA AD 2017–0037 specifies to use a vibrograph to mark the new part number, this AD requires using a vibro etch.

(5) Where paragraph (4) of EASA AD 2017–0037 requires replacing each affected rotor mast nut with a not affected rotor mast nut before exceeding 3,708 FH (total hours TIS) since first installation on a helicopter, this AD requires removing each affected rotor mast nut from service before accumulating 3,708 total hours TIS.

(6) Where paragraph (6) of EASA AD 2017–0037 requires replacing each part as identified in Table 2 of EASA AD 2017–0037 before exceeding the FH (total hours TIS) limit, this AD requires removing each part from service before exceeding the total hours TIS limit.

(7) Paragraph (7) of EASA AD 2017–0037 does not apply to this AD.

(8) The ''Remarks'' section of EASA AD 2017–0037 does not apply to this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

For more information about this AD, contact Rao Edupuganti, Aerospace Engineer, Dynamic Systems Section, Technical Innovation Policy Branch, Policy & Innovation Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *rao.edupuganti@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) EASA AD 2017–0037, dated February 22, 2017.

(ii) [Reserved]

(3) For EASA AD 2017–0037, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0450.

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

Issued on July 30, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–19253 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0449; Project Identifier 2018–SW–001–AD; Amendment 39–21679; AD 2021–16–16]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, and AS350D helicopters; and Model AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters. This AD was prompted by reports that the lanyards (bead chain tethers), which hold the quick release pins to the forward bracket assembly of certain litter kits, can loop around the directional control pedal stubs, limiting the movement of the pedals. This AD requires modification of the lanyard attachment location for certain litter kit installations. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 13, 2021.

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

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0449.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0449; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the Transport Canada AD, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Mail Stop: Room 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, and AS350D helicopters; and Model AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters. The NPRM published in the **Federal Register** on June 3, 2021 (86 FR 29705). In the NPRM, the FAA proposed to require modification of the lanyard attachment location for certain litter kit installations. The NPRM was prompted

by Canadian AD CF–2017–37, dated December 19, 2017 (Canadian AD CF–2017–37), issued by Transport Canada, which is the aviation authority for Canada, to correct an unsafe condition for Airbus Helicopters Model AS 350 B, AS 350 BA, AS 350 B1, AS 350 B2, AS 350 B3, AS 350 D, AS 355 E, AS 355 F, AS 355 F1, AS 355 F2, AS 355 N, and AS 355 NP helicopters. Transport Canada advises that there have been reports that the lanyards, which hold the quick release pins to the forward bracket assembly of certain litter kits, can loop around the directional control pedal stubs, limiting the movement of the pedals, which affects the control of the flight. If this condition exists and is not corrected during installation, this limitation may not be apparent until the pedal input is required in flight. This condition, if not addressed, could result in difficulty controlling the helicopter.

Accordingly, Canadian AD CF–2017–37 requires modification of the lanyard attachment location for certain litter kit installations. Canadian AD CF–2017–37 also specifies that installation of an affected part number litter kit is prohibited unless the installation conforms to the requirements of Airbus Helicopters Service Bulletin SB–AHCA–128, Revision 0, dated March 24, 2017.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

These helicopters have been approved by the aviation authority of Canada and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with Canada, Transport Canada, its technical representative, has notified the FAA of the unsafe condition described in its AD. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Airbus Helicopters Service Bulletin SB–AHCA–128, Revision 0, dated March 24, 2017. This service information specifies procedures for modifying the bead chain tether attachment locations for litter kits with certain part numbers. The modification includes relocating the bead chain tethers by removing the screws and washers for the pip pins on the forward bracket assembly; filling the empty holes with rivets; determining the new locations of and drilling new holes; and securing the bead chain tethers on the top side of the forward bracket assembly in the new hole locations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Differences Between This AD and the Transport Canada AD

This AD requires a pre-flight check prior to each flight to determine if there is interference between the lanyards that hold the quick release pins to the forward bracket assembly of the litter kit and the flight controls. This pre-flight check requirement will be terminated upon completion of the modification of the litter kit installation. Canadian AD CF–2017–37 does not include a requirement for the pre-flight check prior to each flight to determine if there is interference between the lanyards and the flight controls.

Costs of Compliance

The FAA estimates that this AD affects 967 helicopters of U.S. Registry. The FAA estimates the following costs to comply with this AD.

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Pre-flight check for lanyard interference.	0.5 work-hour × $85 per hour = $42.50 per inspection cycle.	$0	$42.50 per inspection cycle ...	$41,097.50 per inspection cycle.
Modification of lanyard attachment location.	1 work-hour × $85 per hour = $85.	0	$85	$82,195.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–16–16 Airbus Helicopters: Amendment 39–21679; Docket No. FAA–2021–0449; Project Identifier 2018–SW–001–AD.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, and AS350D helicopters; and Model AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters, certificated in any category, with litter kits installed having any part number specified in paragraphs (c)(1) through (3) of this AD:

(1) Part number (P/N) 350–200034 (left-hand litter kit).

(2) P/N 350–200194 (left-hand litter kit).

(3) P/N 350–200144 (right-hand litter kit).

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6700, Rotorcraft Flight Control.

(e) Unsafe Condition

This AD was prompted by reports that the lanyards (bead chain tethers), which hold the quick release pins to the forward bracket assembly of certain litter kits, can loop around the directional control pedal stubs, limiting the movement of the pedals, which affect the control of the flight. The FAA is issuing this AD to address interference between the litter kit lanyards and the flight controls. The unsafe condition, if not addressed, could result in limited flight control movement and difficulty controlling the helicopter.

(f) Compliance

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

(g) Required Actions

(1) For litter kits having any part specified in paragraphs (c)(1) through (3) of this AD: Prior to each flight until the modification required by paragraph (g)(2) of this AD is accomplished, do a pre-flight check to determine if there is interference (*e.g.* limited movement of the pedals due to the lanyards that hold the quick release pins to the forward bracket assembly being looped around the directional control pedal stubs) between the lanyards that hold the quick release pins to the forward bracket assembly and the pedals. If interference is found, before further flight, do the modification required by paragraph (g)(2) of this AD for the affected litter kit. The pre-flight check may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with § 43.9(a)(1) through (4) and § 91.417(a)(2)(v). The record must be maintained as required by § 91.417, § 121.380, or § 135.439.

(2) Within 25 hours time-in-service (TIS) after the effective date of this AD, modify the attachment location of the lanyard for litter kits having any part specified in paragraphs (c)(1) through (3) of this AD. Do the modification in accordance with paragraph 3.B.2., ''Procedure,'' of the Accomplishment Instructions of Airbus Helicopters Service Bulletin SB–AHCA–128, Revision 0, dated March 24, 2017.

Note 1 to paragraph (g): Litter kits, P/N 350–200034 and P/N 350–200194, may have been installed under supplemental type certificate (STC) SR00406NY (for Model AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters) or STC SR00407NY (for Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, and AS350D helicopters). Litter kit P/N 350–200144 may have been installed under STC SR00458NY (for Model AS350BA, AS350B2, and AS350B3 helicopters).

(h) Parts Installation Limitation

As of the effective date of this AD, no person may install a litter kit having a part number identified in paragraphs (c)(1) through (3) of this AD, on any helicopter, unless the installation is modified as required by paragraph (g)(2) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

(1) For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Mail Stop: Room 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@faa.gov.*

(2) For information about AMOCs, contact the Manager, International Validation Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-AVS-AIR-730-AMOC@faa.gov.*

(3) The subject of this AD is addressed in Transport Canada AD CF–2017–37 dated December 19, 2017. You may view the Transport Canada AD at *https://www.regulations.gov* in Docket No. FAA–2021–0449.

(k) Material Incorporated by Reference

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

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

(i) Airbus Helicopters Service Bulletin SB–AHCA–128, Revision 0, dated March 24, 2017.

(ii) [Reserved]

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

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

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

Issued on July 30, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–19252 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0379; Project Identifier MCAI–2021–00068–R; Amendment 39–21667; AD 2021–16–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2016–12–51, which applied to all Airbus Helicopters Model AS332L2 and Model EC225LP helicopters. AD 2016–12–51 prohibited all further flight of Model AS332L2 and Model EC225LP helicopters. This AD requires replacing certain second stage planet gear assemblies, removing certain epicyclic modules, installing a full flow magnetic plug (FFMP), revising the existing

rotorcraft flight manual (RFM) for your helicopter, repetitively inspecting the main gearbox (MGB) particle detectors, repetitively inspecting the MGB oil filter and oil cooler, and corrective action if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The actions specified in this AD terminate the flight prohibition. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 13, 2021.

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

ADDRESSES: For EASA material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* For Airbus Helicopters service information, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0379.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0379; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mahmood Shah, Aviation Safety Engineer, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5538; email *mahmood.g.shah@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0134R2, dated April 16, 2020 (EASA AD 2017–0134R2) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus Helicopters Model AS332L2 and EC225LP helicopters.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2016–12–51, Amendment 39–18578 (81 FR 43479, July 5, 2016) (AD 2016–12–51). AD 2016–12–51 applied to all Airbus Helicopters Model AS332L2 and EC225LP helicopters. The NPRM published in the **Federal Register** on June 1, 2021 (86 FR 29212). The NPRM was prompted by an accident involving an Airbus Helicopters Model EC225LP helicopter in which the main rotor hub detached from the MGB. The Airbus Helicopters Model AS332L2 helicopter has a similar design to the affected Model EC225LP helicopter, therefore, this model may be subject to the unsafe condition revealed on the Model EC225LP helicopter. The NPRM proposed to require replacing certain second stage planet gear assemblies, removing certain epicyclic modules, installing an FFMP, revising the existing RFM for your helicopter, repetitively inspecting the MGB particle detectors, repetitively inspecting the MGB oil filter and oil cooler, and corrective action if necessary, as specified in EASA AD 2017–0134R2. The NPRM also proposed to provide terminating action for certain repetitive inspections.

The FAA is issuing this AD to address failure of the main rotor system, which would result in loss of control of the helicopter. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

EASA AD 2017–0134R2 references procedures for replacing certain second stage planet gear assemblies with serviceable parts; removing certain epicyclic modules from service; modifying the helicopter by installing an FFMP; revising the RFM to prohibit MGB particle burning in-flight; repetitively inspecting the FFMP and MGB particle detectors for metal particles, analyzing any metal particles that are found, and corrective action; and repetitively inspecting the MGB oil filter and oil cooler for particles and corrective action. The corrective actions include replacing an affected MGB with a serviceable MGB. EASA AD 2017–0134R2 also provides terminating action for certain repetitive inspections.

Airbus Helicopters has issued Emergency Alert Service Bulletin 05A049, Revision 6, dated July 25, 2017, for Model EC225 helicopters; and Emergency Alert Service Bulletin 05.01.07, Revision 6, dated July 27, 2017, for Model AS332 helicopters. The service information specifies procedures for, among other things, replacing the MGB.

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

Differences Between This AD and the MCAI

Although the service information referenced in EASA AD 2017–0134R2 specifies to return affected planetary gear assemblies to the manufacturer for module overhaul, this AD does not include that requirement.

Although the service information referenced in EASA AD 2017–0134R2 specifies that retrofit of the planet gear of the MGB can only be done by Airbus Helicopters or Airbus Helicopters approved repair centers, this AD does not include that requirement.

EASA AD 2017–0134R2 requires operators to ''inform all flight crews'' of revisions to the RFM, and thereafter to ''operate the helicopter accordingly.'' However, this AD does not specifically require those actions. FAA regulations mandate compliance with only the operating limitations section of the flight manual. The flight manual changes required by this AD apply to the emergency procedures section of the existing RFM for your helicopter. Furthermore, compliance with such

requirements in an AD is impracticable to demonstrate or track on an ongoing basis; therefore, a requirement to operate the aircraft in such a manner is unenforceable. Nonetheless, the FAA recommends that flight crews of the helicopters listed in the applicability operate in accordance with the revised emergency procedures mandated by this AD.

Interim Action

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking then.

Costs of Compliance

The FAA estimates that this AD affects 28 helicopters of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
New actions	Up to 6 work-hours × $85 per hour = $510.	$0	Up to $510	Up to $14,280.

* Table does not include estimated costs for reporting.

The FAA estimates that it will take about 1 work-hour per product to comply with the reporting requirement in this AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $2,380, or $85 per product.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
40 work-hours × $85 per hour = $3,400	$295,000	$298,400

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

Paperwork Reduction Act

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2016–12–51, Amendment 39–18578 (81 FR 43479, July 5, 2016); and

■ b. Adding the following new airworthiness directive:

2021–16–05 Airbus Helicopters: Amendment 39–21667; Docket No. FAA–2021–0379; Project Identifier MCAI–2021–00068–R.

(a) Effective Date

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

(b) Affected ADs

This AD replaces AD 2016–12–51, Amendment 39–18578 (81 FR 43479, July 5, 2016) (AD 2016–12–51).

(c) Applicability

This AD applies to all Airbus Helicopters Model AS332L2 and EC225LP helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 6320, Main Rotor Gearbox.

(e) Reason

This AD was prompted by an accident involving a Model EC225LP helicopter in which the main rotor hub detached from the main gearbox. The FAA is issuing this AD to address failure of the main rotor system, which would result in loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2017–0134R2, dated April 16, 2020 (EASA AD 2017–0134R2).

(h) Exceptions to EASA AD 2017–0134R2

(1) Where EASA AD 2017–0134R2 refers to the effective dates specified in paragraphs (h)(1)(i) through (v) of this AD, this AD requires using the effective date of this AD.

(i) The effective date of EASA AD 2017–0134R2.

(ii) October 13, 2016 (the effective date of EASA AD 2016–0199, dated October 7, 2016).

(iii) March 20, 2017 (the effective date of EASA AD 2017–0050–E, dated March 17, 2017).

(iv) June 30, 2017 (the effective date of EASA AD 2017–0111, dated June 23, 2017).

(v) August 1, 2017 (the effective date of EASA AD 2017–0134, dated July 27, 2017).

(2) The ''Remarks'' section of EASA AD 2017–0134R2 does not apply to this AD.

(3) Where any service information referred to in EASA AD 2017–0134R2 specifies to discard certain parts after they have been removed from the helicopter, this AD requires removing those parts from service.

(4) Where paragraph (2) of EASA AD 2017–0134R2 specifies to replace a part before exceeding the applicable ''new service life limit,'' this AD requires removing that part from service.

(5) Where any service information referred to in EASA AD 2017–0134R2 specifies to return certain parts to the manufacturer, including for overhaul, after they have been removed from the helicopter, this AD does not include that requirement.

(6) Where EASA AD 2017–0134R2 refers to flight hours (FH), this AD requires using hours time-in-service.

(7) Where any service information referred to in EASA AD 2017–0134R2 specifies to perform a metallurgical analysis and contact the manufacturer if unsure about the characterization of the particles collected, this AD does require characterization of the particles collected, however this AD does not require contacting the manufacturer to determine the characterization of the particles collected.

(8) Where EASA AD 2017–0134R2 requires actions during each ''after last flight'' of the day (ALF) inspection, this AD requires those actions before the first flight of each day.

(9) Where any service information referred to in EASA AD 2017–0134R2 specifies to do the actions identified in paragraphs (h)(9)(i) through (iv) of this AD, this AD does not include those requirements.

(i) Watch a video for removing the grease from the full flow magnetic plug (FFMP), using a cleaning agent, and collecting particles.

(ii) Return affected planetary gear assembly to the manufacturer for module overhaul.

(iii) Contact the approved repair station/Airbus Helicopters if the reason for a repair to an epicyclic module is unknown and inform/contact Airbus Helicopters.

(iv) Contact the approved repair station/Airbus Helicopters depending on who performed the last overhaul (RG) to determine if a repair has been done on the second stage planet gears since new.

(10) Where any service information referred to in EASA AD 2017–0134R2 specifies that retrofit of the planet gear of the main gearbox (MGB) can only be done by Airbus Helicopters or Airbus Helicopters approved repair centers, this AD does not require that the retrofit of the planet gear be done only by Airbus Helicopters or Airbus Helicopters approved repair centers. For this AD the retrofit can also be done by an FAA-approved repair station.

(11) Where paragraph (5) of EASA AD 2017–0134R2 specifies accomplishing the FFMP additional work within 3 months after August 1, 2017, this AD requires accomplishing the FFMP additional work within 4 months after the effective date of this AD.

(12) Where paragraph (6) of EASA AD 2017–0134R2 specifies to ''inform all flight crews and, thereafter, operate the helicopter accordingly,'' this AD does not require those actions.

(13) Where any service information referred to in EASA AD 2017–0134R2 specifies that if any 16NCD13 particles are found you are to take a 1-liter sample of oil and send it to the manufacturer, this AD does not require those actions.

(14) Where any service information referred to in EASA AD 2017–0134R2 specifies ''Do not resume flights until corrective action(s) are agreed by Airbus Helicopters,'' or to contact Airbus Helicopters before resuming flights ''if further particles are collected during the close monitoring period'' for this AD, you must repair before further flight using a method specified in paragraph (h)(14)(i) or (ii) of this AD.

(i) In accordance with FAA approved procedures.

(ii) The procedures specified in Appendix 4.A., Particle Analysis, of Airbus Helicopters Emergency Alert Service Bulletin 05A049, Revision 6, dated July 25, 2017; or Emergency Alert Service Bulletin 05.01.07, Revision 6, dated July 27, 2017, as applicable, except as required by paragraphs (h)(5), (7), and (13) of this AD.

(15) Where the service information identified in EASA AD 2017–0134R2 specifies to report inspection results to Airbus Helicopters, for this AD, report the inspection results at the applicable time specified in paragraph (h)(15)(i) or (ii) of this AD.

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

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

(i) Credit for Previous Actions

(1) This paragraph provides credit for the actions specified in paragraph (4) of EASA AD 2017–0134R2, if those actions were performed before the effective date of this AD using Airbus Helicopters Emergency Alert Service Bulletin 63.00.83 or 63A030, both Revision 1, both dated October 7, 2016.

(2) Corrective action(s) for the inspections required by paragraphs (8) and (10) of EASA AD 2017–0134R2 accomplished on a helicopter before the effective date of this AD, in accordance with Paragraph 3.B. and Appendix 4.A. of the Accomplishment Instructions of the applicable Airbus Helicopters service information specified in paragraphs (i)(2)(i) through (viii) of this AD, as applicable, are acceptable to comply with the requirements of paragraph (11) of EASA AD 2017–0134R2 for that helicopter, but only for the corrective actions for the inspections required by paragraphs (8) and (10) of EASA AD 2017–0134R2.

(i) Emergency Alert Service Bulletin 05.01.07, Revision 2, dated October 7, 2016.

(ii) Emergency Alert Service Bulletin 05.01.07, Revision 3, dated February 25, 2017.

(iii) Emergency Alert Service Bulletin 05.01.07, Revision 4, dated March 17, 2017.

(iv) Emergency Alert Service Bulletin 05.01.07, Revision 5, dated June 23, 2017.

(v) Emergency Alert Service Bulletin 05A049, Revision 2, dated October 7, 2016.

(vi) Emergency Alert Service Bulletin 05A049, Revision 3, dated February 25, 2017.

(vii) Emergency Alert Service Bulletin 05A049, Revision 4, dated March 17, 2017.

(viii) Emergency Alert Service Bulletin 05A049, Revision 5, dated June 23, 2017.

(j) Special Flight Permit

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

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Related Information

(1) For more information about this AD, contact Mahmood Shah, Aviation Safety Engineer, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5538; email *mahmood.g.shah@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(4) and (5) of this AD.

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2017–0134R2, dated April 16, 2020.

(ii) Airbus Helicopters Emergency Alert Service Bulletin 05A049, Revision 6, dated July 25, 2017.

(iii) Airbus Helicopters Emergency Alert Service Bulletin 05.01.07, Revision 6, dated July 27, 2017.

(3) For EASA AD 2017–0134R2, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

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

(5) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0379.

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

Issued on July 22, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–19247 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0198; Project Identifier MCAI–2020–00950–E; Amendment 39–21695; AD 2021–17–12]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (Type Certificate Previously Held by Rolls-Royce plc) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2020–13–07 for all Rolls-Royce Deutschland Ltd & Co KG (RRD) Trent 1000–D2, Trent 1000–J2, and Trent 1000–K2 model turbofan engines with a certain part-numbered fuel pump installed. AD 2020–13–07 required removal and replacement of the fuel pump with a part eligible for installation. This AD was prompted by the manufacturer's investigation into an unexpected reduction in fuel pump performance in certain high life fuel pumps and subsequent determination that an additional part-numbered fuel pump is subject to the same unsafe condition. This AD requires new and reduced life limits for certain part-numbered fuel pumps, depending on the engine model the fuel pump is installed on. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 13, 2021.

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

ADDRESSES: For service information identified in this final rule, contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424; website: *https://www.rolls-royce.com/contact-us.aspx.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759. It is also available at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0198.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0198; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kevin M. Clark, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7088; fax: (781) 238–7199; email: *kevin.m.clark@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2020–13–07, Amendment 39–21152 (85 FR 38312, June 26, 2020), (AD 2020–13–07). AD 2020–13–07 applied to all RRD Trent 1000–D2, Trent 1000–J2, and Trent 1000–K2 model turbofan engines with fuel pump, part number G5030FPU01, installed. The NPRM published in the **Federal Register** on March 30, 2021 (86 FR 16548). The NPRM was prompted by the manufacturer's investigation into an unexpected reduction in fuel pump performance in certain high life fuel pumps and life-related wear-out of the internal components and subsequent determination that an additional part-numbered fuel pump is subject to this same unsafe condition. In the NPRM, the FAA proposed to retain all the requirements of AD 2020–13–07. In the NPRM, the FAA also proposed to add an additional part-numbered fuel pump and additional Trent 1000 model turbofan engines on which this fuel pump is installed to the applicability. In the NPRM, the FAA also proposed to require new and reduced life limits for certain part-numbered fuel pumps,

depending on the engine model the fuel pump is installed on. The FAA is issuing this AD to address the unsafe condition on these products.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2021–0006, dated January 7, 2021 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

An unexpected reduction in fuel pump performance has been seen during testing of high life units. Strip examination of these fuel pumps has identified that life related wear-out of the internal components is causing deterioration in pump efficiency. The effect of the loss of fuel pump efficiency is more pronounced on higher rated engines.

This condition, if not corrected, could lead to reduced engine thrust, possibly resulting in reduced control of the aeroplane.

To address this potential unsafe condition, Rolls-Royce published NMSB 73–AK581 (original issue) to provide instructions for replacement of the affected parts before exceeding reduced life limits. Consequently, EASA issued AD 2020–0124 to require the removal from service of the affected parts.

After that [EASA] AD was issued, Rolls-Royce issued NMSB 73–AK581 Revision 1, introducing an additional fuel pump, P/N TPS1000–05, as well as new and reduced life limits for the affected parts, depending on engine model (rating). Consequently, EASA issued AD 2020–0154, retaining the requirements of EASA AD 2020–0124, which was superseded, expanding the Applicability to include additional engine models (ratings) and requiring implementation of the new and reduced life limits.

Since that [EASA] AD was issued, Rolls-Royce issued the NMSB, as defined in this [EASA] AD, introducing new and reduced life limits for the affected parts, depending on engine model (rating).

For the reason described above, this [EASA] AD retains the requirements of EASA AD 2020–0154, which is superseded, and requires implementation of the new and reduced life limits, as applicable.

You may obtain further information by examining the MCAI in the AD docket on *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0198.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from two commenters. The commenters were The Boeing Company (Boeing) and Rolls-Royce. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Update Service Bulletin

Boeing and Rolls-Royce requested that the FAA update the specified service information by referencing Revision 3 of Rolls-Royce (RR) Alert Non-Modification Service Bulletin (NMSB) TRENT 1000–73–AK581.

The FAA agrees and has updated this AD to reference RR Alert NMSB TRENT 1000–73–AK581, Revision 3, dated April 7, 2021. This change to this AD imposes no additional burden on operators.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed RR Alert NMSB TRENT 1000–73–AK581, Revision 3, dated April 7, 2021 (RR Alert NMSB). The RR Alert NMSB introduces a reduced life limit for affected fuel pumps installed on certain RRD Trent 1000 model turbofan engines. The RR Alert NMSB also includes additional RRD Trent 1000 turbofan engine models that require implementation of the reduced life limits for affected fuel pumps. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Interim Action

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking.

Costs of Compliance

The FAA estimates that this AD affects 28 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace fuel pump	3 work-hours × $85 per hour = $255	$393,552	$393,807	$11,026,596

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:
■ a. Removing Airworthiness Directive 2020–13–07, Amendment 39–21152 (85 FR 38312, June 26, 2020); and
■ b. Adding the following new airworthiness directive:

2021–17–12 Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc): Amendment 39–21695; Docket No. FAA–2021–0198; Project Identifier MCAI–2020–00950–E.

(a) Effective Date

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

(b) Affected ADs

This AD replaces AD 2020–13–07, Amendment 39–21152 (85 FR 38312, June 26, 2020).

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) (Type Certificate previously held by Rolls-Royce plc) Trent 1000–A, Trent 1000–A2, Trent 1000–AE, Trent 1000–AE2, Trent 1000–C, Trent 1000–C2, Trent 1000–CE, Trent 1000–CE2, Trent 1000–D, Trent 1000–D2, Trent 1000–G, Trent 1000–G2, Trent 1000–H, Trent 1000–H2, Trent 1000–J2, Trent 1000–K2, and Trent 1000–L2 model turbofan engines with a fuel pump, part number (P/N) G5030FPU01 or P/N TPS1000–05, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7314, Engine Fuel Pump.

(e) Unsafe Condition

This AD was prompted by the manufacturer's investigation into an unexpected reduction in fuel pump performance in certain high life fuel pumps and life-related wear-out of the internal components, which causes deterioration in fuel pump efficiency. The FAA is issuing this AD to prevent failure of the fuel pump, loss of engine thrust control and reduced control of the airplane. The unsafe condition, if not addressed, could result in failure of the fuel pump, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

Within the compliance time specified in Planning Information, paragraph 1.D.2, of Rolls-Royce (RR) Alert Non-Modification Service Bulletin TRENT 1000 73–AK581, Revision 3, dated April 7, 2021 (the RR Alert NMSB), or within 30 days after the effective date of this AD, whichever occurs later, remove the fuel pump, P/N G5030FPU01 or P/N TPS1000–05, and replace it with a part eligible for installation.

(h) Definition

For the purpose of this AD, a ''part eligible for installation'' is a fuel pump with a P/N other than G5030FPU01 or TPS1000–05 or a fuel pump that has not exceeded the compliance time specified in Planning Information, paragraph 1.D.2, of the RR Alert NMSB.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

(1) For more information about this AD, contact Kevin M. Clark, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7088; fax: (781) 238–7199; email: *kevin.m.clark@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2021–0006, dated January 7, 2021, for more information. You may examine the EASA AD in the AD docket at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0198.

(k) Material Incorporated by Reference

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

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

(i) Rolls-Royce (RR) Alert Non-Modification Service Bulletin TRENT 1000–73–AK581, Revision 3, dated April 7, 2021.

(ii) [Reserved]

(3) For RR service information identified in this AD, contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424; website: *https://www.rolls-royce.com/contact-us.aspx.*

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

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

Issued on August 12, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–19279 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0539; Project Identifier 2018–SW–048–AD; Amendment 39–21719; AD 2021–19–01]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Canada Limited Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bell Textron Canada Limited Model 206, 206A, 206A–1 (OH–58A), 206B, 206B–1, 206L, 206L–1, 206L–3, 206L–4, 222, 222B, 222U, 230, 407, 427, 429, and 430 helicopters. This AD was prompted by a report of a shoulder harness seat belt comfort clip (comfort clip) interfering with the seat belt inertia reel. This AD requires removing each comfort clip from service, inspecting the shoulder harness seat belt for any rip and abrasion, and removing any shoulder harness seat belt from service that has a rip or abrasion. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 13, 2021.

ADDRESSES: For service information identified in this final rule, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4; telephone 1–450–437–2862 or 1–800–363–8023; fax 1–450–433–0272; email *productsupport@bellflight.com;* or at *https://www.bellflight.com/support/*

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

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0539; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the Transport Canada AD, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Steven Warwick, Aerospace Engineer, Certification Section, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5225; email *Steven.R.Warwick@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Bell Textron Canada Limited Model 206, 206A, 206A–1 (OH–58A), 206B, 206B–1, 206L, 206L–1, 206L–3, 206L–4, 222, 222B, 222U, 230, 407, 427, 429, and 430 helicopters with a comfort clip installed; or that have been modified per Supplemental Type Certificate (STC) SH2073SO (installation of shoulder harness restraint system) or STC SH2751SO (installation of a passenger shoulder harness restraint system).

The NPRM published in the **Federal Register** on July 6, 2021 (86 FR 35410). In the NPRM, the FAA proposed to require, within 25 hours time-in-service (TIS) after the effective date of the proposed AD, removing from service each comfort clip and inspecting each shoulder harness seat belt for a rip and abrasion. If there is a rip or abrasion, the NPRM proposed to require removing the shoulder harness seat belt from service before further flight. The NPRM also proposed to prohibit installing a comfort clip on any helicopter as of the effective date of the proposed AD.

The NPRM was prompted by Transport Canada AD CF–2018–16, dated June 14, 2018 (Transport Canada AD CF–2018–16), issued by Transport Canada, which is the aviation authority for Canada, to correct an unsafe condition for all serial-numbered Bell Helicopter Textron Canada Limited (now Bell Textron Canada Limited) Model 206, 206A, 206A–1, 206B, 206B–1, 206L, 206L–1, 206L–3, 206L–4, 222, 222B, 222U, 230, 407, 427, 429 and 430 helicopters. Transport Canada advises that Bell Helicopter Textron Canada Limited delivered comfort clips with some helicopters, and that these comfort clips, which were also sold as spare parts or accessories, were intended to improve occupant comfort by reducing shoulder harness tension. However, Transport Canada advises the comfort clip may interfere with the shoulder harness inertia reel, preventing the harness from locking and resulting in injury to the occupant during an emergency landing. To prevent this unsafe condition, Transport Canada AD CF–2018–16 requires, within 25 hours air time or 10 days, whichever occurs first, determining if the comfort clips are installed. If the comfort clips are installed, Transport Canada AD CF–2018–16 requires removing them from service within 100 hours air time or 30 days, whichever occurs first, and inspecting each shoulder harness seat belt for damage and replacing any shoulder harness seat belt that has damage that exceeds allowable limits before further flight. Transport Canada AD CF–2018–16 also prohibits the installation of any comfort clip on any helicopter.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

These helicopters have been approved by the aviation authority of Canada and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with Canada, Transport Canada, its technical representative, has notified the FAA of the unsafe condition described in its AD. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters.

Related Service Information

The FAA reviewed the following Bell Helicopter Alert Service Bulletins (ASBs), each dated January 11, 2016:

- ASB 222–15–112 for Model 222, 222B, and 222U helicopters with serial numbers (S/N) 47006 through 47089, 47131 through 47156, and 47501 through 47574 (ASB 222–15–112);
- ASB 230–15–46 for Model 230 helicopters with S/N 23001 through 23038;
- ASB 407–15–111 for Model 407 helicopters with S/N 53000 through 53900, 53911 through 54166, and 54300 through 54599;
- ASB 427–15–39 for Model 427 helicopters with S/N 56001 through 56084, 58001 and 58002 (ASB 427–15–39);
- ASB 429–15–27 for Model 429 helicopters with S/N 57001 through 57259 (ASB 429–15–27); and
- ASB 430–15–56 for Model 430 helicopters with S/N 49001 through 49129.

The FAA also reviewed the following Bell Helicopter ASBs, both Revision A and both dated February 5, 2016:

- ASB 206–15–133 for Model 206A/B and TH–67 helicopters with S/N 4 through 4690 and 5101 through 5313 (ASB 206–15–133); and
- ASB 206L–15–175 for Model 206L, 206L–1, 206L–3, and 206L–4 helicopters with S/N 45001 through 45153, 46601 through 46617, 45154 through 45790, 51001 through 51612, and 52001 through 52455 (ASB 206L–15–175).

All of the ASBs specify removing all variants of comforts clips from all seat belt assemblies. ASB 222–15–112, ASB 427–15–39, and ASB 429–15–27 also specify that although the helicopter models to which these ASBs apply were not affected by the original design at the time of certification and delivery of the helicopter, the affected parts may have been installed post-delivery to end owners/operators of those helicopters.

ASB 206–15–133 and ASB 206L–15–175 also specify that helicopters that have been modified per STC SH2073SO (installation of shoulder harness restraint system) are affected and therefore included in the ASB applicability.

ASB 206L–15–175 also specifies that helicopters that have been modified per STC SH2751SO (installation of a passenger shoulder harness restraint system) are affected and therefore included in the ASB applicability.

Differences Between This AD and the Transport Canada AD

This AD requires removing the comfort clip and inspecting the shoulder harness seat belt within 25 hours TIS; Transport Canada AD CF–2018–16 requires inspecting for the presence of a comfort clip at 25 hours air time, or 10 days, whichever occurs first, and then requires removing the comfort clip, if installed. Transport

Canada AD CF–2018–16 requires inspecting the shoulder harness seat belt for any damage that exceeds allowable limits within 100 hours air time or 30 days, whichever occurs first, whereas this AD requires the inspection within 25 hours TIS and removing any shoulder harness seat belt from service before further flight if there is any rip or abrasion.

Transport Canada AD CF–2018–16 applies to all serial-numbered Model 206, 206A, 206A–1, 206B, 206B–1, 206L, 206L–1, 206L–3, 206L–4, 222, 222B, 222U, 230, 407, 427, 429 and 430 helicopters, whereas this AD applies to Model 206, 206A, 206A–1, 206B, 206B–1, 206L, 206L–1, 206L–3, 206L–4, 222, 222B, 222U, 230, 407, 427, 429, and 430 helicopters with a comfort clip installed or helicopters that have been modified per STC SH2073SO (installation of shoulder harness restraint system) or STC SH2751SO (installation of a passenger shoulder harness restraint system).

Costs of Compliance

The FAA estimates that this AD affects 2,347 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Removing each comfort clip will take about 0.5 work-hour for an estimated cost of $43 per clip and up to $807,368 for the U.S. fleet.

Replacing a shoulder harness seat belt, if required, will take about 1 work-hour and parts will cost about $250 per shoulder harness seat belt, for an estimated cost of $335 per replacement.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–19–01 Bell Textron Canada Limited: Amendment 39–21719; Docket No. FAA–2021–0539; Project Identifier 2018–SW–048–AD.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bell Textron Canada Limited Model 206, 206A, 206A–1 (OH–58A), 206B, 206B–1, 206L, 206L–1, 206L–3, 206L–4, 222, 222B, 222U, 230, 407, 427, 429, and 430 helicopters, certificated in any category:

(1) With a shoulder harness seat belt comfort clip (comfort clip) installed; or

(2) That have been modified per Supplemental Type Certificate (STC) SH2073SO (installation of shoulder harness restraint system) or STC SH2751SO (installation of a passenger shoulder harness restraint system).

(d) Subject

Joint Aircraft Service Component (JASC) Code: 2500 Cabin Equipment/Furnishings.

(e) Unsafe Condition

This AD defines the unsafe condition as a comfort clip interfering with the seat belt inertia reel, which could prevent the seatbelt from locking and result in injury to the occupant during an emergency landing.

(f) Compliance

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

(g) Required Actions

(1) Within 25 hours time-in-service after the effective date of this AD:

(i) Remove each comfort clip from service.

(ii) Inspect each shoulder harness seat belt for a rip and abrasion. If there is a rip or any abrasion, before further flight, remove the shoulder harness seat belt from service.

(2) As of the effective date of this AD, do not install any comfort clip on any helicopter.

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Related Information

(1) For more information about this AD, contact Steven Warwick, Aerospace Engineer, Certification Section, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5225; email *Steven.R.Warwick@faa.gov.*

(2) The subject of this AD is addressed in Transport Canada AD CF–2018–16, dated June 14, 2018. You may view the Transport Canada AD on the internet at *https://www.regulations.gov* in the AD Docket in Docket No. FAA–2021–0539.

(j) Material Incorporated by Reference

None.

Issued on August 31, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–19244 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0383; Project Identifier 2018–SW–005–AD; Amendment 39–21671; AD 2021–16–09]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Leonardo S.p.a. Model AW189 helicopters. This AD was prompted by corrosion on the inlet check valve banjo fitting of emergency flotation system (EFS) float assemblies. This AD requires visually inspecting each banjo fitting installed on an affected EFS float assembly, and depending on the results, removing the banjo fitting from service. This AD also requires applying corrosion inhibiting compound and prohibits installing an affected EFS float assembly unless certain requirements have been accomplished as specified in a European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 13, 2021.

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

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* For Aero Sekur and Leonardo Helicopters service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://customerportal.leonardocompany.com/en-US/.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0383.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0383; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kristi Bradley, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *kristin.bradley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued a series of ADs, the most recent being EASA AD 2018–0006, dated January 10, 2018 (EASA AD 2018–0006), to correct an unsafe condition for Leonardo S.p.A. Helicopters (formerly Finmeccanica S.p.A., AgustaWestland S.p.A.) Model AW189 helicopters with certain part-numbered and serial-numbered Aero Sekur EFS float assemblies installed, except those float assemblies marked with SB–189–25–004. EASA initially issued EASA AD 2017–0256, dated December 22, 2017 (EASA AD 2017–0256), to address the unsafe condition. EASA issued EASA AD 2018–0006 to supersede EASA AD 2017–0256 to revise the compliance time based on the EFS float assembly condition.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Leonardo S.p.a. Model AW189 helicopters. The NPRM published in the **Federal Register** on May 28, 2021 (86 FR 28714). The NPRM was prompted by corrosion on the inlet check valve banjo fitting of EFS float assemblies. The NPRM proposed to require visually inspecting each banjo fitting installed on an affected EFS float assembly, and depending on the results, removing the banjo fitting from service. The NPRM also proposed to require applying corrosion inhibiting compound to each banjo fitting installed on an affected EFS float assembly and prohibit installing an affected EFS float assembly unless the banjo fitting inspection, banjo fitting replacement, and corrosion inhibiting compound application requirements have been accomplished, as specified in an EASA AD.

The FAA is issuing this AD to prevent reduced inflation of an EFS float. The unsafe condition, if not addressed, could affect the helicopter's buoyancy during an emergency landing on water. See EASA AD 2018–0006 for additional background information.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

The FAA reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed.

Related Service Information Under 1 CFR Part 51

EASA AD 2018–0006 requires visually inspecting the banjo fittings installed on an affected EFS float assembly. If there is corrosion on a banjo fitting, EASA AD 2018–0006 requires replacing the banjo fitting. EASA AD 2018–0006 also requires applying corrosion inhibiting compound to each banjo fitting installed on an affected EFS float assembly. EASA AD 2018–0006 prohibits installing an affected EFS float assembly unless the banjo fitting inspection, banjo fitting replacement, and corrosion inhibiting compound application requirements have been accomplished. EASA AD 2018–0006 also allows credit for actions accomplished previously with a prior revision of the Leonardo Helicopters service information.

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

Other Related Service Information

The FAA reviewed Leonardo Helicopters Alert Service Bulletin No. 189–174, original issue, dated December 22, 2017 (ASB 189–174 original issue), and Revision A, dated January 5, 2018 (ASB 189–174 Rev A). The FAA also

reviewed Aero Sekur Service Bulletin SB–189–25–004, original issue, dated November 22, 2017 (SB–189–25–004), which is attached as Annex A to ASB 189–174 original issue and ASB 189–174 Rev A.

ASB 189–174 Rev A and ASB 189–174 original issue specify the same procedures, except the compliance time specified by ASB 189–174 Rev A has been revised by adding affected EFS float assemblies that have been inspected using procedures in the maintenance manual within the previous 12 months. ASB 189–174 original issue and ASB 189–174 Rev A specify accomplishing the Visual Inspection and Corrosion Prevention, and Record Instruction procedures specified in SB–189–25–004. ASB 189–174 original issue and ASB 189–174 Rev A also specify emailing photographical evidence of each corroded banjo fitting to Leonardo Helicopters PSE Division and returning replaced banjo fittings to Leonardo Helicopters Customer Support Division.

SB–189–25–004 specifies procedures for cleaning and visually inspecting each banjo fitting for evidence of corrosion. If there is corrosion, SB–189–25–004 specifies procedures for discarding the banjo fitting and its O-rings, and installing a new banjo fitting. SB–189–25–004 also specifies procedures for applying corrosion inhibiting compound (JC5A or Mastinox 6856) on all banjo fittings. When SB–189–25–004 is accomplished, SB–189–25–004 specifies procedures for marking the identification label of the EFS float assembly.

Differences Between This AD and the EASA AD

EASA AD 2018–0006 requires returning and discarding certain parts, whereas this AD requires removing those parts from service instead.

Costs of Compliance

The FAA estimates that this AD affects 4 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Inspecting the banjo fittings takes about 8.5 work-hours for an estimated cost of $723 per helicopter and $2,892 for the U.S. fleet. Applying corrosion inhibiting compound takes about 1.5 work-hours for an estimated cost of $128 per helicopter and $512 for the U.S. fleet. If required, replacing a banjo fitting takes a minimal additional amount of time after inspecting it and parts cost about $550 for an estimated cost of $550 per helicopter.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–16–09 Leonardo S.p.a.: Amendment 39–21671; Docket No. FAA–2021–0383; Project Identifier 2018–SW–005–AD.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.a. Model AW189 helicopters, certificated in any category, as identified in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2018–0006, dated January 10, 2018 (EASA AD 2018–0006).

(d) Subject

Joint Aircraft Service Component (JASC) Code: 3212, Emergency Flotation Section.

(e) Unsafe Condition

This AD was prompted by corrosion on the inlet check valve banjo fitting of emergency flotation system (EFS) float assemblies. The FAA is issuing this AD to prevent reduced inflation of an EFS float. The unsafe condition, if not addressed, could affect the helicopter's buoyancy during an emergency landing on water.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2018–0006.

(h) Exceptions to EASA AD 2018–0006

(1) Where EASA AD 2018–0006 refers to December 29, 2017 (the effective date of EASA AD 2017–0256, dated December 22, 2017), this AD requires using the effective date of this AD.

(2) Where the service information referenced in EASA AD 2018–0006 specifies to return a certain part, this AD requires removing that part from service.

(3) Where the service information referenced in EASA AD 2018–0006 specifies to discard certain parts, this AD requires removing those parts from service.

(4) The ''Remarks'' section of EASA AD 2018–0006 does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2018–0006 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local

Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

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

(k) Related Information

For more information about this AD, contact Kristi Bradley, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *kristin.bradley@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Aviation Safety Agency (EASA) AD 2018–0006, dated January 10, 2018.

(ii) [Reserved]

(3) For EASA AD 2018–0006, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0383.

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

Issued on July 26, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–19249 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0377; Project Identifier MCAI–2021–00380–R; Amendment 39–21674; AD 2021–16–12]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Canada Limited Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bell Textron Canada Limited Model 505 helicopters. This AD was prompted by three occurrences of metallic debris in the engine oil lubrication system causing the 12 volts direct current (VDC) reference voltage to be shorted to ground and loss of important flight information to the pilot. This AD requires replacing a certain part-numbered relay panel assembly. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 13, 2021.

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

ADDRESSES: For service information identified in this final rule, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, Canada; telephone (450) 437–2862 or (800) 363–8023; fax (450) 433–0272; email *productsupport@bellflight.com*; or at *https://www.bellflight.com/support/contact-support.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0377.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0377; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the Transport Canada AD, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Bell Textron Canada Limited Model 505 helicopters, with serial numbers 65011 through 65023 inclusive, 65025 through 65028 inclusive, 65030 through 65032 inclusive, 65034, and 65036 with relay panel assembly part number (P/N) SLS–075–002–107 installed. The NPRM published in the **Federal Register** on May 25, 2021 (86 FR 28038). In the NPRM, the FAA proposed to require replacing relay panel assembly part number P/N SLS–075–002–107 with relay panel assembly P/N SLS–075–002–109. The NPRM also proposed to prohibit installing relay panel assembly P/N SLS–075–002–107 on any helicopter. The NPRM was prompted by Canadian AD CF–2017–36, dated December 15, 2017 (Canadian AD CF–2017–36), issued by Transport Canada, which is the aviation authority for Canada, to correct an unsafe condition for Bell Helicopter Textron Canada Limited (BHTCL) (now Bell Textron Canada Limited) Model 505 helicopters serial numbers 65011 through 65023, 65025 through 65028, 65030 through 65032, 65034, and 65036. Transport Canada advises of three occurrences of metallic debris in the engine oil lubrication system of the Model 505 helicopter causing the Garmin Engine Airframe (GEA) 12 VDC reference voltage to be shorted to ground. This short to ground results in loss of display of important flight information including the main rotor rotations per minute (Nr), fuel quantity, and transmission oil pressure and temperature, and the generator voltage and ammeter parameters are marked invalid with a red ''X'' on the primary flight display (PFD) and the multi-function display (MFD). This condition, if not addressed, could result in loss of caution, advisory, and system performance indications for multiple helicopter systems, particularly when

the initiating event may be the activation of the engine chip detector.

Accordingly, Canadian AD CF–2017–36 requires replacing relay panel assembly P/N SLS–075–002–107 with relay panel assembly P/N SLS–075–002–109.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

These helicopters have been approved by the aviation authority of Canada and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with Canada, Transport Canada, its technical representative, has notified the FAA of the unsafe condition described in its AD. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters. Except for minor editorial changes and updating the email and website addresses for Bell Textron Canada Limited throughout this document, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Bell Helicopter Alert Service Bulletin 505–17–04, dated December 6, 2017 (ASB 505–17–04). ASB 505–17–04 specifies procedures for replacing relay panel assembly P/N SLS–075–002–107 with relay panel assembly P/N SLS–075–002–109. ASB 505–17–04 also specifies procedures for accomplishing a functional test of the two engine electrical magnetic plugs and provides a notice to ensure 505–FM–1 (TR–2) is inserted into the flight manual.

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

Differences Between This AD and the Transport Canada AD

Canadian AD CF–2017–36 requires replacing the relay panel assembly within 25 hours air time or 30 days, whichever occurs first, whereas this AD requires that replacement within 25 hours time-in-service instead. Canadian AD CF–2017–36 applies to certain serial-numbered Model 505 helicopters, whereas this AD applies to certain serial-numbered Model 505 helicopters with relay panel assembly P/N SLS–075–002–107 installed instead.

Costs of Compliance

The FAA estimates that this AD affects 3 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Replacing each relay panel assembly takes about 3 work-hours and parts cost $7,079 for an estimated cost of $7,334 per helicopter and $22,002 for the U.S. fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–16–12 Bell Textron Canada Limited: Amendment 39–21674; Docket No. FAA–2021–0377; Project Identifier MCAI–2021–00380–R.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bell Textron Canada Limited Model 505 helicopters, certificated in any category, with serial numbers (S/Ns) 65011 through 65023 inclusive, 65025 through 65028 inclusive, 65030 through 65032 inclusive, 65034, and 65036 with relay panel assembly part number (P/N) SLS–075–002–107 installed.

Note 1 to paragraph (c): Helicopters with S/Ns 65011 through 65023 inclusive, 65025 through 65028 inclusive, 65030 through 65032 inclusive, 65034, and 65036 are known to have had relay panel assembly P/N SLS–075–002–107 installed during production.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 3110, Instrument Panel.

(e) Unsafe Condition

This AD was prompted by three occurrences of metallic debris in the engine oil lubrication system causing a short to ground within the engine chip detector. The FAA is issuing this AD to prevent failure of the 12 volts direct current (VDC) reference voltage, loss of display of important flight information to the pilot including the main rotor rotations per minute (Nr), fuel quantity, and transmission oil pressure and temperature, and the generator voltage and ammeter parameters as marked invalid with a red ''X'' on the primary flight display (PFD) and the multi-function display (MFD). The unsafe condition, if not addressed, could result in simultaneous loss of caution, advisory, and system performance indicators for multiple systems.

(f) Compliance

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

(g) Required Actions

(1) Within 25 hours time-in-service after the effective date of this AD, replace relay panel assembly P/N SLS–075–002–107 with relay panel assembly P/N SLS–075–002–109 by following the Accomplishment Instructions, paragraphs 1.a. through 3, of Bell Helicopter Alert Service Bulletin 505–17–04, dated December 6, 2017.

(2) As of the effective date of this AD, do not install relay panel assembly P/N SLS–075–002–107 on any helicopter.

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Related Information

(1) For more information about this AD, contact Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

(2) The subject of this AD is addressed in Transport Canada AD CF–2017–36, dated December 15, 2017. You may view the Transport Canada AD at *https://www.regulations.gov* in Docket No. FAA–2021–0377.

(j) Material Incorporated by Reference

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

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

(i) Bell Helicopter Alert Service Bulletin 505–17–04, dated December 6, 2017.

(ii) [Reserved]

(3) For Bell Helicopter service information identified in this AD, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, Canada; telephone (450) 437–2862 or (800) 363–8023; fax (450) 433–0272; email *productsupport@bellflight.com;* or at *https://www.bellflight.com/support/contact-support.*

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

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

Issued on July 27, 2021.

Ross Landes,

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

[FR Doc. 2021–19251 Filed 9–7–21; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0607; Project Identifier MCAI–2020–01249–R; Amendment 39–21666; AD 2021–16–04]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Leonardo S.p.a. Model AB412 and AB412 EP helicopters. This AD was prompted by a report of the failure of both inverters in-flight, leading to an autopilot disconnection. This AD requires a one-time inspection of the clearance between a certain protective grommet installed in the emergency bus interlock compartment and the cable assemblies passing through it, and depending on the finding, applicable corrective actions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective September 23, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 23, 2021.

The FAA must receive comments on this AD by October 25, 2021.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For EASA material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view the EASA material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of the EASA material at the FAA, call (817) 222–5110. The EASA material is also available at *https://www.regulations.gov* by searching for and locating Docket FAA–2021–0607.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0607; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Jacob Fitch, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4130; email *jacob.fitch@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0192, dated September 4, 2020 (EASA AD 2020–0192) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for Leonardo S.p.a. (formerly AgustaWestland S.p.A., Agusta S.p.A., and Costruzioni Aeronautiche Giovanni Agusta) Model AB412 and AB412 EP helicopters, all serial numbers.

This AD was prompted by a report of the failure of both inverters in-flight, leading to an autopilot disconnection. Subsequent inspection identified

chafing of a wire in the alternating current (AC) power system cable assembly, due to a protective grommet incorrectly installed in the emergency bus interlock compartment. Insufficient clearance between a protective grommet and the cable assemblies that pass through it could result in chafing of the cable assemblies. The FAA is issuing this AD to address incorrect installation of a protective grommet in the emergency bus interlock compartment and chafed wiring in the AC power system cable assembly. Chafed wiring in the AC power system cable assembly, if not addressed, could lead to a short in the AC power system, resulting in autopilot failure, possibly the loss of other avionics systems, increased pilot workload, and reduced control of the helicopter.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0192 specifies procedures for a one-time inspection of the clearance between a protective grommet installed in the emergency bus interlock compartment and the cable assemblies passing through it, and corrective actions. The corrective actions include replacing the existing grommet with a new grommet, inspecting the cable assemblies for damage (including chafing) and replacing affected cable assemblies, and reworking the bulkhead in the emergency bus interlock compartment. The rework of the bulkhead includes removing paint and primer, reworking the lightening hole, deburring the hole, applying chemical film protection, and priming all bare metal surfaces.

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

FAA's Determination

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

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2020–0192, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0192 is incorporated by reference in this FAA final rule. This AD therefore, requires compliance with EASA AD 2020–0192 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0192 that is required for compliance with EASA AD 2020–0192 is available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0607.

FAA's Justification and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

There are currently no domestic operators of these products. Therefore, the FAA finds that notice and opportunity for prior public comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the foregoing reason, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0607; Project Identifier MCAI–2020–01249–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this AD because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Jacob Fitch, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4130; email *jacob.fitch@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act (RFA)

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

has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

There are no costs of compliance with this AD because there are no helicopters with this type certificate on the U.S. Registry.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this regulation:

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–16–04 Leonardo S.p.a.: Amendment 39–21666; Docket No. FAA–2021–0607; Project Identifier MCAI–2020–01249–R.

(a) Effective Date

This airworthiness directive (AD) becomes effective September 23, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Leonardo S.p.a. Model AB412 and AB412 EP helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2400, Electrical Power System.

(e) Unsafe Condition

This AD was prompted by a report of the failure of both inverters in-flight, leading to an autopilot disconnection. Subsequent inspection identified chafing of a wire in the alternating current (AC) power system cable assembly, due to a protective grommet incorrectly installed in the emergency bus interlock compartment. Insufficient clearance between a protective grommet and the cable assemblies that pass through it could result in damage (including chafing) to the cable assemblies. The FAA is issuing this AD to address incorrect installation of a protective grommet in the emergency bus interlock compartment and chafed wiring in the AC power system cable assembly. Chafed wiring in the AC power system cable assembly, if not addressed, could lead to a short in the AC power system, resulting in autopilot failure, possibly the loss of other avionics systems, increased pilot workload, and reduced control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0192, dated September 4, 2020 (EASA AD 2020–0192).

(h) Exceptions to EASA AD 2020–0192

(1) Where EASA AD 2020–0192 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where the service information referenced in EASA AD 2020–0192 specifies to discard a certain part, this AD requires removing that part from service.

(3) Where the service information referenced in EASA AD 2020–0192 specifies to replace a certain part, this AD requires removing that part from service.

(4) Where EASA AD 2020–0192 refers to flight hours (FH), this AD requires using hours time-in-service.

(5) The ''Remarks'' section of EASA AD 2020–0192 does not apply to this AD.

(6) Where paragraph (2) of EASA AD 2020–0192 refers to ''any discrepancy'' for this AD, discrepancies include inadequate clearance between the protective grommet and AC power system cable assembly and damaged (chafed) AC power system cable assemblies.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2020–0192 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Special Flight Permit

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

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Related Information

For more information about this AD, contact Jacob Fitch, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4130; email *jacob.fitch@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0192, dated September 4, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0192, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

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

the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA 2021–0607.

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

Issued on July 21, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–19248 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0380; Project Identifier MCAI–2020–01683–R; Amendment 39–21672; AD 2021–16–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters. This AD was prompted by a report that geometrical non-conformities were found in the root section of the tail rotor blade (TRB). This AD requires a one-time inspection (dimensional check) of the TRB for conformity and, depending on the findings, replacement of certain affected parts, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD also prohibits rework, repair, or modification of affected parts in the affected area of the TRB assembly root. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 13, 2021.

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

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0380.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0380; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Mail Stop: Room 410, Westbury, NY 11590; telephone 516–228–7330; email *andrea.jimenez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0282, dated December 17, 2020 (EASA AD 2020–0282) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for Airbus Helicopters Deutschland GmbH Model EC135 P1, EC135 P2, EC135 P2+, EC135 P3, EC135 T1, EC135 T2, EC135 T2+, EC135 T3, EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters, all variants, all serial numbers. Model EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters are not certificated by the FAA and are not included on the U.S. type certificate data sheet, except where the U.S. type certificate data sheet explains that the Model EC635T2+ helicopter having serial number 0858 was converted from Model EC635T2+ to Model EC135T2+. This AD, therefore, does not include Model EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters in the applicability.

Furthermore, although EASA AD 2020–0282 applies to all Model EC135 P1, EC135 P2, EC135 P2+, EC135 P3, EC135 T1, EC135 T2, EC135 T2+, and EC135 T3 helicopters, this AD applies to helicopters with an affected part installed instead.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters. The NPRM published in the **Federal Register** on June 1, 2021 (86 FR 29216). The NPRM was prompted by a report that during an investigation related to an accident on an Airbus Helicopters Model EC130B4 helicopter, geometrical non-conformities were observed in the TRB root section. EASA issued AD 2020–0187, dated August 21, 2020, to address this issue on Model EC130B4 and EC130T2 helicopters and the FAA issued corresponding AD 2021–10–25, Amendment 39–21558 (86 FR 29176, June 1, 2021). The Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters have a similar design and production requirements to the affected Model EC130B4 helicopter, and an inspection of the affected parts detected geometrical non-conformities in some instances. The NPRM proposed to require a one-time inspection (dimensional check) of the TRB for conformity and, depending on the findings, replacement of certain affected parts, as specified in EASA AD 2020–0282. The NPRM also proposed to prohibit rework, repair, or modification of affected parts in the affected area of the TRB assembly root.

The FAA is issuing this AD to address geometrical non-conformities in the TRB root section, which could lead to crack initiation and consequent blade failure, resulting in loss of control of the helicopter. See the MCAI for additional background information.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0282 requires a one-time inspection (dimensional check) to verify TRB conformity, and, depending on findings, replacement of each affected part classified as Category B (non-compliant TRB assembly). EASA AD 2020–0282 also prohibits rework, repair, or modification of affected parts in the critical section (affected area of the TRB assembly root).

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

Costs of Compliance

The FAA estimates that this AD affects 341 helicopters of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
4 work-hours × $85 per hour = $340	$0	$340	$115,940

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
10 work-hours × $85 per hour = $850	$4,400	$5,250

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–16–10 Airbus Helicopters Deutschland GmbH: Amendment 39–21672; Docket No. FAA–2021–0380; Project Identifier MCAI–2020–01683–R.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters, certificated in any category, with any of the tail rotor blade (TRB) part numbers specified in paragraphs (c)(1) through (5) of this AD installed.

(1) Part number (P/N) L642A2002101.
(2) P/N L642A2002103.
(3) P/N L642A2002104.
(4) P/N L642A2002111.
(5) P/N L642A2002112.

(d) Subject

Joint Aircraft System Component (JASC) Code 6410, Tail Rotor Blades.

(e) Unsafe Condition

This AD was prompted by a report that during an investigation related to an accident on an Airbus Helicopters Model EC130B4 helicopter, geometrical non-conformities were observed in the TRB root section. The FAA is issuing this AD to address geometrical non-conformities in the TRB root section, which could lead to crack initiation

and consequent blade failure, resulting in loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0282, dated December 17, 2020 (EASA AD 2020–0282).

(h) Exceptions to EASA AD 2020–0282

(1) Where EASA AD 2020–0282 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0282 does not apply to this AD.

(3) Where the service information referred to in EASA AD 2020–0282 specifies to discard a certain part, this AD requires removing that part from service.

(4) Where EASA AD 2020–0282 refers to flight hours (FH), this AD requires using hours time-in-service.

(5) Where the service information referred to in EASA AD 2020–0282 specifies to measure using the Smartphone application or the PowerPoint method, those methods of measurement are not required by this AD.

(6) Where the service information referred to in EASA AD 2020–0282 specifies to contact Airbus Helicopters if the measurement results cannot be confirmed, this AD requires determining the specified measurements but does not require contacting Airbus Helicopters for confirmation.

(i) No Reporting Requirement

Although the service information referred to in EASA AD 2020–0282 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Mail Stop: Room 410, Westbury, NY 11590; telephone 516–228–7330; email *andrea.jimenez@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0282, dated December 17, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0282, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0380.

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

Issued on July 27, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–19250 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0161; Airspace Docket No. 21–ASW–5]

RIN 2120–AA66

Amendment of Class E Airspace; Yoakum, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700 feet above the surface at Yoakum Municipal Airport, Yoakum, TX. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the Yoakum non-directional beacon (NDB).

DATES: Effective 0901 UTC, December 2, 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 *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Yoakum Municipal Airport, Yoakum, TX, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 14026; March 12, 2021) for Docket No. FAA–2021–0161 to amend the Class E airspace extending upward from 700 feet above the surface at Yoakum Municipal Airport, Yoakum, TX. 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 E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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 amends the Class E airspace extending upward from 700 feet above the surface within a 6.3-mile (decreased from 7.2-mile) radius of Yoakum Municipal Airport, Yoakum, TX; and updating geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review due to the decommissioning of the Yoakum NDB which provided navigation information for the instrument procedures at this airport.

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 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 qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. 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.

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

* * * * *

ASW TX E5 Yoakum, TX [Amended]

Yoakum Municipal Airport, TX
(Lat. 29°18′47″ N, long. 97°08′18″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Yoakum Municipal Airport.

Issued in Fort Worth, Texas, on September 1, 2021.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2021–19272 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0169; Airspace Docket No. 21–ASO–3]

RIN 2120–AA66

Amendment Class D and Class E Airspace; South Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D and Class E airspace in the south Florida area, by updating the geographic coordinates of the following airports; Fort Lauderdale-Hollywood International Airport, Miami-Opa Locka Executive Airport, (formerly Opa Locka Airport), North Perry Airport, Pompano Beach Airpark, Miami International Airport, Homestead ARB, Boca Raton Airport, and Miami Executive Airport (formerly Kendall-Tamiami Executive Airport). This action also updates the geographic coordinates of the Fort Lauderdale Very High Frequency Omnidirectional Range collocated with Distance Measuring Equipment (VOR/DME), and the QEEZY Locator Outer Marker (LOM). Furthermore, this action makes an editorial change replacing the term Airport/Facility Directory with the term Chart Supplement in the legal descriptions of associated Class D and E airspace. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) in the area.

DATES: Effective 0901 UTC, January 27, 2022. 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 *http://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 *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 33581, June 25, 2021) for Docket No. FAA–2021–0169 to amend Class D and Class E airspace in the south Florida area, by updating the names and geographic coordinates of several airports in the area, as well as the geographical coordinates of the Fort Lauderdale VOR/DME, and the QEEZY LOM. This action proposed making an editorial change replacing the term Airport/Facility Directory with the term Chart Supplement in the legal descriptions of associated Class D and E airspace.

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 E airspace designations are published in Paragraphs 5000, 6002, 6003, 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 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 routes, and reporting points.

The Rule

The FAA amends 14 CFR part 71 by amending Class D and Class E surface airspace, and Class E airspace extending upward from 700 feet above the surface by updating the geographical coordinates of several airports and associated navigation aids in the south Florida area, and removing Class E airspace designated as an extension to a Class C surface area. The FAA is updating the airport names of Miami Executive Airport (formerly Kendall-Tamiami Executive Airport), and Miami Opa-Locka Executive Airport (formerly Opa Locka Airport), and Homestead ARB (formerly Dade County-Homestead Regional Airport) in the Class D airspace, Class E surface airspace, and Class E airspace extending upward from 700 feet above the surface. The FAA is amending the Miami, Opa Locka Executive Airport, FL Class D header, (formerly Miami, Opa Locka Airport, FL as well. In addition, the FAA is replacing the outdated term Airport/Facility Directory with the term Chart Supplement in the associated Class D and E airspace legal descriptions for these airports. Also, Boca Raton Class E airspace extending upward from 700 feet above the surface excludes the reference to Pompano Beach Class D airspace, as this is unnecessary verbiage. These changes are necessary for continued safety and management of IFR operations in the area.

Subsequent to publication of the NPRM the FAA found that the Fort Lauderdale E3 extensions are no longer required. This action removes the E3 Descriptor for Fort Lauderdale.

The Class D descriptor for Fort Lauderdale Executive Airport incorrectly listed the airport runways as 8/26. This action corrects the runways to 9/27.

In addition, the Class D descriptor for Boca Raton Airport was omitted from the NPRM. This action adds the Class D descriptor for Boca Raton Airport, adding ''excluding that airspace within the Pompano Beach, Class D airspace area, when active.''

Finally, the NPRM listed the geographic coordinates incorrectly for North Perry Airport, Fort Lauderdale Executive Airport and the Boca Raton Airport, as well as the line dividing Fort Lauderdale Executive Airport and Pompano Beach Airport. This action corrects these errors.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under 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 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 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.

Lists 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 5000 Class D Airspace.

* * * * *

ASO FL D Hollywood, FL [Amended]

North Perry Airport, FL
(Lat. 26°00′04″ N, long. 80°14′27″ W)
Miami-Opa Locka Executive Airport
(Lat. 25°54′27″ N, long. 80°16′42″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of the North Perry Airport; excluding the portion north of the north boundary of the Miami, FL, Class B airspace area and that portion south of a line connecting the 2 points of intersection with a 4.3-mile radius centered on the Miami-Opa Locka Executive Airport. This Class D airspace area is effective during 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.

ASO FL D Miami, Opa Locka Executive Airport, FL [Amended]

Miami-Opa Locka Executive Airport, FL
(Lat. 25°54′27″ N, long. 80°16′42″ W)
North Perry Airport
(Lat. 26°00′04″ N, long. 80°14′27″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.3-mile radius of Miami-Opa Locka Executive Airport excluding that airspace south of 25°52′03″ N, and that portion north of a line connecting the 2 points of intersection with a 4-mile radius centered on the North Perry Airport. This Class D airspace area is effective during 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.

ASO FL D Fort Lauderdale Executive Airport, FL [Amended]

Fort Lauderdale Executive Airport, FL
(Lat. 26°11′50″ N, long. 80°10′15″ W)
Fort Lauderdale-Hollywood International Airport, FL
(Lat. 26°04′18″ N, long. 80°08′59″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of Fort Lauderdale Executive Airport; excluding that portion within the Fort Lauderdale-Hollywood International Airport, FL, Class C airspace area and that portion northeast of a line between lat. 26°15′47″ N long. 80°11′00″ W; and lat. 26°13′01″ N long. 80°09′15″ W and that portion north of a line 1 mile north of and parallel to the extended runway centerline of Runway 9/27 at Fort Lauderdale Executive Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Chart Supplement.

ASO FL D Pompano Beach, FL [Amended]

Pompano Beach, Airpark, FL
(Lat. 26°14′51″ N, long. 80°06′40″ W)
Fort Lauderdale Executive Airport, FL
(Lat. 26°11′50″ N, long. 80°10′15″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of Pompano Beach Airpark; excluding that portion southwest of a line between lat. 26°15′47″ N long. 80°11′00″ W; and lat. 26°13′01″ N long. 80°09′15″ W and that portion south of a line 1 mile north of and parallel to the extended runway centerline of Runway 9/27 at Fort Lauderdale Executive Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Chart Supplement.

ASO FL D Miami Executive Airport, FL [Amended]

Miami Executive Airport, FL
(Lat. 25°38′51″ N, long. 80°26′00″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 3.5-mile radius of the Miami Executive Airport, FL; excluding that airspace within the Miami, FL, Class B airspace area. 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.

ASO FL D Boca Raton, FL [Amended]

Boca Raton Airport, FL
(Lat. 26°22′43″ N, long. 80°06′28″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.1-mile radius of Boca Raton Airport; excluding that airspace within the Pompano Beach, Class D airspace area, when active. 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 6003 Class E Airspace Designated as an Extension to Class C.

* * * * *

ASO FL E3 Fort Lauderdale, FL [Removed]

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

* * * * *

ASO FL E5 Miami, FL [Amended]

Miami International Airport, FL
(Lat. 25°47′43″ N, long. 80°17′24″ W)
Homestead ARB
(Lat. 25°29′19″ N, long. 80°23′01″ W)
Miami Opa-Locka Executive Airport
(Lat. 25°54′27″ N, long. 80°16′42″ W)
Fort Lauderdale-Hollywood International Airport
(Lat. 26°04′18″ N, long. 80°08′59″ W)
Miami Executive Airport
(Lat. 25°38′51″ N, long. 80°26′00″ W)
QEEZY LOM
(Lat. 25°38′29″ N, long. 80°30′17″ W)
Fort Lauderdale Executive Airport
(Lat. 26°11′50″ N, long. 80°10′15″ W)
Pompano Beach Airpark
(Lat. 26°14′51″ N, long. 80°06′40″ W)
North Perry Airport
(Lat. 26°00′04″ N, long. 80°14′27″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Miami International Airport, Homestead ARB, Miami Opa-Locka Executive Airport, Fort Lauderdale-Hollywood International Airport, and Miami Executive Airport, and within 2.4 miles each side of the 267° bearing from the QEEZY LOM extending from the 7-mile radius to 7 miles west of the LOM, and within a 6.5-mile radius of Fort Lauderdale Executive Airport, Pompano Beach Airpark and North Perry Airport.

ASO FL E5 Boca Raton, FL [Amended]

Boca Raton Airport, FL
(Lat. 26°22′43″ N, long. 80°06′28″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Boca Raton Airport.

Issued in College Park, Georgia, on September 1, 2021.

Andreese C. Davis,

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

[FR Doc. 2021–19268 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0159; Airspace Docket No. 21–ACE–6]

RIN 2120–AA66

Amendment of Class E Airspace; Scott City, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700 feet above the surface at Scott City Municipal Airport, Scott City, KS. This action is the result of an airspace review due to the decommissioning of the Scott City non-directional beacon (NDB). The geographical coordinates of the airport are also updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, December 2, 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 *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Scott City Municipal Airport, Scott City, KS, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 20100; April 16, 2021) for Docket No. FAA–2021–0159 to amend the Class E airspace extending upward from 700 feet above the surface at Scott City Municipal Airport, Scott City, KS. 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 E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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 amends the Class E airspace extending upward from 700 feet above the surface within a 6.5-mile (decreased from 6.9-mile) radius of Scott City Municipal Airport, Scott City, KS, and updates geographical coordinates of the airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review due to the decommissioning of the Scott City NDB which provided navigation information for the instrument procedures at this airport.

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 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 qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. 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.

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

* * * * *

ACE KS E5 Scott City, KS [Amended]

Scott City Municipal Airport, KS
(Lat. 38°28′30″ N, long. 100°53′04″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Scott City Municipal Airport.

Issued in Fort Worth, Texas, on September 1, 2021.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2021–19278 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0277; Airspace Docket No. 21–AGL–19]

RIN 2120–AA66

Revocation of Class E Airspace; Standish, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Class E airspace extending upward from 700 feet above the surface at Standish Industrial Airport, Standish, MI. This action is the result of an airspace review

caused by the closing of the Standish Industrial Airport and associated instrument procedures are no longer required.

DATES: Effective 0901 UTC, December 2, 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 *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

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 revokes the Class E airspace extending upward from 700 feet above the surface at Standish Industrial Airport, Standish, MI, due to the closure of the airport and cancellation of the instrument procedures at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 24792; May 10, 2021) for Docket No. FAA–2021–0277 to revoke Class E airspace extending upward from 700 feet above the surface at Standish Industrial Airport, Standish, MI. 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 E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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 revokes the Class E airspace extending upward from 700 feet above the surface at Standish Industrial Airport, Standish, MI.

This action is the result of an airspace review due to the closing of the Standish Industrial Airport, Standish, MI, and cancellation of the instrument procedures at this airport.

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 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 qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. 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.

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

* * * * *

AGL MI E5 Standish, MI [Removed]

Issued in Fort Worth, Texas, on September 1, 2021.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2021–19276 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0160; Airspace Docket No. 21–ACE–7]

RIN 2120–AA66

Amendment of Class E Airspace; Sac City, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700 feet above the surface at Sac City Municipal Airport, Sac City, IA. This action is the result of an airspace review caused by the decommissioning of the Sac City non-directional beacon (NDB).

DATES: Effective 0901 UTC, December 2, 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 fr.*inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Sac City Municipal Airport, Sac City, IA, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 14556; March 17, 2021) for Docket No. FAA–2021–0160 to amend the Class E airspace extending upward from 700 feet above the surface at Sac City Municipal Airport, Sac City, IA. 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 E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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 amends the Class E airspace extending upward from 700 feet above the surface at Sac City Municipal Airport, Sac City, IA,; and removes the Sac City NDB and associated extension from the airspace legal description.

This action is the result of airspace reviews caused by the decommissioning of the Sac City NDB, which provided navigation information for the instrument procedures these airports.

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 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 qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. 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.

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

* * * * *

ACE IA E5 Sac City, IA [Amended]

Sac City Municipal Airport, IA
(Lat. 42°22′45″ N, long. 94°58′47″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Sac City Municipal Airport.

Issued in Fort Worth, Texas, on September 1, 2021.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2021–19277 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

25 CFR Part 1187

[212A2100DD/AAKC001030/A0A501010.999900]

RIN 1076–AF63

Indian Business Incubators Program

AGENCY: Office of the Assistant Secretary, Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Office of Indian Economic Development (OIED) is finalizing a new regulation to implement the Native American Business Incubators Program Act. The Indian Business Incubators Program (IBIP), also known as the Native American Business Incubators Program, is a program in which OIED provides competitive grants to eligible applicants to establish and operate business incubators that serve Tribal reservation communities. These regulations establish who is eligible for the program, how to apply, how OIED will evaluate applications and make awards, and how OIED will administer the program.

DATES: This rule is effective on September 8, 2021.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, Bureau of Indian Affairs, telephone (202) 273–4680, *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

OIED is issuing this rule under the authority of the Native American Business Incubators Program Act, Public Law 116–174.

II. Need for This Rulemaking

On October 20, 2020, Congress enacted the Native American Business Incubators Program Act, Public Law 116–174, codified at 25 U.S.C. 5801 *et seq.* In the Act, Congress established the Native American Business Incubators Program and required the Secretary of the Interior to promulgate regulations to implement the program. *See* 25 U.S.C. 5804.

Congress found that the Native American Business Incubators Program is necessary because, in addition to the challenges all entrepreneurs face when transforming ideas into profitable business enterprises, entrepreneurs face an additional set of challenges that requires special knowledge when they want to provide products and services in Tribal reservation communities. Congress further found that the business incubator model is suited to accelerating entrepreneurship (and ultimately, economic development) in Tribal reservation communities. Business incubators help start-up and early-stage businesses by offering the business owners a range of services, such as: Mentorships, networking, technical assistance, and access to investors. Through these services, incubators promote collaboration to address challenges and provide individually tailored services to overcome the obstacles that are unique to each participating business.

III. Overview of Rule

This rule establishes the IBIP in accordance with the Native American Business Incubators Program Act. This regulation names the program IBIP, rather than the Native American Business Incubators Program, to avoid use of the acronym ''NABIP,'' which would likely cause confusion due to its similarity to at least one other grant program acronym related to Native American businesses.

Through the IBIP, OIED will provide competitive grants to eligible applicants to establish and operate business incubators that serve entrepreneurs (start-up and early-stage businesses) who will provide products or services to Tribal reservation communities. A business incubator is an organization that assists entrepreneurs in becoming viable businesses by providing advice and services to entrepreneurs to navigate obstacles in transforming their innovative ideas into operational businesses. Examples of services that a business incubator may provide are workspace and facilities, advice on how to access capital, business education, counseling, and networking and mentorship opportunities. Indian Affairs does not currently have any regulations in place that provide for a grant program for Indian business incubators. The rule being finalized today will provide the framework for operation of the grant program so that there is certainty as to who is eligible for a grant, how eligible applicants can apply for a grant, how OIED will evaluate, award, and administer the grants, and what terms and conditions will apply to the grants. This rule will enable OIED to provide grants that will stimulate economic development in reservation communities.

The rule consists of six subparts, each of which is described below.

- Subpart A—General Provisions and Eligibility: Defines terms defined in the statute consistent with the statutory definitions, replacing citations with restatements of the provisions cited where appropriate, and adds a new term for ''IBIP'' in lieu of ''Native American Business Incubator Program (NABIP)'' to avoid confusion because the acronym ''NABIP'' is similar to other grant programs. This subpart also describes who is eligible to receive an IBIP grant, to include the following entities that

meet certain additional requirements set out in § 1187.3:

- Tribes;
- Tribal colleges and universities;
- Institutions of higher education; and
- Tribal or private nonprofit organizations that provide business and financial technical assistance.

• Subpart B—Applying for a Grant: Describes how an eligible applicant applies for a grant, adding the specificity that applications must be submitted through *www.grants.gov.* This subpart also includes the statutory requirements for what must be included in an application and written site proposal, and how to submit a joint application. The regulations add that joint applications must identify which of the entities submitting the joint application will be the lead contact for the purposes of grant management.

• Subpart C—Evaluation of Grant Applications: Describes the criteria OIED will use to evaluate each IBIP grant application, adding the specific time period of three months to the statutory requirement that the grantee must commence services within a minimum period of time to be determined by the Secretary. This subpart also adds a new criterion to the statutory criteria for evaluation: The extent to which a grant award will enable an entity that is already providing business incubation services to appreciably enhance those services. OIED added this criterion in order to ensure that the grant is funding new incubation services, such that there is a return for the investment made in the incubator, rather than merely paying existing incubators for services they would have otherwise provided.

• Subpart D—Grant Awards: Describes how OIED will disburse grant funds to awardees according to the statute. This subpart also includes the statutory prohibition on awarding an IBIP grant that duplicates other Federal funding, but adds a clarification that duplicative funding means any funding from other Federal grants that would overlap with the IBIP grant for the same activities described in the applicant's IBIP proposal.

• Subpart E—Grant Term and Conditions: Establishes an initial grant term of three years, with the opportunity to renew for one additional three-year term if certain conditions are met, in accordance with the statute. This subpart also lists the purposes for which awardees may use the grant funds, requires awardees to provide non-Federal contributions in an amount at least 25 percent of the grant unless the conditions for waiver of that requirement are met, lists the minimum requirements awardees must meet in providing incubation services, and requires the awardee to submit a report at the end of the grant year that provides, among other things, a detailed breakdown of the Native businesses and Native entrepreneurs the incubator helped establish or serve. These items are all statutory but are included in the regulation to assist readers in finding all relevant IBIP grant information in one location.

• Subpart F—OIED Grant Administration: Provides that OIED will conduct an annual evaluation of each IBIP awardee's success, facilitate relationships between awardees and educational institutions serving Native American communities, and collaborate with other Federal agencies that administer business and entrepreneurial programs. These items are also all statutory but are included in the regulation to assist readers in finding all relevant IBIP grant information in one location.

Note: The final rule replaces references to the Office of Indian Energy and Economic Development (IEED) with the Office of Indian Economic Development (OIED) to reflect the organizational change that moved the Division of Energy and Minerals Development from OIED to the Bureau of Indian Affairs Office of Trust Services.

IV. Responses to Comments on the Proposed Rule

On April 13, 2021, OIED published a proposed rule to implement the IBIP. *See* 86 FR 19162. During the public comment period, OIED hosted two Tribal consultation sessions by webinar on May 12, 2021, and May 13, 2021, to discuss the proposed rule. On May 12, 2021, representatives of 33 Tribes participated and on May 13, 2021, representatives of 14 Tribes participated. Comments on the proposed rule were accepted until June 14, 2021. OIED received a total of 11 written comment submissions on the proposed rule, including three from Tribes, two from Tribal and Indian organizations, five from organizations including four financial organizations, and one from an individual. Several commenters expressed support for both the legislation and regulation. No changes to the proposed regulatory text were made as a result of the consultation or public comments, but OIED responds to the comments as follows.

A. Comments on Subpart A (General Provisions and Eligibility)

1. Objective of IBIP

One Tribe and one economic development organization stated that the provision at § 1187.1(b), providing that the incubator will assist businesses to offer products and services to reservation communities, is too narrow because the objective of the IBIP should be to mentor and grow Native-owned businesses regardless of their potential market.

Response: The Act establishes the IBIP for the establishment and operation of business incubators that ''serve reservation communities'' by providing business incubation and other business services to Native businesses and Native entrepreneurs. *See* 25 U.S.C. 5803(a). The Act also requires an applicant incubator to describe one or more reservation communities it will serve. *See* 25 U.S.C. 5803(c)(1)(B). For these reasons, the regulation reflects that the incubator will offer products and services to reservation communities. Incubators must serve businesses in reservation communities, but those businesses may have markets that extend beyond reservation communities and the benefits of the IBIP will be broader than reservation communities.

2. Eligibility

One organization commented on the requirement at § 1187.3(b)(4)(i) for a nonprofit to have been operational for not less than one year before receiving a grant. This commenter stated one year is insufficient and recommended at least three years.

Response: The one-year requirement is statutory and cannot be changed by regulation. *See* 25 U.S.C. 5803(b)(1)(C).

A privately held corporation commented that it should be eligible for the IBIP, but that the regulation limits eligibility of organizations to Tribal or private nonprofit organizations.

Response: Eligibility for the IBIP is established by statute and cannot be changed by regulation. *See* 25 U.S.C. 5803(b) (limiting eligible entities to the following four categories: (i) An Indian Tribe; (ii) a Tribal college or university; (iii) an institution of higher education; or (iv) a private nonprofit organization or Tribal nonprofit organization.)

Two commenters requested the regulation specifically list as eligible entities Native Community Development Financial Institutions (CDFIs) and Tribally chartered nonprofit organizations authorized by Internal Revenue Code 7871. One commenter stated that Native CDFIs fit the category of Tribal or private nonprofit

organizations providing business and financial technical assistance.

Response: The applicant will need to demonstrate in its application that it meets the eligibility criteria in one of the four categories defined in the statute and regulation. At that time, the applicant can articulate why a particular entity, such as Native CDFIs or Tribally chartered non-profits, meets those qualifications.

One Tribe recommended that a preference or priority be granted to Tribes, Tribal colleges and universities, and Tribal non-profit organizations. Similarly, several other commenters stated that Native-led entities should be awarded IBIP grants over non-Native entities.

Response: The statute defines the categories of eligible entities to include institutions of higher education and private nonprofit organizations, which may or may not be Native led. *See* 25 U.S.C. 5803(b).

One commenter recommended that, if the final rule includes non-Native entities as eligible, then additional criteria should be added to application evaluations to ensure the funding benefits Native communities.

Response: Congress established the eligibility requirements and evaluation criteria, and adding the requested requirements goes beyond our statutory authority; however, the evaluation criteria directs the Department to review whether the awardee will benefit Native American businesses and entrepreneurs.

B. Comments on Subpart B (Applying for a Grant)

A Tribe asked for clarification on whether in-kind support such as existing personnel or free use of existing office space to run the incubator counts toward the non-Federal contribution requirement. Another commenter requested examples of whether certain types of in-kind contributions and in-kind services would count toward the non-Federal contribution requirement, requesting at a minimum that the value of in-kind donation of incubator space and donated services to support the incubator or incubated businesses be included.

Response: The regulation requires applicants to describe in their applications their non-Federal contributions in an amount equal to not less than 25 percent of the grant amount requested. *See* § 1187.11(e). Non-Federal contributions may include donated space as measured by the value of rent, so that the applicant can use IBIP funding they receive for other purposes. Payroll for personnel working on the incubator who are not funded by IBIP funding may be allowable non-Federal contributions. The Notice of Funding Opportunity (NOFO) will provide more examples of allowable non-Federal contributions.

One commenter asked whether the non-Federal contribution has to be in hand as of the date of the application.

Response: The applicant must provide a commitment for the non-Federal contribution in the application, but does not have to have the contribution in hand on the date of the application. The applicant could rely on projected earnings, for example.

C. Comments on Subpart C (Evaluation of Grant Applications)

1. Evaluation Criteria

One Tribe commented that a Tribe's experience should be considered but additional points should not be given to Tribes that currently operate a business incubator because Tribes, both large and small, should not be at a disadvantage when competing for funding against currently operational applicants.

Response: The Department shares the goal of ensuring that both large and small Tribes benefit from the incubator program. Experience may help an applicant because applicants are required to commence providing services within three months under § 1187.20, but the NOFO will further clarify how applications will be ranked.

Two commenters stated that, when evaluating applications, OIED should consider metrics beyond financial impacts, such as services that enhance community well-being, to measure success. Another commenter stated that criteria should be based on success with clients, customer references, and completion of a viable product.

Response: Applicants will be requested to provide the milestones and outcomes of their project demonstrating to the Secretary the successful outcomes of the grant.

A Tribal organization commenter stated that IBIP funds should be awarded in a manner that equitably distributes funds to be regionally representative of Indian Country, and ensure that regionally focused programs are not precluded.

Response: OIED will be considering regional representation across Indian Country as part of the selection process. Details will be provided in the NOFO.

A Tribal organization commenter stated that OIED should consider socioeconomic factors, such as the size and location of eligible applicants, in awarding IBIP funds to ensure that Tribal nations with a small population or small land base have an opportunity to participate and benefit from the program.

Response: Each applicant will have to demonstrate that they are serving a diverse population and include justifications around socioeconomic factors and considerations related to size and location. For example, the evaluation criteria include a criterion for the ability of the eligible applicant to provide services at geographically remote locations where quality business guidance and counseling is difficult to obtain). *See* § 1187.20(a)(3).

One commenter asked what ''significant'' means in the context of the criterion at § 1187.20(a)(3) for the ability of the eligible applicant to provide quality incubation services to a significant number of Native businesses or Native entrepreneurs (or provide such services at geographically remote locations where quality business guidance and counseling is difficult to obtain).

Response: The significance of the number of Native businesses or Native entrepreneurs will be driven by the applicant's proposal and justification of how many Native businesses and Native entrepreneurs they intend to serve with the amount of funding requested.

2. Physical Location of Incubator

A Tribal organization commenter stated that Tribal nations should be able to decide whether to incubate only those businesses within their jurisdictional boundaries or incubate Native entrepreneurs located away from their Tribal homelands.

Response: Applicants have flexibility in demonstrating who they will serve as long as they serve one or more reservation communities (regardless of whether those communities are near their own Tribe's homelands) and demonstrate that they have a competitive process for selecting Native businesses and Native entrepreneurs to participate in the business incubator. *See* §§ 1187.3(b)(4) and 1187.44(a)(2).

A Tribe urged OIED to recognize that transportation issues in Indian Country are significant and that, unless incubation services are within reservation boundaries or walking distance of a reservation, many Native businesses will have difficulty accessing the services. This Tribe recommended adding the word ''significant'' to the requirement to give priority to eligible applicants that will provide business incubation services on or near reservation communities.

Response: OIED is aware of the substantial transportation challenges in Indian Country and expects that proposals will provide options to

address those barriers. The final rule does not add the word ''significant'' because priority will necessarily be significant, given that this is the only criterion granted priority.

A Tribal organization commenter stated that OIED should waive the requirement for program funds be used to provide physical workplace due to the COVID–19 pandemic and to support applicant use of IBIP funds to provide incubator services to Native businesses that cannot access the incubator's physical location due to remoteness, pandemic restrictions, and other barriers identified by Tribes and Tribal applicants.

Response: The requirement for the incubator to provide physical space is statutory, so it cannot be waived. *See* 25 U.S.C. 5803(b)(1)(B), (c)(1)(E).

A Tribe stated that, in conducting the site evaluation, OIED should refrain from imposing requirements for dedicated office space for each business and instead allow flexibility for co-working space or ''hotel'' style offices to allow the incubator to serve the largest number of participants.

Response: The incubator must be able to offer physical space to its participating businesses, but there is flexibility in how the incubator delivers services to the businesses.

One commenter stated that only applicants with existing workspace can apply but that OIED should allow funding to be used to construct and remodel space for small businesses.

Response: The regulation provides that the applicant does not have to be in possession of the proposed site at the time of the application. *See* §§ 1187.11(f) and 1187.12.

D. Comments on Subpart D (Grant Awards)

One commenter noted that § 1187.30 provides that grant funds will be in annual installments but may be more frequently (as long as not more than quarterly), and noted that in their experience an annual disbursement is preferable.

Response: OIED intends to make annual disbursements unless otherwise requested by the applicant, as stated in the rule.

E. Comments on Subpart E (Grant Term and Conditions)

1. Renewals

A commenter suggested that the regulation should measure an incubator's performance as compared with other small businesses across the country and outside the IBIP to ensure the incubators are providing enough resources before renewing the grant.

Response: The regulation (at § 1187.41(a)(2)) provides that OIED will measure the performance of the awardee's business incubator, as compared to the performance of other business incubators receiving grants under the IBIP, because this is a statutory requirement. *See* 25 U.S.C. 5803(d)(4).

A Tribe recommended OIED also assess, in determining whether to renew, whether the incubator model continues to be beneficial to the Tribe and to the businesses.

Response: OIED will conduct annual evaluations to measure successful outcomes of the grant based on the milestones and outcomes for the project the incubator included in their application. *See* § 1187.50. OIED will consider the results of the annual evaluation in determining whether to renew a grant award. *See* § 1187.41(a)(1).

A commenter stated that the regulation should include benchmarks to measure incubators' success and suggested imposing additional requirements such as requiring incubators to invest in community cohesion, leverage their development to secure funding from State and local governments, reallocate a portion of the grant money toward investments with return equity, and make increased visibility in public and private sectors and goal to attract potential investors.

Response: Applicants will be requested to provide the milestones and outcomes of their project demonstrating to the Secretary the successful outcomes of the grant.

2. Use of Grant Funds

A Tribe recommended that an allowable use of grant funds be for staffing purposes.

Response: Use of grant funds may include staffing. *See* 25 U.S.C. 5803(e)(2)(D). Applicants will describe their costs within their proposed budget.

A commenter welcomed the flexibility of allowing grant funds to be used for appropriate uses typically associated with business incubators and suggested acceptable uses of grant funds should include revolving loan funds, job creation, and technology commercialization, among other uses.

Response: The applicant will define in the proposal how the grant funds will be used and what services and approaches it will take.

3. Waiver of Requirement for Non-Federal Contribution

One Tribe suggested eliminating the requirement for non-Federal contributions and one stated that the waiver authority must be construed broadly because of the impact on Tribes of the COVID–19 pandemic causing significant economic losses. A Tribal organization also requested OIED consider a broader waiver of the non-Federal contribution requirement and another commenter supported providing a blanket waiver for the first round of awarded IBIP grants.

Response: OIED will continue to require the non-Federal contribution as required in the statute; however, OIED recognizes the difficulties Tribes have encountered during the pandemic and waiver decisions will be considered in accordance with its waiver authority based on the criteria in § 1187.43.

A commenter encouraged OIED to allow applicants to request waivers in advance of the grant application deadline for IBIP.

Response: The statutory criteria for waiving the non-Federal contribution include that the incubator will provide quality business incubation services and that one or more reservation communities to be served are unlikely to receive similar services—these are both determinations that OIED cannot make until it reviews the full application. *See* 25 U.S.C. 5803(d)(3)(B).

Two commenters recommended clarifying that applicants' requests for waivers will not negatively impact evaluation of their grant applications.

Response: OIED understands the difficulty in obtaining non-Federal contributions and will clarify in the NOFO whether non-Federal contributions will be included in the ranking criteria.

4. Minimum Requirements Awardees Must Meet

A Tribe stated that Tribes should have broad discretion in structuring the competitive process by which participants are selected to participate in the incubator.

Response: The applicant defines what their competitive process will be under § 1187.44(a)(2).

A Tribe stated that, in the requirement for applicants to provide entrepreneurship and business skills training and education to Native businesses and Native entrepreneurs, the list of training and education topics in the curriculum should be introduced by ''including but not limited to'' and list an overview of legal issues including choice of entity and legal structures, and an overview of Federal small business lending and contracting programs.

Response: The applicant defines in their application what their curriculum

will include, so no change to the regulation is necessary.

A Tribe stated that the requirement for the incubator to provide access to investors should include a ''best efforts'' qualifier because the barriers in accessing capital in Indian Country are well documented.

Response: The applicant defines in their application what their best efforts will include, so no change to the regulation is necessary.

A Tribe stated that it is not unusual for for-profit business incubators to make a nominal investment in a business in exchange for equity in that business, accomplishing the dual goals of providing the new business with startup capital and help the program become self-sustaining. The Tribe requested clarification on whether such investments by business incubators participating in IBIP would be permissible.

Response: The IBIP is not structured in a way that would allow the business incubator to obtain return equity from its participating businesses. Incubators may, however, request that successful business participants give back to the program by mentoring and sharing best practices with other businesses.

5. Reports

A Tribe recommended that the regulation also require awardees to submit reports detailing capital investments and revenue growth.

Response: The grantee is free to share information detailing capital investments and revenue growth in its report, but the rule does not require this information in the reports. Instead, the required annual report focuses on the number of Native businesses and entrepreneurs the incubator assists and their performance while participating and after graduation or departure from the incubator.

A commenter stated that the requirement for reporting business performance could be a deterrent for small business startups who are wary of making financial disclosures, so other metrics such as number of new employees or customers should be used instead.

Response: Financial oversight will consist of Federal reporting toward the grant funding only. The applicant will be able to specify how they are going to oversee the incubator activities and justify use of the grant funding and can craft those metrics to avoid revealing any financial disclosures that it believes will deter Native businesses and entrepreneurs from participating in the incubator.

F. Comments on Subpart F (Grant Administration)

1. Evaluation of Awardee Performance

A Tribe stated the requirement for awardees to become operational should become operational should be lengthened from 3 months to allow awardees at least 6 months.

Response: When determining the allowable ''start-up'' timeframe for grantees, OIED also considers the total time available to implement the activities under the grant. Since these are only one-year grants, allowing a 6-month ''start-up'' timeframe would leave only 6 months for implementation. For that reason, the final rule retains the 3-month timeframe for the grantee to commence providing services.

Two commenters stated their appreciation that the regulation does not include a requirement that businesses graduate from incubator programs within a certain period of time.

Response: The applicant decides when participant businesses graduate from their program. (The incubator awardee itself receives funding for 3 years with one potential renewal.)

2. Coordination With Other Federal Agencies

A Tribe noted that one of the greatest problems facing economic development in Indian Country is the lack of practical broadband access and urged adding to the regulation that the named federal Departments and agencies be required to provide broadband support to the maximum extent practicable.

Response: The requested additional language was not included in the final regulation because that language is not clearly authorized by the statute; however, OIED will actively engage with our Federal partners to continue to improve broadband in Indian Country. *See* 25 U.S.C. 5806.

3. Funding

Several commenters requested that additional funding be appropriated to this program.

Response: OIED relies upon Congress for annual appropriations for the IBIP.

G. Miscellaneous Comments

A Tribe requested OIED consider the unique sovereign status of Tribes and unique issues Tribes and Tribal members face when attempting to obtain conventional financing in Indian Country. Another commenter also noted that Native American businesses and entrepreneurship will differ in practice and view across Tribal communities. Another commenter provided statistics on the percentage of minority small business owners and stated that Native American businesses account for the smallest number of minority-owned firms.

Response: OIED recognizes the challenges of conventional financing in Indian Country. Congress also found in creating the IBIP that all entrepreneurs face challenges when transforming ideas into businesses, and entrepreneurs that want to provide services to reservation communities face additional barriers. The IBIP is intended to help address these challenges and includes, as a minimum requirement, that IBIP awardees offer culturally tailored incubation services to Native businesses and Native entrepreneurs. *See* 25 U.S.C. 5803(e)(2)(A) and § 1187.44(a)(1).

A commenter stated that OIED should commit to making information about IBIP applications, grant awards, and the impact of IBIP funding available publicly. This commenter stated that the information would be valuable for documenting demand for the program, understanding the program's reach and impact across Native communities and contexts, and raising the visibility of grant recipients.

Response: Disclosure of grant applications and reports are limited by Privacy Act and Freedom of Information Act (FOIA) exemptions, but OIED plans to share grant awards and success stories while complying with Privacy Act restrictions and FOIA exemptions.

A non-Tribal commenter urged OIED to prioritize feedback from Tribes and Native-led organizations in the rulemaking process.

Response: OIED hosted government-to-government consultation with Tribes during preparation of this final rule and considered Tribes' input accordingly.

V. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866, 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where

these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

B. The Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule establishes a program to provide grants for business incubators, some of which may be small entities, but the $5 million in total annual appropriations is not expected to reach the threshold of having a significant economic effect on a substantial number of small entities.

C. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. Because this rule establishes a program supported by $5 million in annual appropriations this rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act of 1995

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a monetarily significant or unique effect on State, local, or Tribal governments or the private sector. This rule would establish a program to provide grants to certain business incubators that will serve Tribal communities. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630 because this rule does not affect individual property rights protected by the Fifth Amendment or involve a compensable ''taking.'' A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule: (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has substantial direct effects on federally recognized Indian Tribes because the rule requires early Tribal involvement in the design of a process that will have significant impact on one or more recognized Tribes. OIED conducted Tribal consultation sessions by webinar on May 12 and 13 for input on the proposed rule. Responses to comments received from Tribes are included in the Responses to Comments section, above.

I. Paperwork Reduction Act

This rule contains new information collections. All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The Department is seeking approval of a new information collection, as follows.

Brief Description of Collection: This information collection includes items that an applicant must include in an application for an Indian Business Incubator Program (IBIP) grant and that IBIP awardees must include in the annual report. Applicant contents include such items as a description of the reservation communities the incubator will serve, a three-year plan regarding the services to be offered to participating entrepreneurs, among other items, information regarding applicant's experience in conducting assistance programs, and a site description of the location at which the applicant will provide work space to participants, among other items. The annual report includes a detailed breakdown of the entrepreneurs the incubator has served for the year covered by the report.

Title: Indian Business Incubator Program (IBIP).

OMB Control Number: 1076–0199.

Form Number: None.

Type of Review: New collection.

Respondents/Affected Public: Individuals, Private Sector, Government.

Total Estimated Number of Annual Respondents: 50.

Total Estimated Number of Annual Responses: 100.

Estimated Completion Time per Response: Ranges from 5 to 35 hours.

Total Estimated Number of Annual Burden Hours: 2,000 hours.

Respondents' Obligation: Required to obtain a benefit.

Frequency of Response: Occasionally.

Total Estimated Annual Non-Hour Burden Cost: $0.

A proposed rule, soliciting comments on this collection of information for 30 days, was published on April 13, 2021 (86 FR 19162). No comments were received on the information collections.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; 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, electronic, mechanical, or other technological collection techniques or

other forms of information technology, *e.g.,* permitting electronic submission of response.

Written comments and recommendations for the information collection should be sent within 30 days of publication of this notification 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. Please provide a copy of your comments to *consultation@bia.gov.* Please reference OMB Control Number 1076–0199 in the subject line of your comments.

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because this is an administrative and procedural regulation. (For further information see 43 CFR 46.210(i)). We have also determined that this rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

L. Determination To Issue Final Rule With Immediate Effective Date

This final rule is not subject to the effective date limitation of 5 U.S.C. 553(d) because there is good cause to dispense with the 30-day delayed effective date requirement in this case. The regulation sets out how a grant program will be conducted, under provisions largely prescribed by statute. A delayed effective date would be unnecessary and contrary to the public interest because it would only serve to delay the Department's ability to solicit applications for the grant funding.

List of Subject in 25 CFR Part 1187

Indians-business and finance, Loan programs—business, Loan programs—Indians, Reporting and recordkeeping requirements.

■ For the reasons given in the preamble, the Department of the Interior amends chapter VI of title 25 of the Code of Federal Regulations by adding part 1187 to read as follows:

PART 1187—INDIAN BUSINESS INCUBATORS PROGRAM

Subpart A—General Provisions and Eligibility

Subpart B—Applying for a Grant

Subpart C—Evaluation of Grant Applications

Subpart D—Grant Awards

Subpart E—Grant Term and Conditions

Subpart F—OIED Grant Administration

Authority: 25 U.S.C. 2, 9; 25 U.S.C. 5801 *et seq.*

Subpart A—General Provisions and Eligibility

§ 1187.1 What is the Indian Business Incubators Program (IBIP)?

The Indian Business Incubators Program (IBIP) is a program under the Native American Business Incubators Program Act in which the Office of Indian Economic Development (OIED) provides competitive grants to eligible applicants to establish and operate business incubators that serve Tribal reservation communities. With these grants, business incubators will:

(a) Provide individually tailored business incubation and other business services to Native businesses and Native entrepreneurs to overcome the unique obstacles they confront; and

(b) Provide Native businesses and Native entrepreneurs with the tools necessary to start and grow businesses that offer products and services to reservation communities.

§ 1187.2 What terms do I need to know?

As used in the part:

Awardee means an eligible applicant receiving a grant under the IBIP.

Business incubator means an organization that:

(1) Provides physical workspace and facilities resources to startups and established businesses; and

(2) Is designed to accelerate the growth and success of businesses through a variety of business support resources and services, including—

(i) Business education, counseling, and advice regarding access to capital;

(ii) Networking opportunities;

(iii) Mentorship opportunities; and

(iv) Other services intended to aid in developing a business.

Eligible applicant means an applicant eligible to apply for a grant under § 1187.3.

IBIP means the Indian Business Incubator Program (IBIP) under the Native American Business Incubator Program Act.

Indian Tribe has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

Institution of higher education means an educational institution in any State that—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of 20 U.S.C. 1091(d);

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a two-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

Native American or *Native* means a person who is a member of an Indian Tribe, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(d)).

Native business means a business concern that is at least 51-percent owned and controlled by 1 or more Native Americans.

Native entrepreneur means an entrepreneur who is a Native American.

OIED means the Office of Indian Economic Development in the Office of the Assistant Secretary—Indian Affairs.

Reservation means Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

Secretary means the Secretary of the Interior.

Tribal college or university means an institution that—

(1) Qualifies for funding under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 *et seq.*) or the Navajo Community College Act (25 U.S.C. 640a note); or

(2) Is cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note).

§ 1187.3 Who is eligible to receive a grant under the IBIP?

To be eligible to receive a grant under the IBIP, an applicant must:

(a) Be able to provide the physical workspace, equipment, and connectivity necessary for Native businesses and Native entrepreneurs to collaborate and conduct business on a local, regional, national, and international level; and

(b) Be one of the following entities:

(1) An Indian Tribe;

(2) A Tribal college or university that will have been operational for not less than one year before receiving a grant under the IBIP;

(3) An institution of higher education that will have been operational for not less than one year before receiving a grant under the IBIP; or

(4) A Tribal or private nonprofit organization that provides business and financial technical assistance and:

(i) Will have been operational for not less than one year before receiving a grant under the IBIP; and

(ii) Commits to serving one or more reservation communities.

Subpart B—Applying for a Grant

§ 1187.10 How does an eligible applicant apply for a grant under the IBIP?

Each eligible applicant desiring a grant under the IBIP must submit to the Secretary an application as described in the solicitation posted on *www.grants.gov.*

§ 1187.11 What must an application include?

An application for a grant under the IBIP must include:

(a) A certification that the applicant:

(1) Is an eligible applicant;

(2) Has or will designate an executive director or program manager to manage the business incubator; and

(3) Agrees to:

(i) A site evaluation by the Secretary as part of the final selection process;

(ii) An annual programmatic and financial examination for the duration of the grant; and

(iii) To the maximum extent practicable, to remedy any problems identified pursuant to the site evaluation and examination;

(b) A description of the one or more reservation communities to be served by the business incubator;

(c) A three-year plan that describes:

(1) The number of Native businesses and Native entrepreneurs to be participating in the business incubator;

(2) Whether the business incubator will focus on a particular type of business or industry;

(3) A detailed breakdown of the services to be offered to Native businesses and Native entrepreneurs participating in the business incubator; and

(4) A detailed breakdown of the services, if any, to be offered to Native businesses and Native entrepreneurs not participating in the business incubator;

(d) Information demonstrating the effectiveness and experience of the eligible applicant in:

(1) Conducting financial, management, and marketing assistance programs designed to educate or improve the business skills of current or prospective businesses;

(2) Working in and providing services to Native American communities;

(3) Providing assistance to entities conducting business in reservation communities;

(4) Providing technical assistance under Federal business and entrepreneurial development programs for which Native businesses and Native entrepreneurs are eligible; and

(5) Managing finances and staff effectively;

(e) A description of the applicant's non-Federal contributions, in an amount equal to not less than 25 percent of the grant amount requested; and

(f) A site description of the location at which the eligible applicant will provide physical workspace, including a description of the technologies, equipment, and other resources that will be available to Native businesses and Native entrepreneurs participating in the business incubator, if the applicant is in possession of the site, or a written site proposal containing the information in § 1187.12, if the applicant is not yet in possession of the site.

§ 1187.12 What must an applicant include in a written site proposal?

If the applicant is not yet in possession of the site, the applicant must submit a written site proposal with their application that contains:

(a) Sufficient detail for the Secretary to ensure, in the absence of a site visit or video submission, that the proposed site will permit the eligible applicant to meet the requirements of the IBIP; and

(b) A timeline describing when the eligible applicant will be:

(1) In possession of the proposed site; and

(2) Operating the business incubator at the proposed site.

§ 1187.13 May applicants submit a joint application?

Two or more eligible entities may submit a joint application for a project that combines the resources and expertise of those entities at a physical location dedicated to assisting Native businesses and Native entrepreneurs under the IBIP.

§ 1187.14 What additional items must a joint application include?

A joint application must:

(a) Contain a certification that each participant of the joint project is an eligible entity under § 1187.3;

(b) Demonstrate that together the participants meet the requirements of § 1187.13; and

(c) Identify which of the entities submitting the joint application will be the lead contact for the purposes of grant management.

Subpart C—Evaluation and Award of Grant Applications

§ 1187.20 How will OIED evaluate each application?

In evaluating each application, OIED will consider:

(a) The ability of the eligible applicant to:

(1) Operate a business incubator that effectively imparts entrepreneurship and business skills to Native businesses and Native entrepreneurs, as demonstrated by the experience and qualifications of the eligible applicant;

(2) Commence providing services within three months; and

(3) Provide quality incubation services to a significant number of Native businesses and Native entrepreneurs or provide such services at geographically remote locations where quality business guidance and counseling is difficult to obtain;

(b) The experience of the eligible applicant in providing services in Native American communities, including in the one or more reservation communities described in the application;

(c) The proposed location of the business incubator; and

(d) The extent to which a grant award will enable an entity that is already providing business incubation services to appreciably enhance those services.

§ 1187.21 How will OIED evaluate the proposed location of the business incubator?

In evaluating the proposed location of the business incubator, OIED will:

(a) Consider the program goal of achieving broad geographic distribution of business incubators; and

(b) Give priority to eligible applicants that will provide business incubation services on or near the reservation of the one or more communities that were described in the application, except that OIED may give priority to an eligible applicant that is not located on or near the reservation of the one or more communities that were described in the application if OIED determines that:

(1) The location of the business incubator will not prevent the eligible applicant from providing quality business incubation services to Native businesses and Native entrepreneurs from the one or more reservation communities to be served; and

(2) Siting the business incubator in the identified location will serve the interests of the one or more reservation communities to be served.

§ 1187.22 How will OIED conduct the site evaluation?

(a) Before awarding a grant to an eligible applicant, OIED will conduct an evaluation of the proposed site to verify that the applicant has (or will have) the physical workspace, equipment, and connectivity necessary for Native businesses and Native entrepreneurs to collaborate and conduct business on a local, regional, national, and/or international level.

(b) To determine whether the site meets the requirements of paragraph (a) of this section:

(1) If the applicant is in possession of the proposed site, OIED will conduct an on-site visit or review a video submission before awarding the grant.

(2) If the applicant is not yet in possession of the proposed site and has submitted a written site proposal, OIED will review the written site proposal before awarding the grant and will conduct an on-site visit or review a video submission to ensure the site is consistent with the written site proposal no later than one year after awarding the grant. If OIED determines the site is not consistent with the written site proposal, OIED will use that information in determining the ongoing eligibility of the applicant under § 1187.50.

Subpart D—Grant Awards

§ 1187.30 How will OIED disburse the grant funds to awardees?

OIED will disburse grant funds awarded to eligible applicants in annual installments except that, OIED may make disbursements more frequently, on request by the applicant, as long as disbursements are not made more frequently than quarterly.

§ 1187.31 May OIED award a grant that is duplicative of Federal funding from another source?

OIED may not award a grant under the IBIP that is duplicative of existing Federal funding from another source. Duplicative funding means any funding from other Federal grants that would overlap with the IBIP grant for the same activities described in the applicant's IBIP proposal.

Subpart E—Grant Term and Conditions

§ 1187.40 How long is the grant term?

Each grant awarded under the IBIP is for a term of three years.

§ 1187.41 May OIED renew a grant award?

(a) OIED may renew a grant award under the IBIP for one additional three-year term. In determining whether to renew a grant award, OIED will consider for the awardee:

(1) The results of the annual evaluation of the awardee conducted under § 1187.50;

(2) The performance of the awardee's business incubator, as compared to the performance of other business incubators receiving grants under the IBIP;

(3) Whether the awardee continues to be eligible for the IBIP; and

(4) The evaluation consideration for initial awards under § 1187.20.

(b) Awardees that receive a grant renewal must provide non-Federal contributions in an amount not less than 33 percent of the total amount of the grant. Failure to provide the non-Federal contribution will result in noncompliance and OIED withholding of funds, unless OIED waives the requirement under § 1187.43.

§ 1187.42 What may awardees use grant funds for?

An awardee may use grant amounts for any or all of the following purposes:

(a) To provide physical workspace and facilities for Native businesses and Native entrepreneurs participating in the business incubator;

(b) To establish partnerships with other institutions and entities to provide comprehensive business incubation services to Native businesses and Native entrepreneurs participating in the business incubator; and

(c) For any other uses typically associated with business incubators that OIED determines to be appropriate and consistent with the purposes of the IBIP.

§ 1187.43 May OIED waive the requirement for the non-Federal contribution?

OIED may waive the requirement for the non-Federal contribution, in whole or in part, for one or more years of the initial IBIP grant award if OIED determines that the waiver is appropriate based on:

(a) The awardee's ability to provide non-Federal contributions;

(b) The quality of business incubation services; and

(c) The likelihood that one or more reservation communities served by the awardee will not receive similar services elsewhere because of the remoteness or other reasons that inhibit the provision of business and entrepreneurial development services.

§ 1187.44 What minimum requirements must awardees meet?

(a) Each awardee must:

(1) Offer culturally tailored incubation services to Native businesses and Native entrepreneurs;

(2) Use a competitive process for selecting Native businesses and Native entrepreneurs to participate in the business incubator; however, awardees may still offer technical assistance and advice to Native businesses and Native entrepreneurs on a walk-in basis;

(3) Provide physical workspace that permits Native businesses and Native entrepreneurs to conduct business and collaborate with other Native businesses and Native entrepreneurs;

(4) Provide entrepreneurship and business skills training and education to Native businesses and Native entrepreneurs including:

(i) Financial education, including training and counseling in:

(A) Applying for and securing business credit and investment capital;

(B) Preparing and presenting financial statements; and

(C) Managing cash flow and other financial operations of a business;

(ii) Management education, including training and counseling in planning, organization, staffing, directing, and controlling each major activity or function of a business or startup; and

(iii) Marketing education, including training and counseling in:

(A) Identifying and segmenting domestic and international market opportunities;

(B) Preparing and executing marketing plans;

(C) Locating contract opportunities;

(D) Negotiating contracts; and

(E) Using varying public relations and advertising techniques;

(5) Provide direct mentorship or assistance finding mentors in the industry in which the Native business or Native entrepreneur operates or intends to operate; and

(6) Provide access to networks of potential investors, professionals in the same or similar fields, and other business owners with similar businesses.

(b) Each awardee must leverage technology to the maximum extent practicable to provide Native businesses and Native entrepreneurs with access to the connectivity tools needed to compete and thrive in 21st-century markets.

§ 1187.45 What reports must the awardee submit?

(a) Not later than one year after the date OIED awards the grant, and then annually for the duration of the grant, the awardee must submit to OIED a report describing the services the awardee provided under the IBIP during the preceding year, including:

(1) A detailed breakdown of the Native businesses and Native entrepreneurs receiving services from the business incubator, including, for the year covered by the report:

(i) The number of Native businesses and Native entrepreneurs participating in or receiving services from the business incubator and the types of services provided to those Native businesses and Native entrepreneurs;

(ii) The number of Native businesses and Native entrepreneurs established and jobs created or maintained; and

(iii) The performance of Native businesses and Native entrepreneurs while participating in the business incubator and after graduation or departure from the business incubator; and

(2) Any other information the Secretary may require to evaluate the performance of a business incubator to ensure appropriate implementation of the IBIP.

(b) To the maximum extent practicable, OIED will not require an awardee to report the information listed in paragraph (a) of this section that the awardee provides to OIED under another program.

(c) OIED will coordinate with the heads of other Federal agencies to ensure that, to the maximum extent practicable, the report content and form under paragraph (a) of this section are consistent with other reporting requirements for Federal programs that provide business and entrepreneurial assistance.

Subpart F—OIED Grant Administration

§ 1187.50 How will OIED evaluate awardees' performance?

Not later than one year after the date on which OIED awards a grant to an eligible applicant under the IBIP, and annually thereafter for the duration of the grant, OIED will conduct an evaluation of, and prepare a report on, the awardee, which will:

(a) Describe the performance of the eligible applicant; and

(b) Be used in determining the ongoing eligibility of the eligible applicant.

§ 1187.51 Will OIED facilitate relationships between awardees and educational institutions serving Native American communities?

OIED will facilitate the relationships between awardees and educational institutions serving Native American communities, including Tribal colleges and universities.

§ 1187.52 How will OIED coordinate with other Federal agencies?

OIED will coordinate with the Secretaries of Agriculture, Commerce, and Treasury, and the Administrator of the Small Business Administration to ensure, to the maximum extent practicable, that awardees have the information and materials they need to provide Native businesses and Native entrepreneurs with the information and assistance necessary to apply for business and entrepreneurial development programs administered by those agencies.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2021–18736 Filed 9–7–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0135]

RIN 1625–AA00

Safety Zones; Fireworks Displays, Air Shows and Swim Events in Captain of the Port Long Island Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard will add one safety zone for the Dolan Family Labor Day Fireworks event on Oyster Bay, NY, and remove six other annual recurring marine events in Coast Guard Sector Long Island Sound's Captain of the Port Zone. This rule is intended to expedite public information and to ensure the protection of the maritime public and event participants from the hazards associated with certain marine events. When enforced, the safety zones would restrict vessels from transiting the regulated area during annually recurring events.

DATES: This rule is effective without actual notice September 8, 2021. For the purposes of enforcement, actual notice will be used from September 6, 2021 until September 8, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0135 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Marine Science Technician 1st Class Chris Gibson, Waterways Management Division, Sector Long

Island Sound; Tel: (203) 468–4565; Email: *chris.a.gibson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Long Island Sound
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On June 14, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zones; Fireworks Displays, Air Shows and Swim Events in the Captain of the Port Long Island Sound Zone (86 FR 31456). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to fireworks displays and other marine events no longer held. We received no comments during the comment period that ended July 14, 2021.

The Captain of the Port Long Island Sound (COTP) will amend Table 1 and 2 to 33 CFR 165.151 Safety Zones; Fireworks Displays, Air Shows and Swim Events in the Captain of the Port Long Island Sound Zone because adding a single recurring marine event and removing six marine events that no longer occur will considerably reduce administrative overhead and provide the public with notice through publication in the **Federal Register** of the upcoming recurring safety zone.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP has determined that potential hazards associated with this annual recurring event will be a safety concern for anyone within the area where the fireworks display will commence. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because the safety zone must be established by September 6, 2021, for the Dolan Family Labor Day Fireworks display to mitigate the potential safety hazards.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published June 14, 2021. There are no changes in the regulatory text of this rule from the proposed rule.

This rule establishes a safety zone for the annual Dolan Family Labor Day Fireworks event by adding this event to Table 1 to 33 CFR 165.151. The event will occur on a day in September at a time to be determined each year. The regulated area will encompass waters of Long Island Sound off of Oyster Bay, NY. When enforced on the single day in September each year, this safety zone will restrict vessels from transiting the regulated area. When enforced on the one day in September each year, these safety zones will restrict vessels from transiting the regulated area. The specific description of this regulation appears at the end of this document.

Additionally, this rulemaking updates Table 1 and 2 to CFR 165.151 by removing six events that no longer take place. The Coast Guard will remove event 5.1 Jones Beach Air Show safety zone from Table 1 and remove five events from Table 2: (1) 1.1 Swim Across the Sound; (2) 1.3 Maggie Fischer Memorial Great South Bay Cross Bay Swim; (3) 1.4 Waves of Hope Swim; (4) 1.5 Stonewall Swim; and (5) 1.6 Swim Across America Greenwich safety zones.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on on the size, location, duration, and time-of-day of the safety zone. This rule establishes a safety zone for the annual Dolan Family Labor Day Fireworks event. The regulated area will encompass a 500′ radius at approximate point of 40°53′43.90″ N, 73°30′06.85″ W navigable waters of Oyster Bay near Oyster Bay, NY. When enforced on the single day in September each year, this safety zone would restrict vessels from transiting the regulated area. Once enforced on the one day in September each year, these safety zones would restrict vessels from transiting the regulated area. The Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule will allow vessels to seek permission to enter the zone.

Additionally, this rulemaking updates Table 1 and 2 to CFR 165.151 by removing six events that no longer take place.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–

888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing an annual recurring safety zone for a firework display and removing six other various marine events in Coast Guard Sector Long Island Sound's Captain of the Port Zone. It is categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and Recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS ANS LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1, Revision No. 01.2.

■ 2. Amend § 165.151 by:

■ a. In Table 1 to § 165.151 removing item ''5.1 Jones Beach Air Show'' and adding item ''9.7 Dolan Family Labor Day Fireworks''; and

■ b. In Table 2 to § 165.151 removing items ''1.1 Swim Across the Sound'', ''1.3 Maggie Fischer Memorial Great South Bay Cross Bay Swim'', ''1.4 Waves of Hope Swim', ''1.5 Stonewall Swim'', and ''1.6 Swim Across America Greenwich''.

The addition reads as follows:

§ 165.151 Safety Zones; Fireworks Displays, Air Shows and Swim Events in the Captain of the Port Long Island Sound Zone.

* * * * *

TABLE 1 TO § 165.151

*	*	*	*	*	*	*
9			September			
*	*	*	*	*	*	*
9.7 Dolan Family Labor Day Fireworks.	• Date: A single day event in September. • Location: Waters of Oyster Bay Harbor in Long Island Sound off Oyster Bay, NY in approximate position 40°53′43.50″ N, 073°30′06.85″ W. The regulated area for this fireworks displays is that area of navigable waters within a 500 foot radius of the launch platform or launch site for each fireworks display.					
*	*	*	*	*	*	*

* * * * *

Dated: August 27, 2021.

E.J. Van Camp,

Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.

[FR Doc. 2021–19148 Filed 9–7–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 402, 403, 411, 412, 422, 423, 460, 483, 488, and 493

[CMS–6076–RCN3]

RIN 0991–AC07

Medicare and Medicaid Programs; Adjustment of Civil Monetary Penalties for Inflation; Continuation of Effectiveness and Extension of Timeline for Publication of the Final Rule

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Continuation of effectiveness and extension of timeline for publication of the final rule.

SUMMARY: This document announces the continuation of, effectiveness of, and the extension of the timeline for publication of a final rule. We are issuing this document in accordance with the Social Security Act (the Act), which allows an interim final rule to remain in effect after the expiration of the timeline specified in the Act if the Secretary publishes a notice of continuation explaining why we did not comply with the regular publication timeline.

DATES: Effective September 3, 2021, the Medicare provisions adopted in the interim final rule published on September 6, 2016 (81 FR 61538) continue in effect and the regular timeline for publication of the final rule is extended for an additional year, until September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Steve Forry (410) 786–1564 or Jaqueline Cipa (410) 786–3259.

SUPPLEMENTARY INFORMATION: Section 1871(a) of the Social Security Act (the Act) sets forth certain procedures for promulgating regulations necessary to carry out the administration of the insurance programs under Title XVIII of the Act. Section 1871(a)(3)(A) of the Act requires the Secretary, in consultation with the Director of the Office of Management and Budget (OMB), to establish a regular timeline for the publication of final regulations based on the previous publication of a proposed rule or an interim final rule. In accordance with section 1871(a)(3)(B) of the Act, such timeline may vary among different rules, based on the complexity of the rule, the number and scope of the comments received, and other relevant factors. However, the timeline for publishing the final rule, cannot exceed 3 years from the date of publication of the proposed or interim final rule, unless there are exceptional circumstances. After consultation with the Director of OMB, the Secretary published a notice, which appeared in the December 30, 2004 **Federal Register** on (69 FR 78442), establishing a general 3-year timeline for publishing Medicare final rules after the publication of a proposed or interim final rule.

Section 1871(a)(3)(C) of the Act states that upon expiration of the regular timeline for the publication of a final regulation after opportunity for public comment, a Medicare interim final rule shall not continue in effect unless the Secretary publishes a notice of continuation of the regulation that includes an explanation of why the regular timeline was not met. Upon publication of such notice, the regular timeline for publication of the final regulation is treated as having been extended for 1 additional year.

On September 6, 2016 **Federal Register** (81 FR 61538), the Department of Health and Human Services (HHS) issued a department-wide interim final rule titled ''Adjustment of Civil Monetary Penalties for Inflation'' that established new regulations at 45 CFR part 102 to adjust for inflation the maximum civil monetary penalty amounts for the various civil monetary penalty authorities for all agencies within the Department. HHS took this action to comply with the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act) (28 U.S.C. 2461 note 2(a)), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (section 701 of the Bipartisan Budget Act of 2015, (Pub. L. 114–74), enacted on November 2, 2015). In addition, this September 2016 interim final rule included updates to certain agency-specific regulations to reflect the new provisions governing the adjustment of civil monetary penalties for inflation in 45 CFR part 102.

One of the purposes of the Inflation Adjustment Act (see section 2(b)(1)) was to create a mechanism to allow for regular inflationary adjustments to federal civil monetary penalties. The 2015 amendments removed an inflation update exclusion that previously applied to the Social Security Act as well as to the Occupational Safety and Health Act. The 2015 amendments also ''reset'' the inflation calculations by excluding prior inflationary adjustments under the Inflation Adjustment Act and requiring agencies to identify, for each penalty, the year and corresponding amount(s) for which the maximum penalty level or range of minimum and maximum penalties was established (that is, originally enacted by Congress) or last adjusted other than pursuant to the Inflation Adjustment Act. In accordance with section 4 of the Inflation Adjustment Act, agencies were required to: (1) Adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through an interim final rulemaking (IFR) to take effect by August 1, 2016; and (2) make subsequent annual adjustments for inflation.

In the September 2016 interim final rule, HHS adopted new regulations at 45 CFR part 102 to govern adjustment of civil monetary penalties for inflation. The regulation at 45 CFR 102.1 provides that part 102 applies to each statutory provision under the laws administered by HHS concerning civil monetary penalties, and that the regulations in part 102 supersede existing HHS regulations setting forth civil monetary penalty amounts. The civil money penalties and the adjusted penalty amounts administered by all HHS agencies are listed in tabular form in 45 CFR 102.3. In addition to codifying the adjusted penalty amounts identified in § 102.3, the HHS-wide interim final rule included several technical conforming updates to certain agency-specific regulations, including various CMS regulations, to identify their updated information, and incorporate a cross-reference to the location of HHS-wide regulations.

Because the conforming changes to the Medicare provisions were part of a larger, omnibus departmental interim final rule, we inadvertently missed setting a target date for publication of the final rule to make permanent the conforming changes to the Medicare regulations in accordance with section 1871(a)(3)(A) of the Act and the procedures outlined in the December 2004 notice. Therefore, in the January 2, 2020 **Federal Register** (85 FR 7), we published a document continuing the effectiveness of the interim final rule for an additional year, until September 6, 2020.

On January 31, 2020, pursuant to section 319 of the Public Health Service Act (PHSA), the Secretary determined that a Public Health Emergency (PHE) exists for the United States to aid the

nation's healthcare community in responding to COVID–19. On March 11, 2020, the World Health Organization (WHO) publicly declared COVID–19 a pandemic. On March 13, 2020, the President declared the COVID–19 pandemic a national emergency. This declaration, along with the Secretary's January 31, 2020 declaration of a PHE, conferred on the Secretary certain waiver authorities under section 1135 of the Act. On March 13, 2020, the Secretary authorized waivers under section 1135 of the Act, effective March 1, 2020.[1] Effective July 20, 2021, the Secretary renewed the January 31, 2020 determination that was previously renewed on April 21, 2020, July 23, 2020, October 2, 2020, January 7, 2021, April 15, 2021, and July 19, 2021, that a PHE exists and has existed since January 27, 2020. The unprecedented nature of this national emergency has placed enormous responsibilities upon CMS to respond appropriately, and resources have had to be re-allocated throughout the agency in order to be responsive.

Due to the PHE and in accordance with section 1871(a)(3)(C) of the Act, on September 8, 2020 (85 FR 55385), we published a second document continuing the effectiveness of effect and the regular timeline for publication of the final rule for an additional year, until September 6, 2021.

Because of CMS's continued efforts to address resource challenges resulting from the PHE and consistent with section 1871(a)(3)(C) of the Act, we are publishing a third notice of continuation extending the effectiveness of the technical conforming changes to the Medicare regulations that were implemented through interim final rule and to allow time to publish a final rule. Therefore, the Medicare provisions adopted in interim final regulation continue in effect and the regular timeline for publication of the final rule is extended for an additional year, until September 6, 2022.

Karuna Seshasai,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2021–19382 Filed 9–3–21; 11:15 am]

BILLING CODE 4120–01–P

[1] *https://www.phe.gov/emergency/news/healthactions/section1135/Pages/covid19-13March20.aspx.*

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2018–0069; FF09E21000 FXES11110900000 212]

RIN 1018–BD36

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Slenderclaw Crayfish and Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered species status under the Endangered Species Act of 1973, as amended (Act), for the slenderclaw crayfish (*Cambarus cracens*), a cryptic freshwater crustacean that is endemic to streams on Sand Mountain within the Tennessee River Basin in DeKalb and Marshall Counties, Alabama. This rule adds this species to the Federal List of Endangered and Threatened Wildlife. In addition, we designate approximately 78 river miles (126 river kilometers) in DeKalb and Marshall Counties, Alabama, as critical habitat for the species under the Act.

DATES: This rule is effective October 8, 2021.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069 and at *https://www.fws.gov/southeast/.* Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069. Comments, materials, and documentation that we considered in this rulemaking will be available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

The coordinates or plot points or both from which the maps are generated are included in the administrative record for this critical habitat designation and are available at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069, at *https://www.fws.gov/southeast/,* and at the Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we developed for this critical habitat designation will also be available at the Service website and Field Office set out above, and may also be included in the preamble and/or at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: William Pearson, Field Supervisor, U.S. Fish and Wildlife Service, Alabama Ecological Services Field Office, 1208–B Main Street, Daphne, AL 36526; telephone 251–441–5870. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. In addition, to the maximum extent prudent and determinable, we must designate critical habitat for any species that we determine to be an endangered or threatened species under the Act. Listing a species as an endangered or threatened species and designation of critical habitat can only be completed by issuing a rule.

What this rule does. This rule will list the slenderclaw crayfish (*Cambarus cracens*) as an endangered species and will finalize the designation of critical habitat for the species under the Act. Accordingly, this rule revises part 17 of title 50 of the Code of Federal Regulations at 50 CFR 17.11 and 17.95.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that the slenderclaw crayfish is threatened by competition from a nonnative species (Factors A and E) and habitat degradation resulting from poor water quality (Factor A).

Under section 4(a)(3) of the Act, if we determine that any species is an endangered or threatened species we must, to the maximum extent prudent and determinable, designate critical habitat. Under section 4(b)(2) of the Act, the Secretary shall designate critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other

relevant impact of specifying any particular area as critical habitat. Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protections; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Economic analysis. In accordance with section 4(b)(2) of the Act, we prepared a draft economic analysis of the impacts of designating critical habitat. We published an announcement of the completion of the draft and solicited public comments (83 FR 50582; October 9, 2018). We received no comments on the draft economic analysis. We adopt the draft economic analysis as final.

Peer review and public comment. We sought comments from independent specialists to ensure that our designation is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our species status assessment (SSA) report, which informed both the proposed rule and this final rule. We also considered all comments and information received from the public and peer reviewers during the comment period.

Supporting Documents

We prepared an SSA report for the slenderclaw crayfish. Written in consultation with species experts, the SSA report represents the best scientific and commercial data available concerning the status of the slenderclaw crayfish, including the impacts of past, present, and future factors (both adverse and beneficial) affecting the species (Service 2019, entire). The SSA report underwent independent peer review by scientists with expertise in crayfish biology, habitat management, and stressors (factors negatively affecting the species) to the slenderclaw crayfish. The SSA report, the proposed rule, this final rule, and other materials relating to this rulemaking can be found on the Service's Southeast Region website at *https://www.fws.gov/southeast/* and at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069.

Previous Federal Actions

On October 9, 2018, we published in the **Federal Register** a proposed rule (83 FR 50582) to list the slenderclaw crayfish as a threatened species with provisions under section 4(d) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and to designate critical habitat. Please refer to that proposed rule for a detailed description of all previous Federal actions concerning this species.

Background

The slenderclaw crayfish is a relatively small, cryptic freshwater crustacean, with an average lifespan of 2 to 3 years, that is endemic to streams on Sand Mountain within the Tennessee River Basin in DeKalb and Marshall Counties, Alabama. Primarily due to the invasion of nonnative virile crayfish (*Faxonius virilis*) that prey upon and compete with the slenderclaw crayfish, in addition to habitat degradation resulting in poor water quality, the species' range is reduced with extirpation at some sites and low condition in both populations currently.

Please refer to the October 9, 2018, proposed listing and designation of critical habitat rule for the slenderclaw crayfish (83 FR 50582) and the SSA report for a full summary of species information. Both are available on the Service's Southeast Region website at *https://www.fws.gov/southeast/* and at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069.

Summary of Comments and Recommendations

In the October 9, 2018, proposed listing and critical habitat rule (83 FR 50582), we requested that all interested parties submit written comments on the proposal by December 10, 2018. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. A newspaper notice inviting general public comment was published in the Guntersville (Alabama) Advertiser Gleam on October 17, 2018. We did not receive any requests for a public hearing. All substantive information provided during the comment period has either been incorporated directly into the SSA report or this final determination or is addressed below, as appropriate.

Peer Reviewer Comments

In accordance with our joint policy on peer review published on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we solicited the expert opinions from six knowledgeable individuals with scientific expertise that included familiarity with slenderclaw crayfish and its habitat, biological needs, and threats. We received responses from two peer reviewers.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the slenderclaw crayfish, and we updated the SSA report prior to the proposed rule. The peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve the final SSA report. Peer reviewer comments were incorporated into the SSA report and this final rule as appropriate. In our response to peer reviewer comments, we only address issues that were not reflected in changes to the SSA report or this final rule.

Comment: One peer reviewer suggested that we project increased variability in rainfall instead of change in annual mean precipitation in our future condition projections. The reviewer noted that one historic drought could potentially eliminate one of these populations, and we do not understand the effects of flooding on the slenderclaw crayfish. In addition, the reviewer noted that considering climate-induced variability with urbanization could lead to a higher probability of occasional stream drying.

Our response: Although we did not use a model to project increased variability in rainfall as the commenter suggested, in the SSA, we did account for increased variability in rainfall and the hydrological impacts from precipitation change in our future-scenario projections and predictions of the slenderclaw crayfish. To assess the future condition of slenderclaw crayfish, we projected how precipitation can change in order to understand potential future hydrologic impacts within the system. Based on this information, we developed future scenarios on the plausible range in the hydrologic impacts from precipitation change as well as other factors influencing the viability of the slenderclaw crayfish.

Public Comments

We received 10 public comments on the proposed listing rule and critical habitat rule. Where commenters provided substantive comments or new information concerning the proposed listing and species-specific section 4(d) rule for the slenderclaw crayfish, we incorporated this information into the final SSA report and this final rule as appropriate.

(1) Comment: One commenter expressed concern about the presence of the virile crayfish in slenderclaw

crayfish habitat and provided additional information and references on research of the effects of virile crayfish on other crayfish species. The commenter noted the virile crayfish has been attributed to decline of other native crayfish species in rivers and streams in West Virginia, Idaho, Wyoming, and Utah.

Our response: We appreciate the additional information and references provided regarding the virile crayfish effects to other native crayfish species. We incorporated the information from the additional studies of virile crayfish into the appropriate section of the SSA report (Service 2019, pp. 16–17). We further considered the additional information about the invasion of virile crayfish and what the impact is to the current condition of the slenderclaw crayfish. After further consideration of the invasion of virile crayfish, coupled with the low abundance of slenderclaw crayfish, we determined the risk of extinction for the slenderclaw crayfish is higher (see Determination of Slenderclaw Status, below) than we characterized in the proposal to list the slenderclaw crayfish as a threatened species. Based on the documented past expansion of the virile crayfish, current invasion and expansion into the slenderclaw crayfish's range in both populations will occur. Therefore, the slenderclaw crayfish is currently at risk of extinction as a result of the virile crayfish expansion. We reassessed the best available scientific and commercial data available regarding the slenderclaw crayfish to evaluate its status under the Act (see Determination of Slenderclaw Crayfish Status, below).

(2) Comment: Several other commenters expressed their opinion that the Service should list the species as endangered, rather than threatened, and stated reasons including degradation of its habitat, inadequacy of existing regulatory mechanisms, small population size, competition with virile crayfish, and climate change. One commenter specifically identified kudzu (*Pueraria montana*), an invasive plant, as a current and future threat to the riparian habitat in the range of the slenderclaw crayfish. In addition, the commenter noted that degradation of habitat for the slenderclaw crayfish is ongoing despite existing regulatory mechanisms.

Our response: When we evaluated the best available information, we concluded that kudzu was not a threat to the slenderclaw crayfish. Although we recognize that kudzu can alter habitat, this plant has not been documented to impact the slenderclaw crayfish. As to habitat degradation, as discussed under the Summary of Biological Status and Threats and Determination sections of the preamble of this final listing rule, we determined that existing regulatory mechanisms currently address the threat of habitat degradation. Other than identifying kudzu as a potential threat, the commenters did not provide any new information regarding current threats to the slenderclaw crayfish or its current status that was not already considered in the SSA report or proposed rule. However, as stated above under *Our Response* to *(1) Comment,* based on new information about the invasive virile crayfish, coupled with known information about slenderclaw crayfish abundance, we determined the slenderclaw crayfish meets the definition of an endangered species (see Determination of Slenderclaw Crayfish Status, below).

(3) Comment: Two commenters stated that the slenderclaw crayfish has been extirpated from 80 percent of its historical range, citing information from a status survey for three rare crayfishes, including the slenderclaw crayfish (Kilburn *et al.* 2012, entire).

Our response: As discussed in Kilburn *et al.* (2012, entire), the slenderclaw crayfish was only ever known to occur at five historical sites within two watersheds, Short and Town Creeks, and the authors did not find the slenderclaw crayfish outside these two watersheds. Since the publication of Kilburn *et al.* (2012, entire), recent surveys conducted in 2015 through 2017 identified the slenderclaw crayfish occurring at three new sites within this historical range. Although there is evidence of reduced abundance and presumed extirpation at four historical sites within this range, there are currently two populations of slenderclaw crayfish occurring across the range in Alabama, and the slenderclaw crayfish occurs within the two watersheds where it historically was known to occur. In short, at this time, the slenderclaw crayfish has not been extirpated from 80 percent of its historical range. Please refer to section 2.5 Range and Distribution in the SSA report for additional information on the historical and current range of the species.

(4) Comment: The Tennessee Valley Authority (TVA) recommended that the planting of bare-root seedlings as a method to revegetate and stabilize streambanks be included in the 4(d) rule. TVA has found this method to be successful for establishing a diversity of vegetation within riparian zones.

Our response: We agree that the planting of bare-root seedlings as a method to revegetate and stabilize streambanks would be beneficial to slenderclaw crayfish. However, in this final rule, the Service has determined that the slenderclaw crayfish meets the definition of an endangered species, and the Act does not allow issuance of a 4(d) rule for a species listed as endangered.

Summary of Changes From the Proposed Rule

The final rule incorporates changes to our proposed listing rule and SSA Report based on the comments we received, as discussed in the Summary of Comments and Recommendations. Based on comments received and our further consideration of the invasion of virile crayfish coupled with low abundance of slenderclaw crayfish, we determined the risk of extinction is higher (see Determination, below) than we characterized in the proposal to list the slenderclaw crayfish as a threatened species (83 FR 50582; October 9, 2018). We reassessed our analysis and found that the documented expansion and invasion of the virile crayfish in the slenderclaw crayfish's range, along with additional information regarding impacts to other native crayfish species and known low abundance in both populations of the slenderclaw crayfish, places the slenderclaw crayfish at a high risk for extinction throughout its range. Thus, after evaluating the best available information and the Act's regulation and policies, we determined that the slenderclaw crayfish meets the definition of an endangered species, and such status is more appropriate than that of a threatened species as originally proposed. Because we determined that the slenderclaw crayfish meets the definition of an endangered species, a 4(d) rule is inapplicable; consequently, the proposed special rule under the authority of section 4(d) of the Act was removed from the final rule. We received no substantive comments on the proposed critical habitat designation; accordingly, there are no changes in the final designation. Lastly, we made minor editorial and nonsubstantive corrections throughout the SSA report and this final rule.

Summary of Biological Status and Threats

We completed a comprehensive assessment of the biological status of the slenderclaw crayfish and prepared an SSA report (Service 2019, entire), which provides a thorough account of the species' overall viability. Below, we summarize the key results and conclusions of the SSA report.

To evaluate the current and future viability of the slenderclaw crayfish, we assessed the three conservation biology

principles of resiliency, redundancy, and representation (the ''3 Rs'' described in detail in the SSA report) (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency supports the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years), redundancy supports the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation supports the ability of the species to adapt over time to long-term changes in the environment (for example, climate changes). In general, the more resilient and redundant a species is and the more representation it has, the more likely it is to sustain populations over time, even under changing environmental conditions. Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The historical range of the slenderclaw crayfish included two known populations, Short and Town Creeks, in watersheds leading into the Tennessee River in Alabama. Within the Short Creek population, a total of 90 slenderclaw crayfish, with 56 of those being juveniles, were collected during the period 1970–1974 (Bouchard and Hobbs 1976, entire; Schuster 2017, unpublished data). Historically, only one crayfish was collected in the Town Creek population in the period 1970–1974 (Bouchard and Hobbs 1976, entire; Schuster 2017, unpublished data). Surveys conducted from 2009 through 2017 have documented the slenderclaw crayfish within the same two populations, Short Creek (three sites in Shoal Creek) and Town Creek (one site in Bengis Creek and one site in Town Creek) (Kilburn *et al.* 2014, pp. 116–117; Bearden *et al.* 2017, pp. 17–18; Schuster 2017, unpublished data; Taylor 2017, unpublished data).

Of the five historical sites, the slenderclaw crayfish is no longer found and is presumed extirpated at three sites in the Short Creek population (one site in Short Creek and two sites in Scarham Creek) and one site in the Town Creek population (one site in Bengis Creek) despite repeated survey efforts (Kilburn *et al.* 2014, pp. 116–117; Bearden *et al.* 2017, pp. 17–18; Schuster 2017, unpublished data; Taylor 2017, unpublished data). Across current survey efforts from 2009 through 2017, researchers collected 28 slenderclaw crayfish, including 2 juveniles, within the Short Creek population, and 2 adults and 2 juveniles from the Town Creek population. There are no actual historical or current population estimates for slenderclaw crayfish, and the abundance numbers (total number collected) reported are not population estimates.

At the population level, the overall current condition in terms of resiliency was determined to be low for both Short Creek and Town Creek populations. We estimate that the slenderclaw crayfish currently has some adaptive potential (*i.e.,* representation) due to the habitat variability features occurring in the Short Creek and Town Creek populations. The Short Creek population occurs in streams with predominantly large boulders and fractured bedrock, broader stream widths, and greater depths, and the Town Creek population occurs in streams with larger amounts of gravel and cobble, narrower stream widths, and shallower depths (Bearden 2017, pers. comm.). At present, the slenderclaw crayfish has two populations in low condition (resiliency) with habitat types that vary between populations. Therefore, given the variable habitat in which the slenderclaw crayfish occurs, the species may have some level of adaptive capacity. Given the low resiliency of both populations of the slenderclaw crayfish, current representation is reduced.

The slenderclaw crayfish exhibits limited redundancy given its narrow range and that four out of five sites within the species' historical range are presumed extirpated. In addition, connectivity between the Short Creek and Town Creek populations is likely low, because both Short and Town Creek streams flow downstream into, and thus are separated by, Guntersville Lake. To date, no slenderclaw crayfish have been documented in impounded areas including Guntersville Lake. Multiple sites in the same population could allow recolonization following a catastrophic event (*e.g.,* chemical spill) that may affect a large proportion of a population; however, given the species' limited redundancy and current low resiliency of both populations, it might be difficult to reestablish an entire population affected by a catastrophic event, as the connectivity between the two populations is low. Further, the currently occupied sites in the Short Creek population are in a single tributary, and one catastrophic event could impact this entire population.

Risk Factors for Slenderclaw Crayfish

The Act directs us to determine whether any species is an endangered species or a threatened species because of any factors affecting its continued existence. Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

We reviewed the potential risk factors (*i.e.,* threats or stressors) that are affecting the slenderclaw crayfish now and are expected to affect it into the future. Because we have determined that the species is currently in danger of extinction throughout its range, in this final rule we will discuss in detail only those threats that we conclude are driving the current status and viability of the species. We have determined that competition from a nonnative species (Factors A and E), habitat degradation resulting from poor water quality (Factor A), and low abundance (Factor E) pose the largest risk to the current viability of the slenderclaw crayfish. Other potential stressors to the species—hydrological variation and alteration (Factors A and E), land use (Factor A), and scientific collection (Factor B)—are discussed in the SSA report and proposed rule. Currently existing regulatory mechanisms, such as regulations implemented under the Clean Water Act to protect water quality and instream habitat, address the habitat degradation threat to the slenderclaw crayfish. However, we also found that existing regulatory mechanisms do not address, nor do they contribute to, the threat of the nonnative virile crayfish, which is the primary threat to the slenderclaw crayfish. We find the species does not face significant threats from disease or predation (Factor C). We also reviewed the conservation efforts being undertaken for the habitat in which the slenderclaw crayfish occurs.

Nonnative Species

The virile crayfish (*Faxonius virilis*), previously recognized as *Orconectes virilis* (Crandall and De Grave 2017, p. 5), is a crayfish native to the Missouri, upper Mississippi, lower Ohio, and the Great Lakes drainages (Service 2015, p. 1). The species has spread from its native range through dispersal as fishing bait, as pets, and through commercial (human) consumption (Schwartz *et al.* 1963, p. 267; Service 2015, p. 4). Virile crayfish inhabit a variety of watersheds in the United States, including those with very few to no native crayfish species, and have been found in lake, wetland, and stream environments

(Larson *et al.* 2010, p. 2; Loughman and Simon 2011, p. 50). Virile crayfish are generalists, able to withstand various conditions, and have the natural tendency to migrate (Loughman and Simon 2011, p. 50). This species has been documented to spread approximately 124 mi (200 km) over 15 years (B. Williams 2018, pers. comm.; Williams *et al.* 2011, entire).

Based on comparison of body size, average claw size, aggression levels, and growth rates, it appears that the virile crayfish has an ecological advantage over several native crayfish species, including those in the *Cambarus* and *Procambarus* genera (Hale *et al.* 2016, p. 6). In addition, virile crayfish have been documented to displace native crayfish (Hubert 2010, p. 5; Loughman and Welsh 2010, pp. 70 and 72).

Virile crayfish were first collected near the range of slenderclaw crayfish in 1967 (Schuster 2017, unpublished data). Since then, the virile crayfish has been documented in Guntersville Lake (a Tennessee Valley Authority reservoir constructed in 1939, on the Tennessee River mainstem) (Schuster 2017, unpublished data; Taylor 2017, unpublished data). In addition, the virile crayfish was found in 2015 at the type locality (location where the species was first described) for the slenderclaw crayfish in Short Creek (Short Creek population), in which the slenderclaw crayfish no longer occurs (Schuster 2017, unpublished data; Taylor 2017, unpublished data). In 2016, the virile crayfish was found at two sites in Drum Creek within the Short Creek population boundary and at the confluence of Short Creek and Guntersville Lake (Schuster 2017, unpublished data; Taylor 2017, unpublished data). During 2017, 20 virile crayfish were again found at the location where slenderclaw crayfish was first described in Short Creek (Taylor 2017, unpublished data). Also during 2017, this nonnative crayfish was documented at four new sites in adjacent watersheds outside of the Short Creek population boundary. Juvenile virile crayfish have been collected in the Short Creek population, indicating that the species is established there (Taylor 2017, unpublished data). To date, no virile crayfish have been documented within the Town Creek population boundary (Schuster 2017, unpublished data; Taylor 2017, unpublished data).

The adaptive nature of the virile crayfish, the effects of this nonnative species on other crayfish species in their native ranges, and records of the virile crayfish's presence in the slenderclaw crayfish's historical and current range indicate that the virile crayfish is a factor that negatively influences the viability of the slenderclaw crayfish in the near term and future. Also, considering that the virile crayfish is a larger crayfish, is a strong competitor, and tends to migrate, while the slenderclaw crayfish has low abundance and is a smaller bodied crayfish, it is reasonable to conclude that once the virile crayfish is established at a site, it will out-compete slenderclaw crayfish.

Water Quality

Direct impacts of poor water quality on the slenderclaw crayfish are unknown; however, aquatic macroinvertebrates (*i.e.,* mayflies, caddisflies, stoneflies) are negatively affected by poor water quality, and this may indirectly impact the slenderclaw crayfish, which likely feeds on them. Degradation of water quality impacts aquatic macroinvertebrates and may even cause stress to individual crayfish (Arthur *et al.* 1987, p. 328; Devi and Fingerman 1995, p. 749; Rosewarne *et al.* 2014, p. 69). Although crayfish generally have a higher tolerance to ammonia than some aquatic species (*i.e.,* mussels), their food source, larval insects, is impacted by ammonia at lower concentrations (Arthur *et al.* 1987, p. 328). Juvenile slenderclaw crayfish likely feed exclusively on aquatic macroinvertebrates, which are impacted by elevated ammonia and poor water quality.

Within the range of the slenderclaw crayfish, Scarham Creek and Town Creek were identified as impaired waters by the Alabama Department of Environmental Management (ADEM). These creeks were listed in 1996 and 1998, respectively, on Alabama's list of impaired water bodies (list of waterbodies that do not meet established State water quality standards) under section 303(d) of the Clean Water Act (hereafter, ''the 303(d) list'') (ADEM 1996, p. 1; ADEM 2001, p. 11). Scarham Creek was placed on the 303(d) list for impacts from pesticides, siltation, ammonia, low dissolved oxygen/organic enrichment, and pathogens from agricultural sources; this section of Scarham Creek stretched 24 mi (39 km) upstream from its confluence with Short Creek to its source (ADEM 2013, p. 1). However, Scarham Creek was removed from Alabama's 303(d) list of impaired waters in 2004, after the total maximum daily loads (TMDLs; maximum amount of a pollutant or pollutants allowed in a water body while still meeting water quality standards) were developed in 2002 (ADEM 2002, p. 5; ADEM 2006, entire). Town Creek was previously listed on the 303(d) list for ammonia and organic enrichment/dissolved oxygen impairments. Although TMDLs have been in development for these issues (ADEM 1996, entire), all of Town Creek is currently on the 303(d) list for mercury contamination due to atmospheric deposition (ADEM 2016a, appendix C). One identified source of wastewater discharge to Town Creek is Hudson Foods near Geraldine, Alabama (ADEM 1996, p. 1).

Pollution from nonpoint sources stemming from agriculture, animal production, and unimproved roads has been documented within the range of the slenderclaw crayfish (Bearden *et al.* 2017, p. 18). Alabama is ranked third in the United States for broiler (chicken) production (Alabama Poultry Producers 2017, unpaginated), and DeKalb and Marshall Counties are two of the four most active counties in Alabama for poultry farming (Conner 2008, unpaginated). Poultry farms and poultry litter (a mixture of chicken manure, feathers, spilled food, and bedding material that frequently is used to fertilize pastureland or row crops) have been documented to contain nutrients, pesticides, bacteria, heavy metals, and other pathogens (Bolan *et al.* 2010, pp. 676–683; Stolz *et al.* 2007, p. 821). A broiler house containing 20,000 birds will produce approximately 150 tons of litter a year (Ritz and Merka 2013, p. 2). Surface-spreading of litter allows runoff from heavy rains to carry nutrients from manure into nearby streams. Poultry litter spreading is a practice that occurs within the Short Creek watershed (Short Creek population of slenderclaw crayfish) (Top of Alabama Regional Council of Governments 2015, p. 8).

During recent survey efforts, water quality was impaired due to nutrients and bacteria within the Short Creek population, and levels of atrazine may be of concern in the watershed (Bearden *et al.* 2017, p. 32). In Bengis Creek (Town Creek population), lead measurements exceeded the acute and chronic aquatic life criteria set by the U.S. Environmental Protection Agency (EPA) and ADEM (Bearden *et al.* 2017, p. 32; ADEM 2017, p. 10–7). These criteria are based on levels developed by the EPA and ADEM to protect fish and wildlife (ADEM 2017, entire), and exceedance of these values is likely to harm animal or plant life (EPA 2018b, unpaginated). Elevated ammonia concentrations in Town Creek were also documented and reflected nonpoint source pollution at low-flow and high-flow measurements (Bearden *et al.* 2017, p. 21). In late summer and fall surveys, potential eutrophication likely stemming from low-water conditions, elevated nutrients, and low dissolved oxygen was documented within both

Short and Town Creek watersheds (Bearden *et al.* 2017, p. 31).

Low Abundance

The number of slenderclaw crayfish is currently low, with only two populations and few individuals within each population, which is reflected in the species' low resiliency, redundancy, and representation. The current estimated low abundance (n=32) and genetic drift may negatively affect populations of the slenderclaw crayfish. In general, the fewer populations a species has or the smaller the sizes of those populations, the greater the likelihood of extinction by chance alone (Shaffer and Stein 2000, p. 307). Genetic drift occurs in all species but is more likely to negatively affect populations that have a smaller effective population size (Caughley 1994, pp. 219–220; Huey *et al.* 2013, p. 10). There are only two populations of the slenderclaw crayfish with limited connectivity between those populations, which may have reduced genetic diversity. However, no testing for genetic drift has been conducted for the slenderclaw crayfish.

Synergistic Effects

In addition to impacting the species individually, it is likely that several of the risk factors are acting synergistically or additively on the species. The combined impact of multiple stressors is likely more harmful than a single stressor acting alone. For example, in the Town Creek watershed, Town Creek was previously listed as an impaired stream due to ammonia and organic enrichment/dissolved oxygen impairments, and recent surveys documented eutrophic conditions of elevated nutrients and low dissolved oxygen. In addition, hydrologic variation and alteration has occurred within the Town Creek watershed as discussed further in the SSA report. Low-water conditions naturally occur in streams where the slenderclaw crayfish occurs, and alteration causing prolonged low-water periods could have a negative impact on the reproductive success of the slenderclaw crayfish. Further, connectivity between Town Creek and Short Creek watersheds is likely low due to Guntersville Lake. The combination of all of these stressors on the sensitive aquatic species in this habitat has probably impacted slenderclaw crayfish, in that only four individuals have been recorded there since 2009.

Conservation Actions

TMDLs have been developed in Scarham Creek for siltation, ammonia, pathogens, organic enrichment/low dissolved oxygen, and pesticides (ADEM 2002, p. 5). Town Creek is currently on the 303(d) list for mercury contamination due to atmospheric deposition (ADEM 2016a, appendix C). However, a TMDL for organic enrichment/dissolved oxygen has been developed for Town Creek (ADEM 1996, entire). Through the 303(d) program, ADEM provides funding derived under section 319 of the Clean Water Act to improve water quality in the watersheds. In 2014, the Upper Scarham Creek Watershed was selected as a priority by ADEM for the development of a watershed management plan. In Fiscal Year 2016, the DeKalb County Soil and Water Conservation District contracted with ADEM to implement the Upper Scarham Creek Watershed Project using section 319 funding (ADEM 2016b, p. 39).

The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) National Water Quality Initiative program identified the Guntersville Lake/Upper Scarham Creek in DeKalb County as an Alabama Priority Watershed in 2015 (NRCS 2017, unpaginated). This watershed is within the historical range of the slenderclaw crayfish. It is recognized as in need of conservation practices, as it was listed on the Alabama 303(d) list as impaired due to organic enrichment/low dissolved oxygen and ammonia as nitrogen (ADEM 2002, p. 4). The National Water Quality Initiative helps farmers, ranchers, and forest landowners improve water quality and aquatic habitats in impaired streams through conservation and management practices. Such practices include controlling and trapping nutrient and manure runoff, and installation of cover crops, filter strips, and terraces.

Future Condition of the Slenderclaw Crayfish

For the purpose of this assessment, we define viability as the ability of the species to sustain populations in the wild over time. As part of the SSA, to help address uncertainty associated with the degree and extent of potential future stressors and their impacts on the needs of the species, the concepts of resiliency, redundancy, and representation were applied using three plausible future scenarios. We devised these scenarios by identifying information on the following primary stressors that are anticipated to affect the species in the future: Nonnative virile crayfish, hydrological variation (precipitation and water quantity), land-use change, and water quality. However, having determined that the current condition of the slenderclaw crayfish is consistent with that of an endangered species (see Determination of Slenderclaw Crayfish Status, below), the results of the future scenarios are not material to our decision, and therefore, we are not presenting the results in this final rule. Please refer to the proposed listing and designation of critical habitat rule for the slenderclaw crayfish (83 FR 50582; October 9, 2018) and the SSA report (Service 2018, entire) for the full analysis of future conditions and descriptions of the associated scenarios.

Determination of Slenderclaw Crayfish Status

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the slenderclaw crayfish. Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act defines an endangered species as a species ''in danger of extinction throughout all or a significant portion of its range,'' and a threatened species as a species ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The Act requires that we determine whether a species meets the definition of ''endangered species'' or ''threatened species'' because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence.

Status Throughout All of Its Range

After evaluating threats to the species and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we have determined the slenderclaw crayfish to be endangered throughout all of its range. Our review of the best available information indicates that there are currently two populations of slenderclaw crayfish in low condition occurring across the species' historical range in Alabama. Despite the species being identified at three new sites as reflected by recent increased survey efforts, there is substantial evidence of reduced abundance (current estimate of n=32) and presumed extirpation at four historical sites. In the Short Creek population, 28 slenderclaw crayfish

were collected during surveys from 2009 through 2017; in the Town Creek population, only 4 slenderclaw crayfish were collected during this same time period. Further, there is evidence of limited reproduction with only 3 juveniles collected from both populations since 2016. The slenderclaw crayfish exhibits low natural redundancy given its narrow range, but given presumed extirpation of sites within both populations, the species' redundancy is further limited.

Several sources of indirect water quality impacts on both populations have been identified. However, no direct water quality-related impacts are known at this time, and crayfish generally have a higher tolerance to poor water quality conditions than other aquatic species. In addition, currently existing regulatory mechanisms, such as establishing TMDLs, are addressing the effects of poor water quality on the slenderclaw crayfish.

Currently, one of the primary threats to the slenderclaw crayfish is the nonnative virile crayfish. The virile crayfish is a larger crayfish, a strong competitor, and tends to migrate, and has been attributed to declines of other native crayfish species. Considering these characteristics of the virile crayfish and the size (small-bodied) of the slenderclaw crayfish, it is reasonable to infer that once virile crayfish is established at a site it will out-compete slenderclaw crayfish. This may already be the case at the slenderclaw crayfish type locality where virile crayfish were found in recent surveys. At present, the virile crayfish has been reported as occurring at only one site, the type locality, where the slenderclaw crayfish was known to occur. Specifically, the virile crayfish occupies approximately 12.5 river miles (mi) (20.1 river kilometers (km)) at a few sites approximately 7 river mi (11 river km) downstream of current slenderclaw crayfish sites in the Short Creek population (233.6 river mi (375.9 river km)), and, therefore, the virile crayfish is an imminent threat to slenderclaw crayfish in the Short Creek population. Although there are currently no records of the virile crayfish in the Town Creek population (281.7 river mi (453.4 river km)), the virile crayfish is documented in Guntersville Lake, which leads directly into the Town Creek population. Based on the documented past expansion of the virile crayfish (despite some uncertainty and variation in the rate at which it will expand), and documented impacts and declines to other native crayfish species, current invasion and expansion into the slenderclaw crayfish's range in the Town Creek population will occur. Coupled with the current low abundance (n=4) of slenderclaw crayfish in the Town Creek population, the invasion of virile crayfish makes the slenderclaw crayfish at high risk of extirpation in this watershed.

Overall, given the current low resiliency in both populations and the species' limited redundancy, it will be difficult to reestablish an entire population, should it be affected by a catastrophic event, without human intervention, as the connectivity between the two populations is low.

Therefore, the slenderclaw crayfish is currently at risk of extirpation in both populations. Thus, we have determined that the slenderclaw crayfish is currently in danger of extinction throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. We have determined that the slenderclaw crayfish is in danger of extinction throughout all of its range, warranting listing as endangered throughout its range. Accordingly, we did not undertake an analysis of any significant portion of its range. Our determination is consistent with the decision in *Center for Biological Diversity* v. *Everson,* 2020 WL 437289 (D.D.C. Jan. 28, 2020).

Determination of Status

Our review of the best available scientific and commercial information indicates that the slenderclaw crayfish meets the definition of an endangered species. Therefore, in accordance with sections 3(20) and 4(a)(1) of the Act, we add the slenderclaw crayfish as an endangered species to the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h).

Available Conservation Measures

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and calls for recovery actions to be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning consists of preparing draft and final recovery plans, beginning with the development of a recovery outline and making it available to the public within 30 days of a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for reclassification from endangered to threatened (''downlisting'') or removal from protected status (''delisting''), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (*http://www.fws.gov/endangered*) or from our Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of

many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Following publication of this final listing rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Alabama will be eligible for Federal funds to implement management actions that promote the protection or recovery of the slenderclaw crayfish. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for the slenderclaw crayfish. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed as an endangered or threatened species and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the slenderclaw crayfish's habitat that may require conference or consultation or both as described in the preceding paragraph include management and any other landscape-altering activities on Federal lands administered by the U.S. Fish and Wildlife Service and U.S. Forest Service; technical assistance and projects funded through the U.S. Department of Agriculture's NRCS; issuance of permits by the Tennessee Valley Authority for right-of-way stream crossings; issuance of section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) permits by the U.S. Army Corps of Engineers; and construction and maintenance of roads or highways by the Federal Highway Administration.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered wildlife. The prohibitions of section 9(a)(1) of the Act, codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) endangered wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any species listed as an endangered species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22. With regard to endangered wildlife, a permit may be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a final listing on proposed and ongoing activities within the range of a listed species. Based on the best available information, at this time, we are unable to identify specific activities that would not be considered to result in a violation of section 9 of the Act, because it is likely that site-specific conservation measures may be needed for activities that may directly or indirectly affect the slenderclaw crayfish. Based on the best available information, the following actions may potentially result in a violation of section 9 of the Act or this final rule; this list is not comprehensive:

(1) Unauthorized handling, collecting, possessing, selling, delivering, carrying, or transporting of the slenderclaw crayfish, including interstate transportation across State lines and import or export across international boundaries.

(2) Destruction/alteration of the species' habitat by discharge of fill material, draining, ditching, tiling, pond construction, stream channelization or diversion, or diversion or alteration of surface or ground water flow into or out of the stream (*i.e.,* due to roads, impoundments, discharge pipes, stormwater detention basins, etc.).

(3) Introduction of nonnative species that compete with or prey upon the slenderclaw crayfish, such as the introduction of nonnative virile crayfish in Alabama.

(4) Modification of the channel or water flow of any stream in which the slenderclaw crayfish is known to occur.

(5) Discharge of chemicals or fill material into any waters in which the slenderclaw crayfish is known to occur.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Critical Habitat Designation

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.,* range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.,* migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and

the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Designation also does not allow the government or public to access private lands, nor does designation require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the Federal agency would be required to consult with the Service under section 7(a)(2) of the Act. However, even if the Service were to conclude that the proposed activity would result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement ''reasonable and prudent alternatives'' to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features within an area, we focus on the specific features that support the life-history needs of the species, including but not limited to, water characteristics, soil type, geological features, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity.

Under the second prong of the Act's definition of critical habitat, we may designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. We will determine whether unoccupied areas are essential for the conservation of the species by considering the life-history, status, and conservation needs of the species. This consideration will be further informed by any generalized conservation strategy, criteria, or outline that may have been developed for the species to provide a substantive foundation for identifying which features and specific areas are essential to the conservation of the species and, as a result, the development of the critical habitat designation. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential to the conservation of the species and may be included in the critical habitat designation.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information from the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect habitat. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

On August 27, 2019, we published a final rule in the **Federal Register** (84 FR 45020) to amend our regulations concerning the procedures and criteria we use to designate and revise critical habitat. That rule became effective on September 26, 2019, but, as stated in

that rule, the amendments it sets forth apply to ''rules for which a proposed rule was published after September 26, 2019.'' We published our proposed critical habitat designation for the slenderclaw crayfish on October 9, 2018 (83 FR 50582); therefore, the amendments set forth in the August 27, 2019, final rule (84 FR 45020) do not apply to this final designation of critical habitat for the slenderclaw crayfish.

Physical or Biological Features

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas within the geographical area occupied by the species at the time of listing to designate as critical habitat, we consider the physical or biological features that are essential to the conservation of the species and which may require special management considerations or protection. The regulations at 50 CFR 424.02 define ''physical or biological features essential to the conservation of the species'' as the features that occur in specific areas and that are essential to support the life-history needs of the species, including, but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity. For example, physical features might include gravel of a particular size required for spawning, alkali soil for seed germination, protective cover for migration, or susceptibility to flooding or fire that maintains necessary early-successional habitat characteristics. Biological features might include prey species, forage grasses, specific kinds or ages of trees for roosting or nesting, symbiotic fungi, or a particular level of nonnative species consistent with conservation needs of the listed species. The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic needed to support the life history of the species. In considering whether features are essential to the conservation of the species, the Service may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-history needs, condition, and status of the species. These include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of a species.

We derive the specific physical or biological features essential for slenderclaw crayfish from studies of this species' and similar crayfish species' habitat, ecology, and life history. The primary habitat elements that influence resiliency of the slenderclaw crayfish include water quantity, water quality, substrate, interstitial space, and habitat connectivity. More detail of the habitat and resource needs are summarized in the *Habitat* section of the proposed listing designation of critical habitat rule for the slenderclaw crayfish (83 FR 50582; October 9, 2018) and the SSA report. We use the ADEM water quality standards for fish and wildlife criteria to determine the minimum standards of water quality necessary for the slenderclaw crayfish. A full description of the needs of individuals, populations, and the species is available from the SSA report; the resource needs of individuals are summarized below in Table 1.

TABLE 1—RESOURCE NEEDS FOR SLENDERCLAW CRAYFISH TO COMPLETE EACH LIFE STAGE

Life stage	Resources needed
Fertilized Eggs	• Female to carry eggs. • Water to oxygenate eggs. • Female to fan eggs to prevent sediment buildup and oxygenate water as needed. • Female to shelter in boulder/cobble substrate and available interstitial space.
Juveniles	• Female to carry juveniles in early stage. • Water. • Food (likely aquatic macroinvertebrates). • Boulder/cobble substrate and available interstitial space for shelter.
Adults	• Water. • Food (likely omnivorous, opportunistic, and generalist feeders). • Boulder/cobble substrate and available interstitial space for shelter.

Summary of Essential Physical or Biological Features

In summary, we derive the specific physical or biological features essential to the conservation of the slenderclaw crayfish from studies of this species' and similar crayfish species' habitat, ecology, and life history, as described above. Additional information can be found in the SSA report (Service 2019, entire) available on *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069. We have determined that the following physical or biological features are essential to the conservation of the slenderclaw crayfish:

(1) Geomorphically stable, small to medium, flowing streams:

(a) That are typically 19.8 feet (ft) (6 meters (m)) wide or smaller;

(b) With attributes ranging from:

(i) Streams with predominantly large boulders and fractured bedrock, with widths from 16.4 to 19.7 ft (5 to 6 m), low to no turbidity, and depths up to 2.3 ft (0.7 m), to

(ii) Streams dominated by small substrate types with a mix of cobble, gravel, and sand, with widths of approximately 9.8 feet (3 m), low to no turbidity, and depths up to 0.5 feet (0.15 m);

(c) With substrate consisting of boulder and cobble containing abundant interstitial spaces for sheltering and breeding; and

(d) With intact riparian cover to maintain stream morphology and to reduce erosion and sediment inputs.

(2) Seasonal water flows, or a hydrologic flow regime (which includes the severity, frequency, duration, and seasonality of discharge over time),

necessary to maintain benthic habitats where the species is found and to maintain connectivity of streams with the floodplain, allowing the exchange of nutrients and sediment for maintenance of the crayfish's habitat and food availability.

(3) Appropriate water and sediment quality (including, but not limited to, conductivity; hardness; turbidity; temperature; pH; and minimal levels of ammonia, heavy metals, pesticides, animal waste products, and nitrogen, phosphorus, and potassium fertilizers) necessary to sustain natural physiological processes for normal behavior, growth, and viability of all life stages.

(4) Prey base of aquatic macroinvertebrates and detritus. Prey items may include, but are not limited to, insect larvae, snails and their eggs, fish and their eggs, and plant and animal detritus.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features that are essential to the conservation of the species and which may require special management considerations or protection. The features essential to the conservation of the slenderclaw crayfish may require special management considerations or protections to reduce the following threats: (1) Impacts from invasive species, including the nonnative virile crayfish; (2) nutrient pollution from agricultural activities that impact water quantity and quality; (3) significant alteration of water quality and water quantity, including conversion of streams to impounded areas; (4) culvert and pipe installation that creates barriers to movement; and (5) other watershed and floodplain disturbances that release sediments or nutrients into the water.

Management activities that could ameliorate these threats include, but are not limited to: Control and removal of introduced invasive species; limiting the spreading of poultry litter to time periods of dry, stable weather conditions; use of best management practices designed to reduce sedimentation, erosion, and bank side destruction; protection of riparian corridors and retention of sufficient canopy cover along banks; moderation of surface and ground water withdrawals to maintain natural flow regimes; and reduction of other watershed and floodplain disturbances that release sediments, pollutants, or nutrients into the water.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat.

The current distribution of the slenderclaw crayfish is much reduced from its historical distribution in one (Short Creek watershed) of the two populations. The currently occupied sites in the Short Creek watershed occur in a single tributary (Shoal Creek), and one catastrophic event could impact this entire population. In addition, the nonnative virile crayfish occupies sites within the Short Creek watershed, including the type locality for the slenderclaw crayfish in Short Creek in which the slenderclaw crayfish no longer occurs. We anticipate that recovery will require continued protection of existing populations and habitat, as well as establishing sites in additional streams that more closely approximate its historical distribution in order to ensure there are adequate numbers of crayfish in stable populations and that these populations have multiple sites occurring in at least two streams within each watershed. This goal will help ensure that catastrophic events, such as a chemical spill, cannot simultaneously affect all known populations.

Sources of data for this critical habitat designation include numerous survey reports on streams throughout the species' range and databases maintained by crayfish experts and universities (Bouchard and Hobbs 1976, entire; Bearden 2017, unpublished data; Schuster 2017, unpublished data; Taylor 2017, unpublished data; Service 2018, entire). We have also reviewed available information that pertains to the habitat requirements of this species. Sources of information on habitat requirements include surveys conducted at occupied sites and published in agency reports, and data collected during monitoring efforts.

Areas Occupied at the Time of Listing

For locations within the geographic area occupied by the species at the time of listing, we identified stream channels that currently support populations of the slenderclaw crayfish. We defined ''current'' as stream channels with observations of the species from 2009 to the present. Due to the recent breadth and intensity of survey efforts for the slenderclaw crayfish throughout the historical range of the species, it is reasonable to assume that streams with no positive surveys since 2009 should not be considered occupied for the purpose of our analysis. Within these areas, we delineated critical habitat unit boundaries using the following process:

We evaluated habitat suitability of stream channels within the geographical area occupied at the time of listing, and retained for further consideration those streams that contain one or more of the physical or biological features to support life-history functions essential to conservation of the species. We refined the starting and ending points of units by evaluating the presence or absence of appropriate physical or biological features. We selected the headwaters as upstream cutoff points for each stream and downstream cutoff points that omit areas that are not suitable habitat. For example, the Guntersville Lake Tennessee Valley Authority project boundary was selected as an endpoint for one unit, as there was a change to unsuitable parameters (*e.g.,* impounded waters).

Based on this analysis, the following streams meet criteria for areas occupied by the species at the time of listing: Bengis Creek, Scarham Creek, Shoal Creek, Short Creek, Town Creek, and Whippoorwill Creek (see *Unit Descriptions,* below). This list does not include all stream segments known to have been occupied by the species historically; rather, it includes only the occupied stream segments within the historical range that have also retained one or more of the physical or biological features that will allow for the maintenance and expansion of existing populations.

Areas Outside the Geographical Area Occupied at the Time of Listing

To consider for designation areas not occupied by the species at the time of listing, we must demonstrate that these areas are essential for the conservation of the species. To determine if these areas are essential for the conservation of the slenderclaw crayfish, we considered the life history, status, habitat elements, and conservation needs of the species such as:

(1) The importance of the stream to the overall status of the species, the importance of the stream to the prevention of extinction, and the

stream's contribution to future recovery of the slenderclaw crayfish;

(2) whether the area is and could be maintained or restored to contain the necessary habitat (water quantity, substrate, interstitial space, and connectivity) to support the slenderclaw crayfish;

(3) whether the site provides connectivity between occupied sites for genetic exchange;

(4) whether a population of the species could be reestablished in the location; and

(5) whether the virile crayfish is currently present in the stream.

For the one subunit containing areas outside the geographical area occupied by the species at the time of listing, we delineated critical habitat unit boundaries by evaluating stream segments not known to have been occupied at listing (*i.e.,* outside of the geographical area occupied by the species) but that are within the historical range of the species to determine if they are essential for the survival and recovery of the species. Essential areas are those that:

(a) Expand the geographical distribution within areas not occupied at the time of listing across the historical range of the species;

(b) Were determined to be of suitable habitat and contain the primary habitat elements (water quantity, substrate, interstitial space, and connectivity) that support the viability of the slenderclaw crayfish; and

(c) Are connected to other occupied areas, which will enhance genetic exchange between populations.

Based on this analysis, Scarham-Laurel Creek was identified as meeting the criteria for areas outside the geographical area occupied at the time of listing that are essential for the conservation of the species (see Subunit 2b unit description below).

General Information on the Maps of the Critical Habitat Designation

When determining critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for slenderclaw crayfish. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in the rule and are not included for designation as critical habitat. Therefore, a Federal action involving these lands would not trigger section 7 consultation under the Act with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

We are designating critical habitat in areas within the geographical area occupied by the species at the time of listing. We also are designating areas outside the geographical area occupied by the species at the time of listing that were historically occupied but are presently unoccupied, because we have determined that such areas are essential for the conservation of the species (see description of Subunit 2b below for explanation).

The two occupied units were designated based on one or more of the elements of physical or biological features being present to support slenderclaw crayfish life processes. Some stream segments within the units contained all of the identified elements of physical or biological features and supported multiple life processes. Some stream segments contained only some elements of the physical or biological features necessary to support the slenderclaw crayfish's particular use of that habitat.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document in the rule portion. We include more detailed information on the boundaries of the critical habitat designation in the discussion of individual units below. We will make the coordinates or plot points or both on which each map is based available to the public on *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069, and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT**, above).

Final Critical Habitat Designation

We are designating approximately 78 river mi (126 river km) in two units as critical habitat for the slenderclaw crayfish. The critical habitat areas, described below, constitute our current best assessment of areas that meet the definition of critical habitat for the slenderclaw crayfish. The two units are: (1) Town Creek Unit, and (2) Short Creek Unit. Unit 2 is subdivided into two subunits: (2a) Shoal Creek and Short Creek subunit, and (2b) Scarham-Laurel Creek subunit. Table 2 shows the name, occupancy of the unit, land ownership of the riparian areas surrounding the units, and approximate river miles of the designated critical habitat units for the slenderclaw crayfish.

TABLE 2—DESIGNATED CRITICAL HABITAT UNITS FOR THE SLENDERCLAW CRAYFISH

Stream(s)	Occupied at the time of listing	Ownership	Length of unit in river miles (kilometers)
Unit 1—Town Creek			
Bengis and Town Creeks	Yes	Private	42 (67)
Unit 2—Short Creek			
Subunit 2a—Shoal Creek and Short Creek:			
Scarham, Shoal, Short, and Whippoorwill Creeks	Yes	Private	10 (17)
Subunit 2b—Scarham-Laurel Creek:			
Scarham-Laurel Creek	No	Private	26 (42)
Total			78 (126)

Note: Area sizes may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for the slenderclaw crayfish, below.

Unit 1: Town Creek

Unit 1 consists of 41.8 river mi (67.2 river km) of Bengis and Town creeks in DeKalb County, Alabama. Unit 1 includes stream habitat up to bank full height, consisting of the headwaters of Bengis Creek to its confluence with Town Creek and upstream to the headwaters of Town Creek. Stream channels in and lands adjacent to Unit 1 are privately owned except for bridge crossings and road easements, which are owned by the State and County. The slenderclaw crayfish occupies all stream reaches in this unit, and the unit currently supports all breeding, feeding, and sheltering needs essential to the conservation of the slenderclaw crayfish.

Special management considerations or protection may be required for control and removal of introduced invasive species, including the nonnative virile crayfish, which occupies the boulder and cobble habitats and interstitial spaces within these habitats that the slenderclaw crayfish needs. At present, the virile crayfish is not present in this unit, although it has been documented just outside the watershed boundary. However, based on future projections in the SSA report, the virile crayfish is expected to be present in the Town Creek watershed within the next 2 years.

In addition, special management considerations or protection may be required to address water withdrawals and drought as well as excess nutrients, sediment, and pollutants that enter the streams and serve as indicators of other forms of pollution, such as bacteria and toxins. A primary source of these types of pollution is agricultural runoff. However, during recent survey efforts for the slenderclaw crayfish, water quality analysis found lead measurements in Bengis Creek that exceeded the acute and chronic aquatic life criteria set by EPA and ADEM, and elevated ammonia concentrations in Town Creek. Special management or protection may include moderating surface and ground water withdrawals, using best management practices to reduce sedimentation, and reducing watershed and floodplain disturbances that release pollutants and nutrients into the water.

Unit 2: Short Creek

Subunit 2a—Shoal Creek and Short Creek: Subunit 2a consists of 10.3 river mi (16.6 river km) of Scarham, Shoal, Short, and Whippoorwill Creeks in DeKalb and Marshall Counties, Alabama. Subunit 2a includes stream habitat up to bank full height, consisting of the headwaters of Shoal Creek to its confluence with Whippoorwill Creek, Whippoorwill Creek to its confluence with Scarham Creek, Scarham Creek to its confluence with Short Creek, and Short Creek downstream to the Guntersville Lake Tennessee Valley Authority project boundary. Stream channels in and lands adjacent to subunit 2a are privately owned except for bridge crossings and road easements, which are owned by the State and Counties. The slenderclaw crayfish occupies all stream reaches in this unit, and the unit currently supports all breeding, feeding, and sheltering needs essential to the conservation of the slenderclaw crayfish.

Special management considerations or protection may be required for control and removal of introduced invasive species, including the virile crayfish (see Unit 1 discussion, above). At present, the virile crayfish is present at sites in Short Creek and Drum Creek within the Short Creek watershed and just outside of the unit boundary in Guntersville Lake. Based on future projections in the SSA report, the virile crayfish is expected to be present in more tributaries within the Short Creek watershed within the next 2 to 5 years.

In addition, special management considerations or protection may be required to address water withdrawals and drought as well as excess nutrients, sediment, and pollutants that enter the streams and serve as indicators of other forms of pollution such as bacteria and toxins. A primary source of these types of pollution is agricultural runoff. During recent survey efforts for the slenderclaw crayfish, water quality analysis indicated that impaired water quality due to nutrients, bacteria, and levels of atrazine may be of concern in the Short Creek watershed. Special management or protection may include moderating surface and ground water withdrawals, using best management practices to reduce sedimentation, and reducing watershed and floodplain disturbances that release pollutants and nutrients into the water.

Subunit 2b—Scarham-Laurel Creek: Subunit 2b consists of 25.9 river mi (41.7 river km) of Scarham-Laurel Creek in DeKalb and Marshall Counties, Alabama. Subunit 2b includes stream habitat up to bank full height, consisting of the headwaters of Scarham-Laurel Creek to its confluence with Short Creek. Stream channels in and lands adjacent to Subunit 2b are privately owned except for bridge crossings and road easements, which are owned by the State and Counties. The subunit is connected to Subunit 2a.

This subunit is unoccupied by the species but is considered to be essential for the conservation of the species. Scarham-Laurel Creek is within the historical range of the slenderclaw crayfish but is not within the geographical range occupied by the species at the time of listing. The slenderclaw crayfish has not been documented at sites in Scarham-Laurel Creek in over 40 years, and we presume those historically occupied sites to be extirpated. Scarham-Laurel Creek is a small to medium, flowing stream with substrate consisting of boulder and cobble containing interstitial spaces for sheltering and breeding. Although it is currently unoccupied, this subunit contains some or all of the physical or biological features necessary for the conservation of the slenderclaw crayfish. This subunit possesses characteristics as described by physical or biological feature 1 (geomorphically stable, small to medium, flowing streams with substrate consisting of boulder and cobble and intact riparian cover); physical or biological feature 2 (seasonal water flows, or a hydrologic flow regime, necessary to maintain benthic habitats where the species is found and to maintain connectivity of streams); and physical or biological feature 4 (prey base of aquatic macroinvertebrates and detritus). Physical or biological feature 3 (appropriate water and sediment quality) is degraded in this subunit, and with appropriate management and restoration actions, this feature can be restored.

In terms of water quality, Scarham-Laurel Creek is in restorable condition, and is currently devoid of the virile crayfish. Water quality concerns have been documented within Scarham-Laurel Creek, causing it to be listed on Alabama's 303(d) list of impaired waters for impacts from pesticides, siltation, ammonia, low dissolved oxygen/organic enrichment, and pathogens from agricultural sources in 1998 (ADEM 1996, p. 1). In 2004, Scarham Creek was removed from the 303(d) list after TMDLs were established (ADEM 2002, p. 5); however, recent water quality analysis indicated that water quality was impaired within the Short Creek watershed in which Scarham-Laurel Creek is located (Bearden *et al.* 2017, p. 32). When the water quality of Scarham-Laurel Creek is restored, the stream could be an area for population expansion within the Short Creek watershed, in that this subunit is

connected to the occupied Shoal Creek and Short Creek subunit, and thereby provide redundancy needed to support the species' recovery. Therefore, we conclude that this stream is essential for the conservation of the slenderclaw crayfish, because it will provide habitat for population expansion in known historical habitat that is necessary to increase viability of the species by increasing its resiliency, redundancy, and representation.

Exemptions

Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that the Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan (INRMP) prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation. There are no Department of Defense lands with a completed INRMP within the final critical habitat designation.

Exclusions

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if she determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless she determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

Consideration of Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. In order to consider economic impacts, we prepared an incremental effects memorandum (IEM) and screening analysis which together with our narrative and interpretation of effects we consider our draft economic analysis (DEA) of the proposed critical habitat designation and related factors (IEc 2018, entire). The analysis, dated June 29, 2018, addressed probable economic impacts of critical habitat designation for the slenderclaw crayfish. The DEA was made available for public review from October 9, 2018, through December 10, 2018 (Industrial Economics, Inc. (IEc) 2018, entire), but we did not receive any comments on the draft DEA. Additional information relevant to the probable incremental economic impacts of critical habitat designation for the slenderclaw crayfish is summarized below and available in the screening analysis for the slenderclaw crayfish (IEc 2018, entire), available at *http://www.regulations.gov.*

The final critical habitat designation for the slenderclaw crayfish totals approximately 78 river mi (126 river km), which includes both occupied and unoccupied streams. This final critical habitat designation is likely to result, annually, in a maximum of three informal section 7 consultations and five technical assistance efforts at a total incremental cost of less than $10,000 per year. Within the occupied streams, any actions that may affect the species would likely also affect critical habitat, and it is unlikely that any additional conservation efforts would be required to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of the species. Within all unoccupied critical habitat, the Service will consult with Federal agencies on any projects that occur within the hydrologic unit code (HUC) 12-digit watershed boundaries, due to overlap with the ranges of other listed species such as Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), northern long-eared bat (*Myotis septentrionalis*), harperella (*Ptilimnium nodosum*), and green pitcher-plant (*Sarracenia oreophila*) in these HUCs. In addition, all of the HUC 12-digit watershed boundaries containing unoccupied habitat are within the HUC 12-digit range of watersheds occupied by slenderclaw crayfish. Thus, no incremental project modifications resulting solely from the presence of unoccupied critical habitat are anticipated. Therefore, the only additional costs that are expected in all of the critical habitat designation are administrative costs, due to the fact that this additional analysis will require time and resources by both the Federal action agency and the Service.

Exclusions Based on Economic Impacts

As discussed above, the Service considered the economic impacts of the critical habitat designation and the Secretary is not exercising her discretion to exclude any areas from this designation of critical habitat for the slenderclaw crayfish based on economic impacts. A copy of the IEM and screening analysis with supporting documents may be obtained by contacting the Alabama Ecological Services Field Office (see **ADDRESSES**) or by downloading from the internet at *http://www.regulations.gov.*

Exclusions Based on Impacts on National Security and Homeland Security

Section 4(a)(3)(B)(i) of the Act may not cover all Department of Defense (DoD) lands or areas that pose potential national-security concerns (*e.g.,* a DoD installation that is in the process of revising its INRMP for a newly listed species or a species previously not covered). If a particular area is not covered under section 4(a)(3)(B)(i), national-security or homeland-security concerns are not a factor in the process of determining what areas meet the definition of ''critical habitat.'' Nevertheless, when designating critical habitat under section 4(b)(2) of the Act, the Service must consider impacts on national security, including homeland security, on lands or areas not covered by section 4(a)(3)(B)(i) of the Act. Accordingly, we will always consider for exclusion from the designation areas for which DoD, Department of Homeland Security (DHS), or another Federal agency has requested exclusion based on an assertion of national-security or homeland-security concerns. However, no lands within the designation of critical habitat for slenderclaw crayfish are owned or managed by DoD or DHS. Consequently, the Secretary is not exercising her discretion to exclude any areas from the final designation based on impacts on national security.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security. We consider a number of factors including whether there are permitted conservation plans covering the species in the area, such as habitat conservation plans, safe harbor agreements, or candidate conservation agreements with assurances, or whether there are non-permitted conservation agreements and

partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at the existence of Tribal conservation plans and partnerships and consider the government-to-government relationship of the United States with Tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this final rule, we have determined that there are currently no permitted conservation plans or other non-permitted conservation agreements or partnerships for the slenderclaw crayfish, and the final critical habitat designation does not include any Tribal lands or trust resources. We anticipate no impact on Tribal lands, partnerships, permitted or non-permitted plans, or agreements from this critical habitat designation. Accordingly, the Secretary is not exercising her discretion to exclude any areas from the final designation based on other relevant impacts.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to critical habitat of any species that is listed as an endangered or threatened species. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to result in the destruction or adverse modification of designated critical habitat of any listed species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action that is likely to result in the destruction or adverse modification of proposed critical habitat.

We published a final regulation with a revised definition of destruction or adverse modification on August 27, 2019 (84 FR 45020). Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species. If a Federal action may affect a listed species' critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, Tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat—and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation.

Compliance with the requirements of section 7(a)(2) of the Act is documented through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, critical habitat; or

(2) A biological opinion for Federal actions that may affect, and are likely to adversely affect, critical habitat.

When we issue a biological opinion concluding that a project is likely to destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Service Director's opinion, avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 set forth requirements for Federal agencies to reinitiate formal consultation on previously reviewed actions. These requirements apply when the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law) and, subsequent to the previous consultation, we have listed a new species or designated critical habitat that may be affected by the Federal action, or the action has been modified in a manner that affects the species or critical habitat in a way not considered in the previous consultation. In such situations, Federal agencies sometimes may need to request reinitiation of consultation with us, but the regulations also specify some exceptions to the requirement to reinitiate consultation on specific land management plans after subsequently listing a new species or designating new critical habitat. See the regulations for a description of those exceptions.

Application of the ''Adverse Modification'' Standard

The key factor related to the destruction or adverse modification determination is whether implementation of the proposed Federal action directly or indirectly alters the designated critical habitat in a way that appreciably diminishes the value of the critical habitat as a whole for the conservation of the listed species. As discussed above, the role of critical habitat is to support physical or biological features essential to the conservation of a listed species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may violate section 7(a)(2) of the Act by destroying or adversely modifying such habitat, or that may be affected by such designation.

Activities that the Services may find are likely to destroy or adversely modify critical habitat, during a consultation under section 7(a)(2) of the Act, include, but are not limited to:

(1) Actions that would alter the minimum flow or the existing flow regime. Such activities could include, but are not limited to, impoundment, channelization, water diversion, and water withdrawal. These activities could eliminate or reduce the habitat necessary for the growth and reproduction of the slenderclaw crayfish by decreasing or altering seasonal flows to levels that would adversely affect the species' ability to complete its life cycle.

(2) Actions that would significantly alter water chemistry or quality. Such activities could include, but are not limited to, release of chemicals (including pharmaceuticals, metals, and salts) or biological pollutants into the surface water or connected groundwater at a point source or by dispersed release (non-point source). These activities could alter water conditions to levels that are beyond the tolerances of the slenderclaw crayfish and result in direct

or cumulative adverse effects to these individuals and their life cycles.

(3) Actions that would significantly increase sediment deposition within the stream channel. Such activities could include, but are not limited to, excessive sedimentation from livestock grazing, road construction, channel alteration, poor forestry management, off-road vehicle use, and other watershed and floodplain disturbances. These activities could eliminate or reduce the habitat necessary for the growth and reproduction of the slenderclaw crayfish by increasing the sediment deposition to levels that would adversely affect the species' ability to complete its life cycle.

(4) Actions that would significantly increase eutrophic conditions. Such activities could include, but are not limited to, release of nutrients into the surface water or connected groundwater at a point source or by dispersed release (non-point source). These activities can result in excessive nutrients and algae filling streams and reducing habitat for the slenderclaw crayfish, degrading water quality from excessive nutrients and during algae decay, and decreasing oxygen levels to levels below the tolerances of the slenderclaw crayfish.

(5) Actions that would significantly alter channel morphology or geometry or decrease connectivity. Such activities could include, but are not limited to, channelization, impoundment, road and bridge construction, mining, dredging, and destruction of riparian vegetation. These activities may lead to changes in water flows and levels that would degrade or eliminate the slenderclaw crayfish and its habitats. These actions can also lead to increased sedimentation and degradation in water quality to levels that are beyond the tolerances of the slenderclaw crayfish.

(6) Actions that result in the introduction, spread, or augmentation of nonnative aquatic species in occupied stream segments, or in stream segments that are hydrologically connected to occupied stream segments, or introduction of other species that compete with or prey on the slenderclaw crayfish. Possible actions could include, but are not limited to, stocking of nonnative crayfishes and fishes, stocking of sport fish, or other related actions. These activities can introduce parasites or disease; result in direct predation or direct competition; or affect the growth, reproduction, and survival of the slenderclaw crayfish.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

The Service's current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are only required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself, and, therefore, are not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies would be directly regulated by this designation. There is no requirement under RFA to evaluate the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities would be directly regulated by this rulemaking, the Service certifies that the final critical habitat designation will not have a significant economic impact on a substantial number of small entities.

During the development of this final rule we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Based on this information, we affirm our certification that this final critical habitat designation will not have a

significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute ''a significant adverse effect'' when compared to not taking the regulatory action under consideration. The economic analysis finds that none of these criteria are relevant to this analysis. Thus, based on information in the economic analysis, energy-related impacts associated with slenderclaw crayfish conservation activities within critical habitat are not expected. As such, the designation of critical habitat is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This rule would not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We conclude that this rule would not significantly or uniquely affect small governments because the lands within and adjacent to the streams being designated as critical habitat are owned by private landowners. These government entities do not fit the definition of ''small governmental jurisdiction.'' Consequently, we conclude that the critical habitat designation would not significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for slenderclaw crayfish in a takings implications assessment. The Act does not authorize the Service to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not affect land ownership, or establish any closures, or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed and concludes that this designation of critical habitat for slenderclaw crayfish does not pose significant takings implications for lands within or affected by the designation.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this rule does not have significant federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of the proposed critical habitat designation with, the appropriate State resource agency in Alabama. We did not receive comments from Alabama. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the rule does not have substantial direct effects either on the State, or on the relationship between the National Government and the State, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical or biological features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist these local governments in long-range planning (because these local governments no longer have to wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a

Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) of the Act would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the order. We are designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, this rule identifies the elements of physical or biological features essential to the conservation of the species. The designated areas of critical habitat are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995. 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.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA), need not be prepared in connection with listing a species as an endangered or threatened species under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to NEPA in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We have identified no Tribal interests that will be affected by this final rulemaking.

References Cited

A complete list of references cited in the SSA report and this rulemaking is available on the internet at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069 and upon request from the Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the U.S. Fish and Wildlife Service Species Assessment Team and Alabama Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by adding an entry for ''Crayfish, slenderclaw'' to the List of Endangered and Threatened Wildlife in alphabetical order under Crustaceans to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
CRUSTACEANS				
*	*	*	*	*
Crayfish, slenderclaw	*Cambarus cracens*	Wherever found	E	86 FR [*INSERT* ***FEDERAL REGISTER*** *PAGE WHERE THE DOCUMENT BEGINS*], 9/8/21; 50 CFR 17.95(h)[CH].
*	*	*	*	*

■ 3. Amend § 17.95(h) by adding an entry for ''Slenderclaw Crayfish (*Cambarus cracens*)'' after the entry for ''Pecos Amphipod (*Gammarus pecos*)'' to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(h) * * *

Slenderclaw Crayfish (Cambarus cracens)

(1) Critical habitat units are depicted for DeKalb and Marshall Counties, Alabama, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of the slenderclaw crayfish consist of the following components:

(i) Geomorphically stable, small to medium, flowing streams:

(A) That are typically 19.8 feet (ft) (6 meters (m)) wide or smaller;

(B) With attributes ranging from:

(*1*) Streams with predominantly large boulders and fractured bedrock, with widths from 16.4 to 19.7 ft (5 to 6 m), low to no turbidity, and depths up to 2.3 ft (0.7 m); to

(*2*) Streams dominated by small substrate types with a mix of cobble, gravel, and sand, with widths of approximately 9.8 feet (3 m), low to no turbidity, and depths up to 0.5 feet (0.15 m);

(C) With substrate consisting of boulder and cobble containing abundant interstitial spaces for sheltering and breeding; and

(D) With intact riparian cover to maintain stream morphology and to reduce erosion and sediment inputs.

(ii) Seasonal water flows, or a hydrologic flow regime (which includes the severity, frequency, duration, and seasonality of discharge over time), necessary to maintain benthic habitats where the species is found and to maintain connectivity of streams with the floodplain, allowing the exchange of nutrients and sediment for maintenance of the crayfish's habitat and food availability.

(iii) Appropriate water and sediment quality (including, but not limited to, conductivity; hardness; turbidity; temperature; pH; and minimal levels of ammonia, heavy metals, pesticides, animal waste products, and nitrogen, phosphorus, and potassium fertilizers) necessary to sustain natural physiological processes for normal behavior, growth, and viability of all life stages.

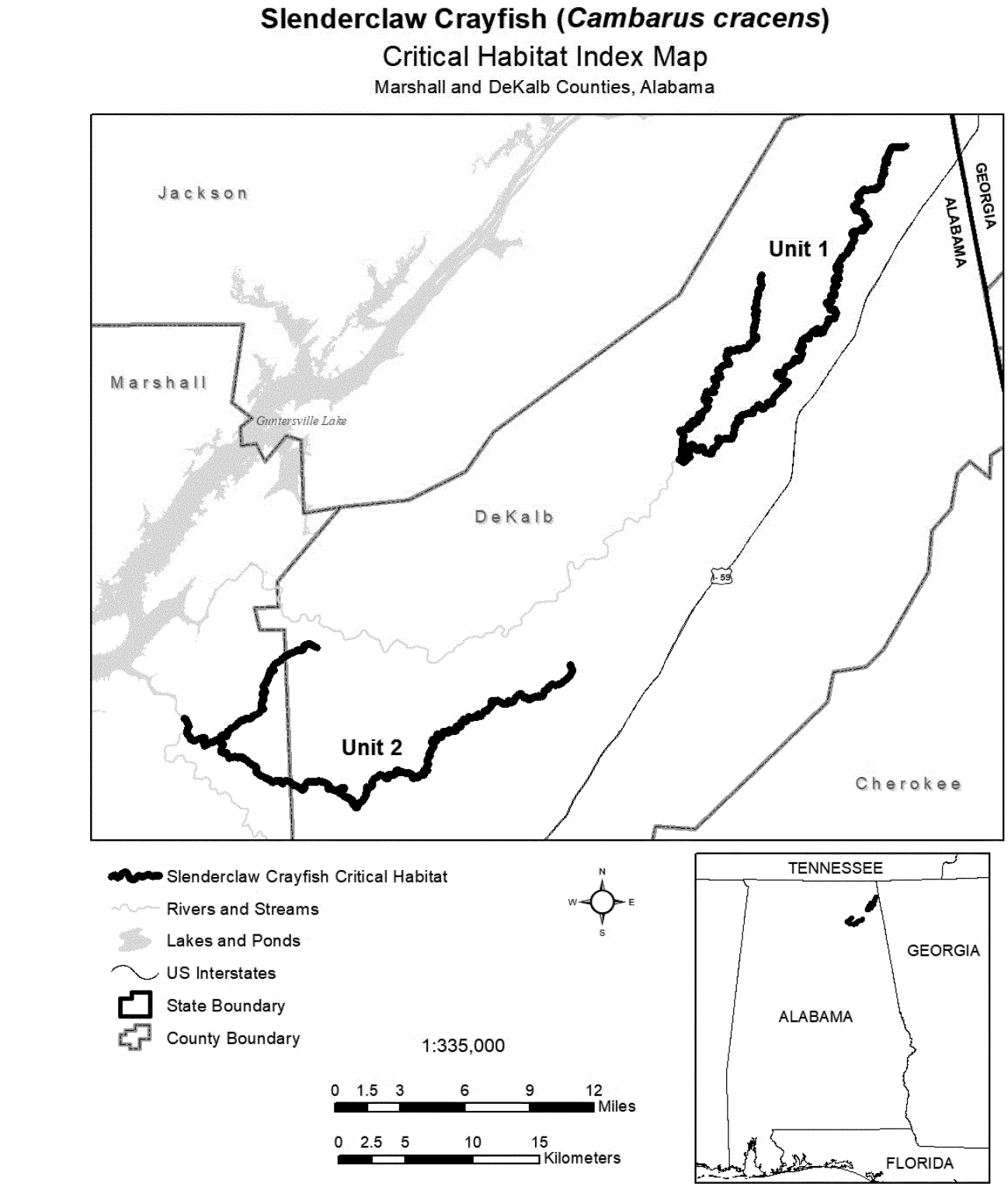
(iv) Prey base of aquatic macroinvertebrates and detritus. Prey items may include, but are not limited to, insect larvae, snails and their eggs, fish and their eggs, and plant and animal detritus.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on October 8, 2021.

(4) Data layers defining map units were created using Universal Transverse Mercator (UTM) Zone 16N coordinates and species' occurrence data. The hydrologic data used in the maps were extracted from U.S. Geological Survey National Hydrography Dataset High Resolution (1:24,000 scale) using Geographic Coordinate System North American 1983 coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069 and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Note: Index map follows:

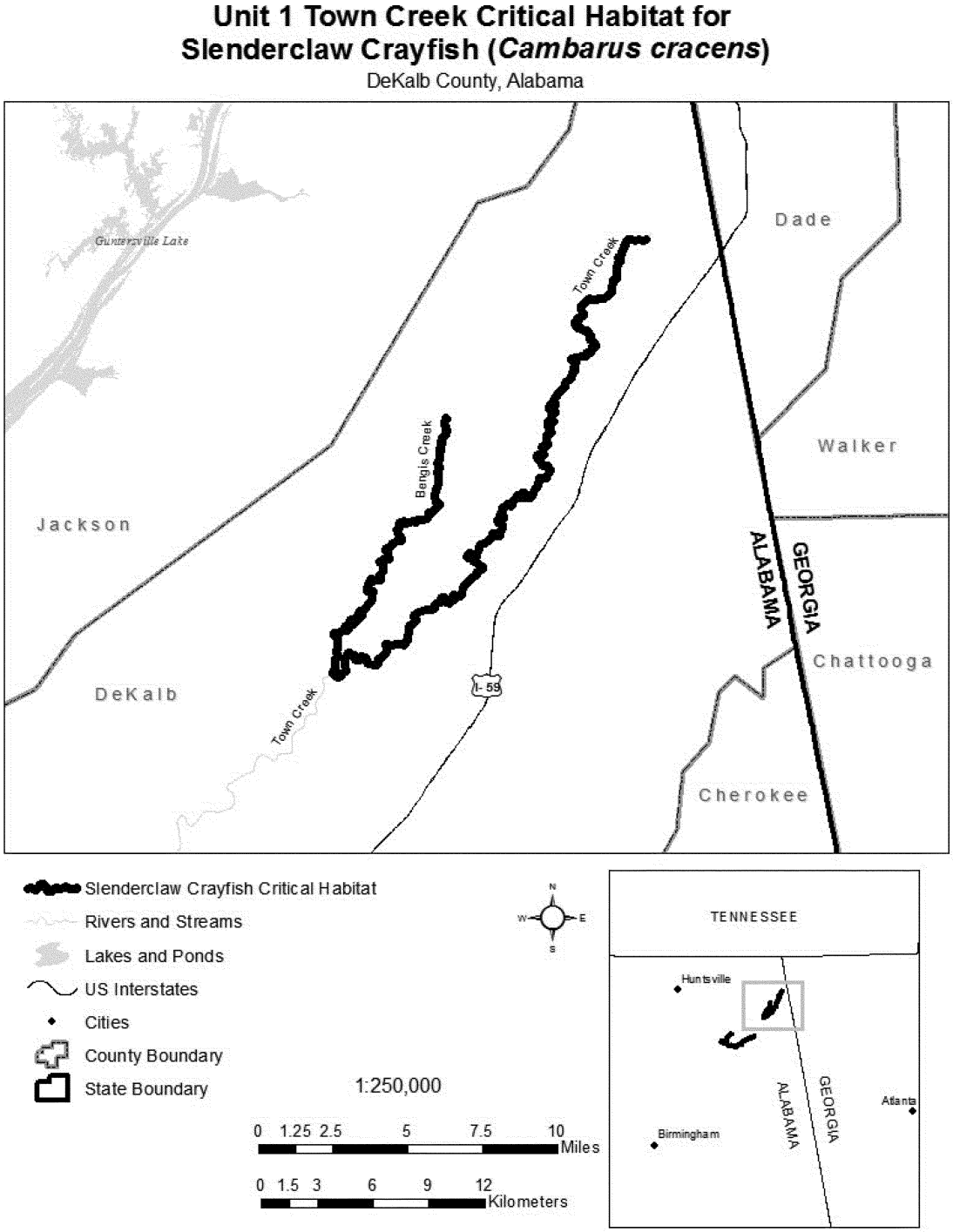
BILLING CODE 4333–15–P



(6) Unit 1: Town Creek, DeKalb County, Alabama.

(i) This unit consists of 41.8 river miles (67.2 river kilometers) of occupied habitat in Bengis and Town Creeks. Unit 1 includes stream habitat up to bank full height consisting of the headwaters of Bengis Creek to its confluence with Town Creek and upstream to the headwaters of Town Creek.

(ii) Map of Unit 1 follows:

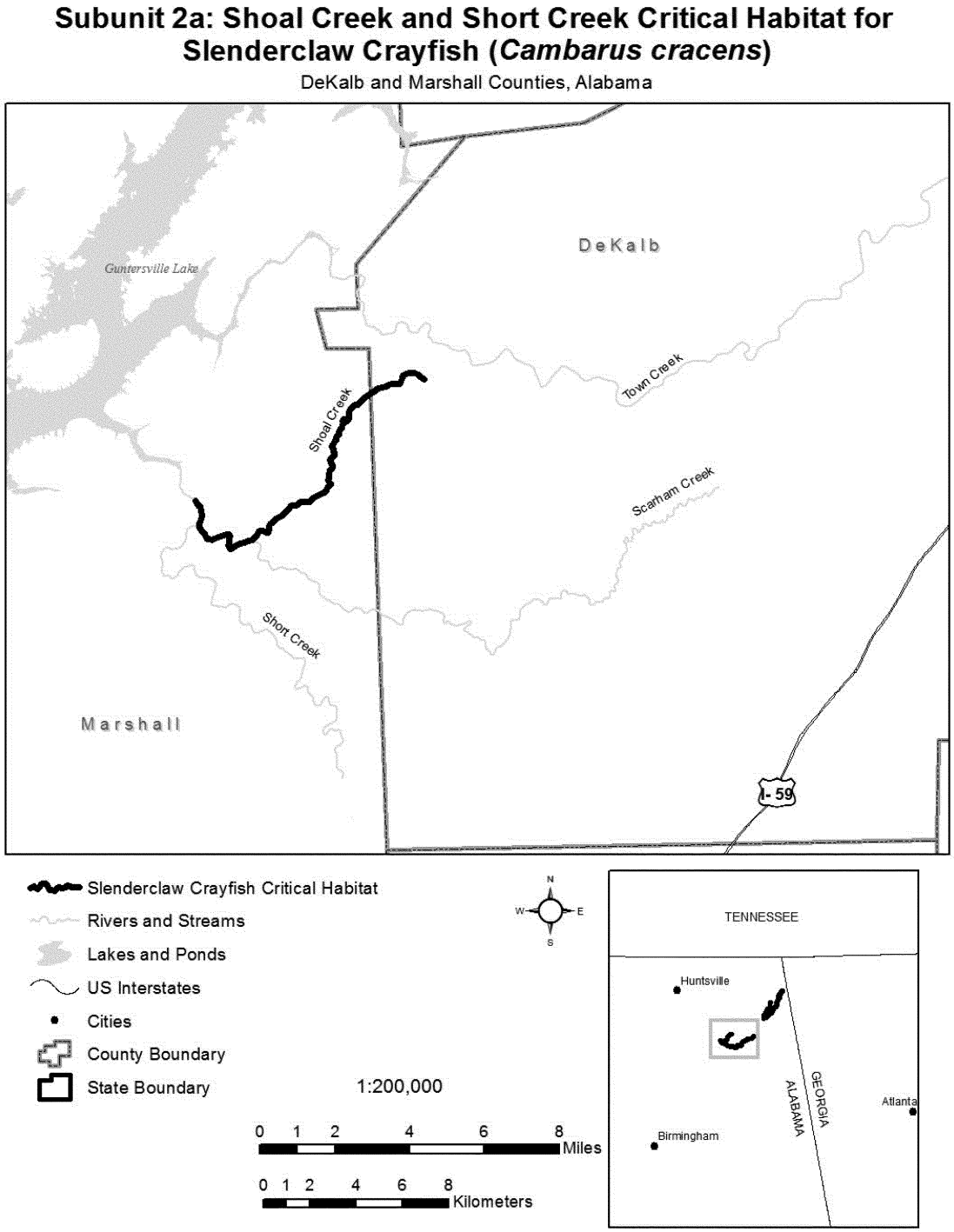


(7) Unit 2: Short Creek, DeKalb and Marshall Counties, Alabama.

(i) Subunit 2a: Shoal Creek and Short Creek, DeKalb and Marshall Counties, Alabama.

(A) This subunit consists of 10.3 river miles (16.6 river kilometers) of occupied habitat in Scarham, Shoal, Short, and Whippoorwill Creeks. Subunit 2a includes stream habitat up to bank full height consisting of the headwaters of Shoal Creek to its confluence with Whippoorwill Creek, Whippoorwill Creek to its confluence with Scarham Creek, Scarham Creek to its confluence with Short Creek, and Short Creek to its downstream extent to the Guntersville Lake Tennessee Valley Authority project boundary.

(B) Map of Subunit 2a follows:



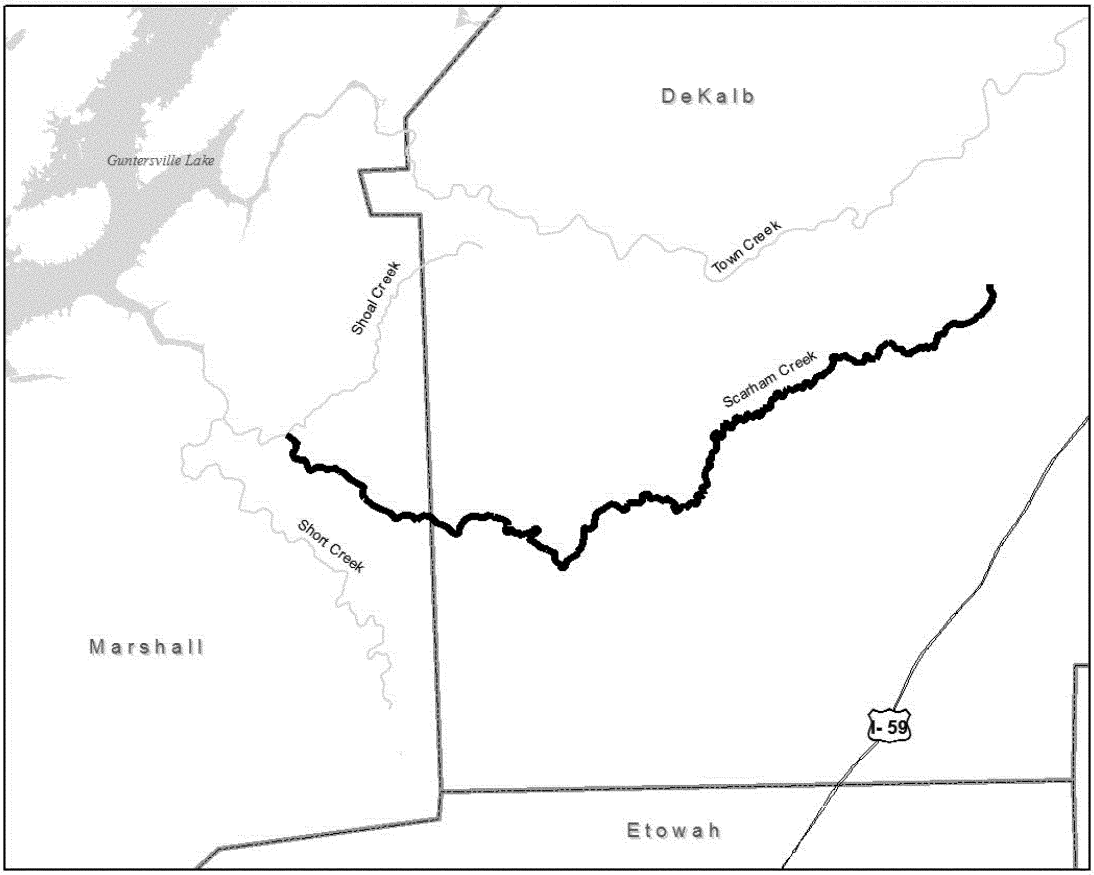
(ii) Subunit 2b: Scarham-Laurel Creek, DeKalb and Marshall Counties, Alabama.

(A) This subunit consists of 25.9 river miles (41.7 river kilometers) of unoccupied habitat in Scarham-Laurel Creek. Subunit 2b includes stream habitat up to bank full height consisting of the headwaters of Scarham-Laurel Creek to its confluence with Whippoorwill Creek. This subunit is a small to medium, flowing stream with substrate consisting of boulder and cobble containing interstitial spaces for sheltering and breeding and connected to the occupied subunit 2a.

(B) Map of Subunit 2b follows:

Subunit 2b: Scarham-Laurel Creek Critical Habitat for Slenderclaw Crayfish (*Cambarus cracens*)

DeKalb and Marshall Counties, Alabama



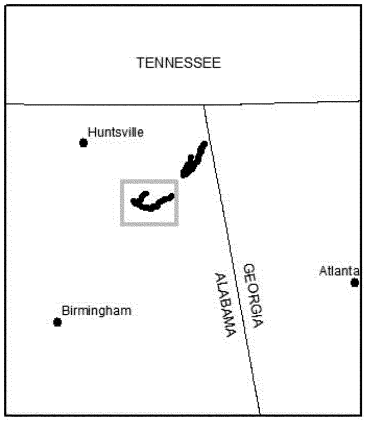
Slenderclaw Crayfish Critical Habitat
Rivers and Streams
Lakes and Ponds
US Interstates
Cities
County Boundary
State Boundary

N
W
E
S

1:200,000

0 1 2 4 6 8 Miles

0 1 2 4 6 8 Kilometers



* * * * *

Martha Williams,

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

[FR Doc. 2021–19093 Filed 9–7–21; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket Nos. 090206140–91081–03, 120405260–4258–02, and 200706–0181; RTID 0648–XB391]

Revised Reporting Requirements Due to Catastrophic Conditions for Federal Seafood Dealers, Individual Fishing Quota Dealers, and Charter Vessels and Headboats in Portions of Louisiana

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

ACTION: Temporary rule; determination of catastrophic conditions.

SUMMARY: In accordance with the regulations implementing the individual fishing quota (IFQ), Federal dealer reporting, and Federal charter vessel and headboat (for-hire vessel) reporting programs specific to the reef fish fishery in the Gulf of Mexico (Gulf) and the coastal migratory pelagic (CMP) fisheries in the Gulf, the Regional Administrator (RA), Southeast Region, NMFS, has determined that Hurricane Ida has caused catastrophic conditions in the Gulf for certain Louisiana parishes. This temporary rule authorizes any dealer in the affected area described in this temporary rule who does not have access to electronic reporting to delay reporting of trip tickets to NMFS and authorizes IFQ participants within the affected area to use paper-based forms, if necessary, for basic required administrative functions, *e.g.,* landing transactions. This rule also authorizes any Federal for-hire owner or operator in the affected area described in this temporary rule who does not have access to electronic reporting to delay reporting of logbook records to NMFS. This temporary rule is intended to facilitate continuation of IFQ, dealer, and Federal for-hire reporting operations during the period of catastrophic conditions.

DATES: The RA is authorizing Federal dealers, IFQ participants, and Federal for-hire operators in the affected area to use revised reporting methods from September 2, 2021, through October 8, 2021.

FOR FURTHER INFORMATION CONTACT: IFQ Customer Service, telephone: 866–425–7627, fax: 727–824–5308, email: *nmfs.ser.catchshare@noaa.gov.* For Federal dealer reporting, Fisheries Monitoring Branch, telephone: 305–361–4581. For Federal for-hire reporting, Southeast For-Hire Integrated Electronic Reporting program, telephone: 833–707–1632.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf is managed under the Fishery Management Plan (FMP) for Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP), prepared by the Gulf of Mexico Fishery Management Council (Gulf Council). The CMP fishery is managed under the FMP for CMP Resources in the Gulf of Mexico and Atlantic Region (CMP FMP), prepared by the Gulf Council and South Atlantic Fishery Management Council. Both FMPs are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Amendment 26 to the Reef Fish FMP established an IFQ program for the commercial red snapper component of the Gulf reef fish fishery (71 FR 67447; November 22, 2006). Amendment 29 to the Reef Fish FMP established an IFQ program for the commercial grouper and tilefish components of the Gulf reef fish fishery (74 FR 44732; August 31, 2009). Regulations implementing these IFQ programs (50 CFR 622.21 and 622.22) require that IFQ participants have access to a computer and the internet and that they conduct administrative functions associated with the IFQ program, *e.g.,* landing transactions, online. However, these regulations also specify that during catastrophic conditions, as determined by the RA, the RA may authorize IFQ participants to use paper-based forms to complete administrative functions for the duration of the catastrophic conditions. The RA must determine that catastrophic conditions exist, specify the duration of the catastrophic conditions, and specify which participants or geographic areas are deemed affected.

The Generic Dealer Amendment established Federal dealer reporting requirements for federally permitted dealers in the Gulf and South Atlantic (79 FR 19490; April 9, 2014). The Gulf For-Hire Reporting Amendment implemented reporting requirements for Gulf reef fish and CMP owners and operators of for-hire vessels (85 FR 44005; July 21, 2020). Regulations implementing these dealer reporting requirements (50 CFR 622.5) and for-hire vessel reporting requirements (50 CFR 622.26 and 622.374) state that dealers must submit electronic reports and that Gulf reef fish and CMP vessels with the applicable charter vessel/headboat permit must submit electronic fishing reports of all fish harvested and discarded. However, these regulations also specify that during catastrophic conditions, as determined by the RA, the RA may waive or modify the reporting time requirements for dealers and for-hire vessels for the duration of the catastrophic conditions.

Hurricane Ida made landfall in the U.S. near Port Fourchon, Louisiana, in the Gulf as a Category 4 hurricane on August 29, 2021. Strong winds and flooding from this hurricane impacted communities throughout coastal Louisiana. This resulted in power outages and damage to homes, businesses, and infrastructure. As a result, the RA has determined that catastrophic conditions exist in the Gulf for the Louisiana parishes of Saint Tammany, Orleans, Saint Bernard, Plaquemines, Jefferson, Saint Charles, Lafourche, Terrebonne, Saint Mary, Iberia, Vermilion, and Cameron.

Through this temporary rule, the RA is authorizing Federal dealers and Federal for-hire operators in these affected areas to delay reporting of trip tickets and for-hire logbooks to NMFS, and authorizing IFQ participants in this affected area to use paper-based forms, from September 2, 2021, through October 8, 2021. NMFS will provide additional notification to affected dealers via NOAA Weather Radio, Fishery Bulletins, and other appropriate means. NMFS will continue to monitor and re-evaluate the areas and duration of the catastrophic conditions, as necessary.

Dealers may delay electronic reporting of trip tickets to NMFS during catastrophic conditions. Dealers are to report all landings to NMFS as soon as possible. Assistance for Federal dealers in affected area is available from the NMFS Fisheries Monitoring Branch at 1–305–361–4581. NMFS previously provided IFQ dealers with the necessary paper forms and instructions for submission in the event of catastrophic conditions. Paper forms are also available from the RA upon request. The electronic systems for submitting information to NMFS will continue to be available to all dealers, and dealers in the affected area are encouraged to continue using these systems, if accessible.

Federal for-hire operators may delay electronic reporting of logbooks to NMFS during catastrophic conditions. Federal for-hire operators are to report all landings to NMFS as soon as possible. Assistance for Federal for-hire operators in affected area is available from the NMFS Southeast For-Hire Integrated Electronic Reporting Program at 1–833–707–1632. The electronic systems for submitting information to NMFS will continue to be available to all Federal for-hire operators, and for-hire operators are encouraged to continue using the these systems, if accessible.

The administrative program functions available to IFQ participants in the area affected by catastrophic conditions will be limited under the paper-based system. There will be no mechanism for transfers of IFQ shares or allocation under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system will be available via the NMFS Catch Share Support line, 1–866–425–7627 Monday through Friday, between 8 a.m. and 4:30 p.m., Eastern Time.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is consistent with the regulations in 50 CFR 622.5(c)(1)(iii), 622.21(a)(3)(iii), and 622.22(a)(3)(iii), which were issued pursuant to section 304(b) of the Magnuson-Stevens Act, and are exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the final rules implementing the Gulf IFQ programs, the Gulf and South Atlantic Federal dealer reporting requirements, and Gulf for-hire vessel reporting requirements have already been subject to notice and public comment. These rules authorize the RA to determine when catastrophic conditions exist, and which participants or geographic areas are deemed affected by catastrophic conditions. The final rules also authorize the RA to provide timely notice to affected participants via publication of notification in the **Federal Register**, NOAA Weather Radio, Fishery Bulletins, and other appropriate means. All that remains is to notify the public that catastrophic conditions exist, that IFQ participants may use paper forms, and that Federal dealers and Gulf for-hire permit holders may submit delayed reports. Such procedures are also contrary to the public interest because of the need to immediately implement this action because affected dealers continue to receive these species in the affected area and need a means of completing their landing transactions. With the power outages and damages to infrastructure that have occurred in the affected area due to Hurricane Ida, numerous businesses are unable to complete landings transactions, fishing reports, and dealer reports electronically. In order to continue with their businesses, IFQ participants need to be aware they can report using the paper forms, and Federal dealers and Gulf for-permit holders need to be aware that they can delay reporting.

For the aforementioned reasons, there is good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: September 2, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021–19379 Filed 9–2–21; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 171
Wednesday, September 8, 2021

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0720; Project Identifier 2019–SW–079–AD]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Leonardo S.p.a. (Leonardo) Model AW109SP helicopters. This proposed AD was prompted by reports of an ineligible hydraulic pump being installed on Model AW109SP helicopters. This proposed AD would require inspecting each hydraulic pump for damage and, depending on the inspections results, removing parts from service and accomplishing other corrective actions. This proposed AD would also require removing certain parts from service before they exceed their life limits. The proposed corrective actions would be required to be accomplished as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 25, 2021.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For EASA material that is proposed for IBR in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0720.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0720; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7323; email *Darren.Gassetto@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0720; Project Identifier 2019–SW–079–AD'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7323; email *Darren.Gassetto@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0213, dated August 29, 2019 (EASA AD 2019–0213), to correct an unsafe condition for Leonardo S.p.a. (formerly Finmeccanica S.p.A. Helicopter Division, AgustaWestland S.p.A, Agusta S.p.A.) Model AW109SP helicopters.

This proposed AD was prompted by reports of a hydraulic pump part number (P/N) 109–0760–42–103 being ineligibly installed on Model AW109SP helicopters. EASA advises that because

hydraulic pump P/N 109–0760–42–103 is not eligible for installation on Model AW109SP helicopters, applicable instructions for continued airworthiness are not available. The FAA is proposing this AD to address the ineligible installation of the affected part-numbered hydraulic pump on Model AW109SP helicopters since there are no applicable instructions for continuing airworthiness available. See EASA AD 2019–0213 for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2019–0213 requires inspecting each affected hydraulic pump and depending on the inspection results, replacing an affected hydraulic pump with a serviceable hydraulic pump, before further flight. EASA AD 2019–0213 also requires replacing any affected hydraulic pump before exceeding 1,600 total flight hours (FH) since first installation on a helicopter, or within 200 FH, whichever occurs later. Finally, EASA AD 2019–0213 prohibits installing any affected hydraulic pump on any helicopter.

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

Other Related Service Information

The FAA also reviewed Leonardo S.p.a. Helicopters, Alert Service Bulletin No. 109SP–134, dated July 29, 2019. This service information specifies procedures for inspecting and replacing hydraulic pump P/N 109–0760–42–103.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that the unsafe condition described previously is likely to exist or develop on other helicopters of these same type designs.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0213, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and the EASA AD.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2019–0213 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2019–0213 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2019–0213 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2019–0213. Service information required by EASA AD 2019–0213 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0720 after the FAA final rule is published.

Differences Between This Proposed AD and EASA AD 2019–0213

EASA AD 2019–0213 applies to Model AW109SP helicopters, all serial numbers, whereas this proposed AD would only apply to Model AW109SP helicopters with certain part-numbered hydraulic pumps installed.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 17 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Visually inspecting each hydraulic pump for wear, burrs, and abrasion would take about 4 work-hours and parts would cost about $5 for an estimated cost of $345 per inspection and $5,865 for the U.S. fleet.

Removing from service each affected hydraulic pump and replacing with an airworthy hydraulic pump would take about 6 work-hours and parts would cost about $22,819 for an estimated cost of $23,329 per pump replacement.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Leonardo S.p.a.: Docket No. FAA–2021–0720; Project Identifier 2019–SW–079–AD.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 25, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.a. Model AW109SP helicopters, certificated in any category, with an affected part as identified in European Union Aviation Safety Agency (EASA) AD 2019–0213, dated August 29, 2019 (EASA AD 2019–0213).

(d) Subject

Joint Aircraft Service Component (JASC) Codes: 2913, Hydraulic Pump (Elect/Eng), Main.

(e) Unsafe Condition

This AD was prompted by reports of the ineligible installation of hydraulic pump part number (P/N) 109–0760–42–103 on Model AW109SP helicopters resulting in the applicable instructions for continued airworthiness not being available. The FAA is issuing this AD to address this unsafe condition. The unsafe condition, if not addressed, could result in failure of the hydraulic pump and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2019–0213.

(h) Exceptions to EASA AD 2019–0213

(1) Where EASA AD 2019–0213 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2019–0213 requires compliance from its effective date, this AD requires using the effective date of this AD.

(3) Where paragraph (2) of EASA AD 2019–0213 specifies to replace a part if any discrepancy is detected during the inspection, this AD requires removing that part from service.

(4) Where paragraph (3) of EASA AD 2019–0213 specifies to replace a part before exceeding 1,600 flight hours since first installation on a helicopter, this AD requires removing that part from service before 1600 hours time in service since first installation on a helicopter.

(5) Where the service information required by EASA AD 2019–0213 specifies discarding the o-ring and gasket, this AD requires removing those parts from service.

(6) Where the service information required by EASA AD 2019–0213 specifies recording compliance with the service bulletin in the helicopter logbook, this AD does not include that requirement.

(7) This AD does not require the ''Remarks'' section of EASA AD 2019–0213.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2019–0213 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Special Flight Permit

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

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Related Information

(1) For EASA AD 2019–0213, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu*. You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu*. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0720.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7323; email *Darren.Gassetto@faa.gov.*

Issued on August 26, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–19254 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0725; Project Identifier MCAI–2020–01402–T]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2017–22–06, which applies to certain Bombardier, Inc., Model CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. AD 2017–22–06 requires repetitive inspections for fuel leakage at the engine and auxiliary power unit (APU) fuel pumps, and related investigative and corrective actions if necessary. Since the FAA issued AD 2017–22–06, terminating actions have been developed and additional airplanes have been determined to be affected by the unsafe condition. This proposed AD would retain the requirements of AD 2017–22–06, and require an inspection of the APU, repair if necessary, and modification of the engine electrical fuel pump (EFP) installation. This proposed AD would also add airplanes to the applicability. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 25, 2021.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

For service information identified in this NPRM, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0725; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7367; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0725; Project Identifier MCAI–2020–01402–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7367; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2017–22–06, Amendment 39–19086 (82 FR 49498, October 26, 2017) (AD 2017–22–06), for certain Bombardier, Inc., Model CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. AD 2017–22–06 requires repetitive inspections for fuel leakage at the engine and APU fuel pumps, and related investigative and corrective actions if necessary. AD 2017–22–06 resulted from reports of fuel leaks in the engine and APU EFP cartridge/canister electrical connectors and conduits. The FAA issued AD 2017–22–06 to address fuel leaks in certain fuel pumps to remove a potential fuel ignition hazard. FAA AD 2017–22–06 corresponds to AD CF–2016–32R1, dated October 12, 2016, issued by Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada.

Actions Since AD 2017–22–06 Was Issued

The preamble to AD 2017–22–06 explains that the FAA considered the requirements ''interim action'' and was considering further rulemaking. The FAA has now determined that further rulemaking is indeed necessary, and this proposed AD follows from that determination.

Since the FAA issued AD 2017–22–06, a general visual inspection of the APU and a modification of the engine EFP installation have been developed to address the root cause of the fuel leaks and provide terminating action for the repetitive general visual inspections and rectifications of fuel leaks from the engine and APU EFP electrical wiring conduit outlets. In addition, it was determined that additional airplanes are affected by the unsafe condition.

TCCA has issued TCCA AD CF–2016–32R4, dated October 13, 2020 (TCCA AD CF–2016–32R4); and TCCA AD CF–2020–38, dated October 13, 2020 (TCCA AD CF–2020–38); to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. This proposed AD refers to the TCCA ADs as the Mandatory Continuing Airworthiness Information, or the MCAI. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0725.

This proposed AD was prompted by reports of fuel leaks from the electrical connectors and conduits of the engine and APU EFP cartridge/canister, and additional actions have been developed to address the root cause of the fuel leaks. The FAA is proposing this AD to address the potential for a fire hazard as a result of fuel leak from the APU EFP electrical conduit in the hot landing light compartment. See the TCCA ADs for additional background information.

Related Service Information Under 1 CFR Part 51

Bombardier has issued the following service information, which describes procedures for repetitive general visual inspections and rectifications for any fuel leak from the engine and APU EFP electrical wiring conduit outlets. These documents are distinct since they apply to different airplane serial numbers.

• Bombardier Service Bulletin 604–28–022, Revision 3, dated August 31, 2018.

• Bombardier Service Bulletin 605–28–010, Revision 3, dated August 31, 2018.

• Bombardier Service Bulletin 650–28–001, Revision 3, dated January 3, 2019.

Bombardier has also issued the following service information, which describes procedures for a detailed visual inspection of the APU for any damage or deformations (*e.g.,* cut wires and a broken harness assembly of the fuel boost pump connector), modifying

the engine EFP installation, and repair if necessary. These documents are distinct since they apply to different airplane serial numbers.

- Bombardier Service Bulletin 604–28–024, dated June 16, 2020.
- Bombardier Service Bulletin 650–28–002, dated June 16, 2020.
- Bombardier Service Bulletin 605–28–012, dated June 16, 2020.

This proposed AD would also require Bombardier Service Bulletin 604–28–022, dated October 19, 2015, and Bombardier Service Bulletin 605–28–010, dated October 19, 2015, which the Director of the Federal Register approved for incorporation by reference as of November 30, 2017 (82 FR 49498, October 26, 2017).

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

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would retain all of the requirements of AD 2017–22–06 and require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between this Proposed AD and the MCAI.

Difference Between This Proposed AD and the MCAI

Paragraph E.1. of TCCA AD CF–2016–32R4, for airplane serial numbers 6125 through 6163, requires inspecting for fuel leaks within 600 hours or 12 months, whichever occurs first after ''the date of aeroplane entry in-service.'' Paragraph (i) of this proposed AD, however, would require compliance for those airplanes within 600 flight hours or 12 months, whichever occurs first after ''the effective date of this [FAA] AD.'' Paragraph D.1. of TCCA AD CF–2016–32R4 requires compliance for this action for other serial numbers within 600 flight hours or 12 months after the effective date of the AD. The FAA has determined that the risk is not higher for serial numbers 6125 through 6163 compared with the other identified airplanes required to accomplish the same inspection. Therefore, for this AD, the compliance time is the same for all airplanes that are required to inspect for fuel leaks.

Costs of Compliance

The FAA estimates that this proposed AD affects 128 airplanes of U.S. registry.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2017-22-06 (for 121 airplanes).	1 work-hour × $85 per hour = $85.	$0	$85 per inspection cycle ...	$10,285 per inspection cycle.
New proposed actions	20 work-hours × $85 per hour = $1,700.	1,768	$3,468	$443,904.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
5 work-hours × $85 per hour = $425	$8,618	$9,043

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2017–22–06, Amendment 39–19086 (82 FR 49498, October 26, 2017), and

■ b. Adding the following new AD:

Bombardier, Inc.: Docket No. FAA–2021–0725; Project Identifier MCAI–2020–01402–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 25, 2021.

(b) Affected ADs

This AD replaces AD 2017–22–06, Amendment 39–19086 (82 FR 49498, October 26, 2017) (AD 2017–22–06).

(c) Applicability

This AD applies to Bombardier, Inc., Model CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes, certificated in any category, serial numbers 5301 through 5665 inclusive, 5701 through 5990 inclusive, and 6050 through 6163 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by reports of fuel leaks from the electrical connectors and conduits of the engine and auxiliary power unit (APU) electrical fuel pump (EFP) cartridge/canister, and additional actions have been developed to address the root cause of the fuel leaks. The FAA is issuing this AD to address the potential for a fire hazard as a result of fuel leak from the APU EFP electrical conduit in the hot landing light compartment.

(f) Compliance

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

(g) Retained Actions for Certain Airplanes, With Revised Service Information and Method of Compliance Provisions

This paragraph restates the requirements of paragraph (g) of AD 2017–22–06, with revised service information and method of compliance provisions. For Model CL–600–2B16 airplanes having serial numbers 5301 through 5665 inclusive: Within 600 flight hours or 12 months, whichever occurs first after November 30, 2017 (the effective date of AD 2017–22–06), do the inspections specified in paragraphs (g)(1) through (3) of this AD, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 604–28–022, dated October 19, 2015, or Bombardier Service Bulletin 604–28–022, Revision 3, dated August 31, 2018. Do all applicable corrective actions before further flight. Repeat the inspections at intervals not to exceed 600 flight hours or 12 months, whichever occurs first. As the effective date of this AD, use Bombardier Service Bulletin 604–28–022, Revision 3, dated August 31, 2018, only.

(1) Do a general visual inspection for traces of fuel coming from the right-hand engine boost pump at the location of the belly fairing screw (FS412, BL 0.0).

(2) Do a general visual inspection for traces of fuel coming from the left-hand engine boost pump at the location of the belly fairing screw (FS412, BL 0.0).

(3) Do a general visual inspection for traces of fuel coming from the EFP electrical wiring conduit outlet at the lower body fairing area for engine EFPs and at the right-hand landing light compartment for the APU EFP.

(h) Retained Actions for Certain Other Airplanes, With Revised Service Information and Compliance Method Provisions

This paragraph restates the requirements of paragraph (h) of AD 2017–22–06, with revised service information and compliance method provisions. For Model CL–600–2B16 airplanes having serial numbers 5701 through 5955 inclusive, 5957, 5960 through 5966 inclusive, 5968 through 5971 inclusive, and 5981: Within 600 flight hours or 12 months, whichever occurs first after November 30, 2017 (the effective date of AD 2017–22–06), do the inspections specified in paragraphs (h)(1) through (3) of this AD, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions in Bombardier Service Bulletin 605–28–010, dated October 19, 2015, or Bombardier Service Bulletin 605–28–010, Revision 3, dated August 31, 2018. Do all applicable related investigative and corrective actions before further flight. Repeat the inspections at intervals not to exceed 600 flight hours or 12 months, whichever occurs first. As of the effective date of this AD, use Bombardier Service Bulletin 605–28–010, Revision 3, dated August 31, 2018, only.

(1) Do a general visual inspection for traces of fuel coming from the right-hand engine boost pump at the location of the belly fairing screw (FS412, BL 0.0).

(2) Do a general visual inspection for traces of fuel coming from the left-hand engine boost pump at the location of the belly fairing screw (FS412, BL 0.0).

(3) Do a general visual inspection of the right-hand landing light compartment for traces of fuel coming from the APU EFP.

(i) New Requirements of This AD: Inspections and Rectifications

For the airplanes identified in figure 1 to paragraph (i) of this AD: At the applicable compliance time specified in figure 1 to paragraph (i) of this AD, do a general visual inspection for any fuel leak from the engine and APU EFP electrical wiring conduit outlets, in accordance with the Accomplishment Instructions of the applicable service information specified in figure 1 to paragraph (i) of this AD. If any fuel leak is found during the general visual inspection, before further flight, correct the fuel leak in accordance with the Accomplishment Instructions of the applicable service information specified in figure 1 to paragraph (i) of this AD. Thereafter, repeat the general visual inspection at intervals not to exceed 600 flight hours or 12 months, whichever occurs first.

FIGURE 1 TO PARAGRAPH (i)—COMPLIANCE TIMES AND SERVICE INFORMATION

Serial Nos.—	Compliance time—	Bombardier service bulletin—
5956, 5958, 5959, 5967, 5972 through 5980 inclusive, and 5982 through 5990 inclusive.	Within 600 flight hours or 12 months, whichever occurs first after the effective date of this AD.	Bombardier Service Bulletin 605–28–010, Revision 3, dated August 31, 2018.
6050 through 6163 inclusive	Within 600 flight hours or 12 months, whichever occurs first after the effective date of this AD.	Bombardier Service Bulletin 650–28–001, Revision 3, dated January 3, 2019.

(j) New Requirements of This AD: Inspection and Modification

Within 60 months after the effective date of this AD: Do a detailed visual inspection of the APU for any damage or deformations, and modify the engine EFP installation, in accordance with the Accomplishment Instructions of the applicable service information specified in figure 2 to paragraph (j) of this AD. If any damage or deformations are found during the detailed visual inspection, before further flight, do the repair

in accordance with the Accomplishment Instructions of the applicable service information specified in figure 2 to paragraph (j) of this AD.

FIGURE 2 TO PARAGRAPH (j)—SERVICE INFORMATION

Serial Nos.—	Bombardier service bulletin—
5301 through 5665 inclusive	Bombardier Service Bulletin 604–28–024, dated June 16, 2020.
5701 through 5990 inclusive	Bombardier Service Bulletin 605–28–012, dated June 16, 2020.
6050 through 6163 inclusive	Bombardier Service Bulletin 650–28–002, dated June 16, 2020.

(k) No Reporting Requirement

Where service information identified in this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(l) Terminating Actions

Accomplishing the actions required by paragraph (j) of this AD terminates all requirements of this AD.

(m) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 604–28–022, dated October 19, 2015, provided that within 4 months or 150 flight hours from the effective date of this AD or within 1 year from the last inspection, whichever occurs first, the actions accomplished in paragraph (g) are done using Bombardier Service Bulletin 604–28–022, Revision 3, dated August 31, 2018.

(2) This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 605–28–010, dated October 19, 2015, provided that within 4 months or 150 flight hours from the effective date of this AD or within 1 year from the last inspection, whichever occurs first, the actions accomplished in paragraph (h) of this AD are done using Bombardier Service Bulletin 605–28–010, Revision 3, dated August 31, 2018.

(3) This paragraph provides credit for actions required by paragraph (i) of this AD, if those actions were performed before the effective date of this AD using the service information in paragraphs (l)(3)(i) through (iii) of this AD, provided that within 1 year from the last inspection, the actions accomplished in paragraph (i) of this AD are done using Bombardier Service Bulletin 650–28–001, Revision 3, dated January 3, 2019. This service information is not incorporated by reference in this AD.

(i) Bombardier Service Bulletin 650–28–001, dated November 3, 2017.

(ii) Bombardier Service Bulletin 650–28–001, Revision 1, dated May 14, 2018.

(iii) Bombardier Service Bulletin 650–28–001, Revision 2, dated August 31, 2018.

(n) Other FAA AD Provisions

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(o) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2016–32R4, dated October 13, 2020; and TCCA AD CF–2020–38, dated October 13, 2020; for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0725.

(2) For more information about this AD, contact Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7367; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(3) For service information identified in this AD, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on September 1, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–19237 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 53, 54 and 301

[REG–102951–16]

RIN 1545–BN36

Electronic-Filing Requirements for Specified Returns and Other Documents; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Proposed rule; notice of hearing.

SUMMARY: This document provides a notice of public hearing on proposed regulations amending the rules for filing electronically and affects persons required to file partnership returns, corporate income tax returns, unrelated business income tax returns, withholding tax returns, and certain information returns, registration statements, disclosure statements, notifications, actuarial reports, and certain excise tax returns.

DATES: The public hearing is being held on Wednesday, September 22, 2021 at 10:00 a.m. EDT. The IRS must receive speakers' outlines of the topics to be discussed at the public hearing by Tuesday, September 21, 2021.

ADDRESSES: The public hearing is being held by teleconference. Individuals who want to testify (by telephone) at the public hearing must send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number [REG–102951–16] and the word TESTIFY. For example, the subject line may say: Request to TESTIFY at Hearing for REG–102951–16. The email must include the name(s) of the speaker(s) and title(s). No outlines will be accepted by email. Send all outline submissions electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–102951–16). Both the email requesting to testify and the outline submissions must be received by September 21, 2021.

FOR FURTHER INFORMATION CONTACT: Concerning these proposed regulations,

Casey R. Conrad of the Office of the Associate Chief Counsel (Procedure and Administration), (202) 317–6844; concerning submissions of comments or outlines, the hearing, or any questions to attend the hearing by teleconferencing, Regina Johnson at (202) 317–5177 (not toll-free numbers) or preferably by email at *publichearings@irs.gov.* If emailing, please include the following information in the subject line: Attend, Testify, or Question and [REG–102951–16].

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking REG–102951–16 that was published in the **Federal Register** on Friday, July 23, 2021 86 FR 39910.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments telephonically at the hearing must have submitted written comments and outlines on the topics to be addressed and the amount of time to be devoted to each topic by September 21, 2021. A period of 10 minutes is allotted to each person to present oral comments.

After receiving outlines, the IRS will prepare an agenda containing the schedule of speakers. The agenda and a partial schedule of speakers will be available via Federal eRulemaking Portal (*www.Regulations.gov*) under the title of Supporting & Related Material by September 21, 2021, and the final version will be available on September 22, 2021, via Federal eRulemaking Portal (*www.Regulations.gov*) under the title of Supporting & Related Material. The public hearing agenda will contain the telephone number and access code.

Individuals who want to attend (by telephone) the public hearing must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number [REG–102951–16] and the word ATTEND. For example, the subject line may say: Request to ATTEND Hearing for REG–102951–16. Please include your name(s) in the body of the email. Email requests to attend the public hearing must be received by 5:00 p.m. EDT on September 20, 2021.

The telephonic hearing will be made accessible to people with disabilities. To request special assistance during the telephonic hearing please contact the Publications and Regulations Branch of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317–5177 (not a toll-free number) by September 20, 2021. Any questions regarding speaking at or attending the public hearing may also be emailed to *publichearings@irs.gov.*

Oluwafunmilayo A. Taylor,

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

[FR Doc. 2021–19361 Filed 9–7–21; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2021–0382; FRL–7547–01–OAR]

RIN 2060–AV37

Potential Future Regulation Addressing Pyrolysis and Gasification Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is soliciting information and requesting comments to assist in the potential development of regulations for pyrolysis and gasification units that are used to convert solid or semi-solid feedstocks, including solid waste (*e.g.,* municipal solid waste, commercial and industrial waste, hospital/medical/infectious waste, sewage sludge, other solid waste), biomass, plastics, tires, and organic contaminants in soils and oily sludges to useful products such as energy, fuels and chemical commodities. Pyrolysis and gasification are often described as heat induced thermal decomposition processes. Through recent requests for applicability determinations, it appears that pyrolysis and gasification processes are more widely being used to convert waste into useful products or energy.

DATES: *Comments.* Comments must be received on or before November 8, 2021.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2021–0382, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2021–0382 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2021–0382.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2021–0382, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. EPA–HQ–OAR–2021–0382 for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and EPA staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. The EPA's Docket Center staff will continue to provide remote customer service via email, phone, and webform. The Agency encourages the public to submit comments via *https://www.regulations.gov/* or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this action, contact Nabanita Modak Fischer, Fuels and Incineration Group, Sector Policies and Programs Division (E143–05), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5572; fax number: (919) 541–3470; email address: *modak.nabanita@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket. The EPA has a docket for this notice and the future listing action under Docket ID No. EPA–HQ–OAR–2021–0382. All documents in the docket are listed in *Regulations.gov.* Although listed, some information is not publicly available, *e.g.,* 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. With the exception of such material, publicly available docket materials are available electronically in *Regulations.gov.*

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2021–0382. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov/,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted by mail as discussed below.

The EPA may publish any comment received to its public docket. 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, 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.*

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov/,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and should be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

The EPA has temporarily suspended its Docket Center and Reading Room for public visitors, with limited exceptions, to reduce the risk of transmitting COVID–19. The Docket Center staff will continue to provide remote customer service via email, phone, and webform. The Agency encourages the public to submit comments via *https://www.regulations.gov/* as there may be a delay in processing mail and faxes. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention, local area health departments, and our Federal partners so that the Agency can respond rapidly as conditions change regarding COVID–19.

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2021–0382. Note that written comments containing CBI and submitted by mail may be delayed and no hand deliveries will be accepted.

Preamble acronyms and abbreviations. The EPA uses multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ANPRM advance notice of proposed rulemaking
CAA Clean Air Act
CBI Confidential Business Information
CFR Code of Federal Regulations
CISWI commercial and industrial solid waste incineration
°C degrees Celsius
EG Emission Guidelines
EPA U.S. Environmental Protection Agency
FR Federal Register
HAP hazardous air pollutant
HMIWI hospital, medical, and infectious waste incinerator
MACT maximum achievable control technology
MSW municipal solid waste
MWC municipal waste combustor
NAICS North American Industry Classification System
NSPS New Source Performance Standards
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
OSWI other solid waste incineration
PAH polycyclic aromatic hydrocarbon
SSI sewage sludge incineration

Organization of This Document

The information in this preamble is organized as follows:

I. General Information

A. What is the purpose of this ANPRM?

The Agency is seeking comments and data to assist in the consideration of potential changes to existing regulations under Clean Air Act (CAA) section 129 or the development of regulations pertaining to pyrolysis and gasification units that are used to convert solid and semi-solid feedstocks, including solid waste (*e.g.,* municipal solid waste (MSW), commercial and industrial waste, hospital/medical/infectious waste, sewage sludge, other solid

waste), biomass, plastics,[1] tires, and organic contaminants in soils and oily sludges to useful products such as energy, fuels and chemical commodities.[2] As a result of recent market trends, especially with respect to plastics recycling, the EPA has received several inquiries about regulations under CAA section 129 for solid waste incineration units and the applicability of such regulations to pyrolysis and gasification units for a variety of process and feedstock types. Based on these requests and the differences in language pertaining to pyrolysis among the CAA section 129 rules,[3] the Agency believes that there is considerable confusion in the regulated community regarding the applicability of CAA section 129 to pyrolysis and gasification units. On August 31, 2020, the EPA proposed various revisions to section 129 regulations for ''other solid waste incineration units'' (OSWI), including a proposal to revise the definition of ''municipal waste combustion (MWC) unit'' to remove the reference to ''pyrolysis/combustion units'' (85 FR 54178). In the proposal, the EPA indicated that pyrolysis units do not involve the combustion of solid waste but may combust uncontained gases and that the OSWI rule should not apply to such units (85 FR at 54187). The EPA received significant comments on the proposal regarding the removal of the reference to ''pyrolysis/combustion units.'' In light of these comments and what appear to be on-going questions about the regulation of pyrolysis and gasification units, the EPA has determined that issuance of this ANPRM is an efficient mean for gaining a comprehensive understanding of these units to aid in potential development of future regulations or changes to existing CAA section 129 regulations pertaining to pyrolysis and gasification units. An ANPRM provides an opportunity for the EPA to gather information on the design, types, and sizes of pyrolysis and gasification units, as well as to identify other issues for consideration, including appropriate categorization of pyrolysis and gasification units. The EPA expects that this notice will allow a large and diverse group of stakeholders, including potentially impacted facilities, small businesses, and state, local, and tribal governments, to participate in the data and information gathering process. Based on data and information received through this ANPRM and other forms of information collection requests, the Agency will evaluate how best to address the pyrolysis and gasification units.

B. Does this action apply to me?

Entities that may be interested in this ANPRM or potentially may be affected by the EPA's evaluation of the information and comments received include, especially, owners and operators of pyrolysis and gasification units that are used to convert solid or semi-solid feedstocks, including solid waste (*e.g.,* municipal solid waste, commercial and industrial waste, hospital/medical/infectious waste, sewage sludge, other solid waste), biomass, plastics, tires, and organic contaminants in soils and oily sludges to useful products such as energy, fuels, and chemical commodities. The categories and entities may include, but are not limited to, municipal waste combustor (MWC) units as defined in 40 CFR 60.32b, 40 CFR 60.51a, 40 CFR 60.51b, 40 CFR 60.1465, and 40 CFR 60.1940, commercial and industrial solid waste incineration (CISWI) units as defined in and 40 CFR 60.2265 and 40 CFR 60.2875, OSWI units as defined in 40 CFR 60.2977 and 40 CFR 60.3078; units excluded from the hospital, medical, and infectious waste incinerator (HMIWI) standards pursuant to 40 CFR 60.32e(f) and 40 CFR 60.50c(f); non-combustion units, such as thermal desorption units that process solid waste under pyrolytic conditions to recover oil or other marketable products; and other solid or semi-solid material thermal processing units that are currently undefined under CAA regulations. Table 1 of this preamble lists the entities that are regulated by the current MWC, CISWI, OSWI, sewage sludge incineration (SSI), and HMIWI standards that the EPA believes may be operating or could potentially own or operate a pyrolysis or gasification unit.

TABLE 1—SOURCE CATEGORIES INTERESTED IN THIS ACTION

Source category	NAICS code [1]	Examples of potentially regulated entities
Any state, local, or tribal government or commercial owner/operators using a MWC unit.	562213, 92411	Solid waste combustion units disposing of municipal solid waste (MSW).
Any federal government agency using a pyrolysis or gasification unit.	928, 7121	Department of Defense (labs, military bases, munition facilities) and National Parks.
Any educational institution using a pyrolysis or gasification unit.	6111, 6112, 6113	Primary and secondary schools, universities, colleges, and community colleges.
Any industrial or commercial facility using a pyrolysis or gasification unit.	114, 211, 212, 221, 321, 322, 325, 326, 327, 337, 486.	Oil and gas exploration operations; mining; pipeline operators; utility providers; manufacturers of wood products; manufacturers of pulp, paper, and paperboard; manufacturers of furniture and related products; manufacturers of chemicals and allied products, manufacturers of plastics and rubber products; manufacturers of cement; nonmetallic mineral product manufacturing; fishing operations.
Industry	622110, 622310, 562213, 611310	Private hospitals, other health care facilities, commercial research laboratories, commercial waste disposal companies, private universities.

[1] Pyrolysis and gasification units may be used to process plastics, whether ''virgin'' or recyclable or recycled. Note that under CAA section 129(g)(5), for example, ''municipal waste'' may consist of various materials, including ''plastics,'' and the definition does not distinguish between non-recycled or recycled plastics. Some states or municipalities may not regard plastics in the recycling stream as waste, but for our purposes, here, the Agency is interested in information and comments relating to pyrolysis and gasification units that may use plastics as feedstock, whether or not the plastics are recycled or recyclable.

[2] The EPA has observed that not all pyrolysis or gasification processes produce a seemingly useful product or energy used for purposes other than drying incoming materials for destruction. These processes usually combust the resultant syngas or gaseous products from pyrolysis. The Agency is collecting information and comments on the full spectrum of gasification and pyrolysis units, regardless of the outputs.

[3] CAA section 129 requires development of maximum achievable control technology (MACT) standards for several categories of waste incineration sources for nine pollutants. The MACT regulations for sources that are not waste incineration sources are developed under the authority and requirements of section 112 of the CAA.

TABLE 1—SOURCE CATEGORIES INTERESTED IN THIS ACTION—Continued

Source category	NAICS code [1]	Examples of potentially regulated entities
Federal Government	622110, 541710, 928110	Federal hospitals, other health care facilities, public health service, armed services.
State/local/tribal Government	622110, 562213, 611310	State/local hospitals, other health care facilities, state/local waste disposal services, state universities.

[1] North American Industry Classification System.

This table is not intended to be exhaustive but rather provides a guide for readers regarding entities likely to be interested in this ANPRM and the EPA's evaluation of information or comments received in response. If you have any questions regarding whether the EPA is seeking input regarding a particular pyrolysis or gasification unit, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

C. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this notice is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this notice at *https://www.epa.gov/stationary-sources-air-pollution/clean-air-act-guidelines-and-standards-waste-management.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of this document and key technical documents at this same website.

II. Background

A. What are pyrolysis and gasification units?

The CAA does not define pyrolysis or gasification. The EPA has treated pyrolysis and gasification differently under some CAA section 129 rules. These rules apply to various categories of solid waste incineration units (see discussion in section II.B of this preamble). Different types of pyrolysis and gasification units may be operating and used for different purposes or under different circumstances in the United States today. Pyrolysis units have been used for decades in the production of olefins such as ethylene and propylene, and similarly, gasification units have been used for many years in the production of fuel gas from coal. However, over the past few years, there has been an increase in interest using pyrolysis or gasification units to convert different solid materials, such as agricultural wastes and plastics, into gaseous or liquid fuels or substances or materials to be used in the manufacture of products. Pyrolysis and gasification processes have been touted as potential methods to generate a ''circular economy'' [4] around plastics use, where a post-consumer plastic product can be recycled to produce a plastic of equal or similar quality again instead of being disposed of or ''downcycled'' to lesser quality products.[5] Pyrolysis and gasification technologies have been used to convert solid and semi-solid materials, including solid waste (*e.g.,* municipal solid waste, commercial and industrial waste, hospital/medical/infectious waste, sewage sludge, other solid waste), biomass, plastics, tires, and organic contaminants in soils and oily sludges to useful products such as energy, fuels and chemical commodities. Pyrolysis and gasification may have also been used simply to dispose of or reduce or decompose solid wastes. The products of pyrolysis or gasification vary based on whether the reaction is pyrolysis or gasification, the feedstock used, and the operating conditions of the reaction. In varying quantities and compositions, the products of pyrolysis and gasification are a mixture of: Syngas (primarily in gasification, which produces a gaseous mixture of carbon monoxide and hydrogen, with smaller quantities of methane, carbon dioxide, water, and other low-molecular-weight volatile organics); liquids (typically oils or waxes of various kinds); char (a solid residue also sometimes called biochar or coke containing fixed carbon and ash); and any metals or minerals that might have been components of the feedstock. In general, these products are used to create other products or are burned to generate energy (*e.g.,* syngas can be converted into heat, power, fuels, or chemical products, or used in fuel cells). In the United States, with a few exceptions, facilities currently using these pyrolysis and gasification technologies for these purposes are most often operating in a demonstration mode and do not have waste contracts and/or energy or product contracts in place that would indicate a full-scale commercial operation. Because most facilities are currently only demonstration or pilot-scale plants, they are likely operating in batch-test rather than in a continuous-mode that would be typical of commercial plants.

1. Pyrolysis Units

Pyrolysis is a process where materials are thermally decomposed or rearranged under process conditions where extremely little to no oxygen is present. Pyrolysis, which is also known as devolatilization, is an endothermic process [6] that produces 75–90 percent volatile materials in the form of gaseous and liquid hydrocarbons.[7] Remaining non-volatile materials with high carbon content form a product called char.[8] Pyrolysis relies on intensive heat energy and does not require the presence of oxygen. Pyrolysis units may be used to ''crack'' or chemically decompose organic materials. Pyrolysis technology vendors use different variations of, and names for, pyrolysis units, including: [9] (1) Thermal pyrolysis/cracking where feedstock is heated at high temperatures (350–900 degrees Celsius (°C)) in the absence of a catalyst; (2) catalytic pyrolysis/cracking where the feedstock is processed using a catalyst; and (3) hydrocracking (sometimes referred to as ''hydrogenation'') where the feedstock is reacted with hydrogen and a catalyst under moderate temperatures and pressures (*e.g.,* 150–400 °C and 30–100 bar hydrogen). Regardless of the process category, through application of heat, pyrolysis disintegrates the long

[4] Circular economy is an emerging term based on, in part, the concept of eliminating waste and the continual use of resources. In this notice, this term applies to recycling post-consumer plastic materials into the basic chemical building blocks for producing another plastic item of similar or the same quality and value.

[5] Downcycling is defined as recycling something in such a way that the resulting product is of a lower value than the original item (Merriam-Webster).

[6] Endothermic is a process where heat is absorbed by a chemical reaction, thus resulting in decreased temperature.

[7] *Benchmarking Biomass Gasification Technologies for Fuels, Chemicals and Hydrogen Production,* Prepared for U.S. Department of Energy, National Energy for Technology Laboratory, by Jared P. Ciferno and John J. Marano, 2002.

[8] *Ibid.*

[9] *State of Practice for Emerging Waste Conversion Technologies.* Prepared for U.S. Environmental Protection Agency, Office of Research and Development. EPA 600/R–12/705. October 2012. *https://cfpub.epa.gov/si/si_public_record_report.cfm?Lab=NRMRL&dirEntryId=305250.*

hydrocarbon bonds of the incoming feed materials and may generate tars, oils, particulate matter, reduced sulfur and nitrogen compounds, and hazardous air pollutants (HAPs) including polycyclic aromatic hydrocarbons (PAHs).

2. Gasification Units

Gasification is a process of converting feed materials (primarily carbonaceous) into syngas (carbon monoxide and hydrogen) and carbon dioxide. The materials are gasified when they react with controlled amounts of oxygen or steam at high temperatures (greater than 700 °C). Oxygen (as air, concentrated oxygen, or steam) is added in small amounts to maintain a reducing (*i.e.,* oxidation or combustion-preventing) atmosphere, where the quantity of oxygen available is less than the stoichiometric ratio (*i.e.,* amount needed for complete combustion of the feed material). The process of gasification has endothermic and exothermic [10] phases, but overall is an exothermic process and requires an external heat source, such as syngas combustion, char combustion, or steam. Gasifiers have a wide variety of types and designs, but there are four major classifications: (1) Updraft fixed bed gasifier, (2) downdraft fixed bed gasifier, (3) bubbling fluidized bed gasifier, and (4) circulating fluidized bed gasifier.[11] In updraft gasifiers, which are the oldest designs, feed materials enter from the top of the gasifier and oxygen and/or steam are injected at the bottom; this is referred to as counterflow gasification. Updraft gasification can reach temperatures above 1,200 °C. Downdraft gasifiers generally are configured like updraft gasifiers, but rely on co-current flow, and feed materials and reactants (oxygen and steam) flow in the same direction within the reactor.[12] Like updraft gasification, downdraft gasification can reach high temperatures. Bubbling fluidized bed gasifiers mainly are used to convert materials to syngas. These units typically contain a bed made with inert particles of sand or alumina interspersed with several air or steam nozzles on the reactor floor. Oxygen and/or steam are injected through the nozzles into the bed and create bubbles as they move through the feed materials, leading to more uniform heat distribution throughout the reactor and a higher conversion rate from feed materials to syngas.[13] Circulating fluidized bed gasifiers are in many ways very similar to bubbling fluidized bed gasifiers but are capable of higher gas velocities and throughput by capturing and recirculating the bed medium. These gasifiers may lead to faster reaction and a higher conversion rate.

Syngas, the primary product of gasification, is a fuel and can be burned in boilers, gas engines, or turbines. It can also be used as a chemical feedstock to produce other, more complex chemicals or hydrocarbon fuels. Often, a gasification agent such as steam is added to enhance the fuel value of syngas because steam reacts with carbon monoxide to produce additional hydrogen. Hydrogen may be used as a feedstock or used in fuel cells or hydrogen turbines. Additionally, gasification facilities may use a process, knowns as the Fischer-Tropsch process, where syngas converts, in the presence of metal catalysts at 150–300 °C and high pressures, into liquid hydrocarbon fuel.

B. What is the regulatory background for pyrolysis and gasification units?

As noted previously, there is some difference in the treatment of pyrolysis units among the EPA's existing CAA section 129 rules. CAA section 129 relates to standards for various categories of solid waste incineration units. Some of the EPA's CAA section 129 rules do not mention pyrolysis or gasification at all, while others contain specific language applicable to certain types of units or processes. The rules for MWC, for example, generally define municipal waste combustion units (or municipal waste combustor units) to include ''pyrolysis/combustion units'' (see, *e.g.,* 40 CFR 60.51a; 40 CFR 60.1465) but exempt such units that are integrated parts of a ''plastics/rubber recycling unit'' under certain circumstances. (see, *e.g.,* 40 CFR 60.50a(k); 40 CFR 60.1020(h)). With some difference in language, these rules essentially define ''pyrolysis/combustion units'' as units that produce gases, liquids, or solids through the heating of MSW, and the gases, liquids, or solids produced are combusted and emissions vented to the atmosphere (see, *e.g.,* 40 CFR 60.51a and 60.1465).

The HMIWI rules, by contrast, define pyrolysis to mean the endothermic gasification of hospital waste and/or medical/infectious waste using external energy (see, *e.g.,* 40 CFR 60.51c) and provide that pyrolysis units are not subject to the HMIWI rules (see, *e.g.,* 40 CFR 60.50c(f)). The EPA discussed pyrolysis in a June 20, 1996, proposal relating to the HMIWI standards (61 FR 31736). In the September 15, 1997, final rule (62 FR 48348), the EPA deferred development of standards for pyrolysis units and determined that the HMIWI standards were not appropriate for pyrolysis units. In discussing pyrolysis, the EPA stated, ''Pyrolysis technology is different from conventional incineration. Because air is generally not used in the pyrolysis treatment process, the volume of exhaust gas produced from pyrolysis treatment is likely to be far less than the volume of gas produced from the burning of waste in an HMIWI. Although conventional combustion does not occur during pyrolysis treatment, there are some emissions from the pyrolysis process. (62 FR 48358).'' The EPA also noted difficulties with attempting to modify the HMIWI regulations to apply to pyrolysis units; asserted that sufficient information was not available ''to develop a separate and uniform regulation for pyrolysis;'' and noted that ''EPA may consider these devices in future regulatory development'' Id. at 48359.

The Agency also notes that there is no definition of ''pyrolysis/combustion units'' in the NSPS and EG for CISWI units and SSI units, and no definition of gasification units in any of the NSPS and EG discussed in this section.

The current rules for OSWI units define ''municipal waste combustion unit'' to include ''pyrolysis/combustion units'' (without defining ''pyrolysis/combustion'' units (see, *e.g.,* 40 CFR 60.2977). On August 31, 2020, the EPA published a proposed rule in the **Federal Register** for the OSWI standards that, in part, proposed to remove ''pyrolysis/combustion units'' from the definition of ''municipal waste combustion unit.'' In that proposal preamble, the EPA stated that the term ''pyrolysis/combustion units'' is not defined in the current regulation and there is no similar specific reference to such units in the institutional waste incineration unit definition (85 FR 54178, 54187). The Agency also noted that the definition of ''solid waste'' in the OSWI rules included ''contained gaseous material'' (defined as gases that are in a container when that container is combusted) resulting from certain activities and asserted that the combustion of uncontained gases in pyrolysis/combustion units is inconsistent with such definition. *Id.* The EPA also added that ''unlike combustion, the pyrolysis process is endothermic and does not require the

[10] Exothermic is a process where heat is produced by a chemical reaction, thus resulting in elevated temperature.

[11] *Benchmarking Biomass Gasification Technologies for Fuels, Chemicals and Hydrogen Production,* Prepared for U.S. Department of Energy, National Energy for Technology Laboratory, by Jared P. Ciferno and John J. Marano, 2002.

[12] *Ibid.*

[13] *Ibid.*

addition of oxygen (*i.e.,* the partial pressure of oxygen during a pyrolysis process is maintained close to zero). Based on this understanding, the Agency recognizes that the pyrolysis process, by itself, is not combustion'' *Id.* The EPA received adverse comment [14] on the proposed change to the definition of ''municipal waste combustion unit'' on the basis that pyrolysis should be considered solid waste combustion and regulated under the OSWI rule. In addition, the Agency received a comment that the OSWI category should also cover other combustion technologies not already regulated as municipal waste combustors, medical waste incinerators, or commercial and industrial solid waste incinerators under sections 111 and 129 of the CAA, such as pyrolysis and gasification technologies.

The EPA has not issued its final decision on the August 31, 2020, proposed rulemaking, but intends to do so after publication of this ANPRM.[15] As mentioned previously, the EPA will consider all information received through this ANPRM in determining if changes to the MWC, CISWI, OSWI, SSI, and HMIWI rules are appropriate, or whether development of other future regulations is necessary.

III. Small Business Considerations

The Small Business Regulatory Enforcement Fairness Act, signed into law on March 29, 1996, is an amendment to the Regulatory Flexibility Act of 1980 and adopts the Small Business Act's definition of ''small entity'' as defined in 5 U.S.C. 601, 15 U.S.C. 632, and Small Business Administration regulations.[16] This includes small businesses (typically 500 or 750 employees including all parent and subsidiary employees), small governmental jurisdictions (population of less than 50,000), and small organizations (*e.g.,* not-for-profit organizations) that are not dominant in their field. The definition of a ''small business'' is determined by a business's North American Industry Classification System (NAICS) code and annual receipts or number of employees. Table 2 presents the small business definition for source categories that are may be interested in this ANPRM.

TABLE 2—SMALL BUSINESS CLASSIFICATION FOR SOURCE CATEGORIES INTERESTED IN THIS ACTION

NAICS codes [1] [2]	NAICS industry description	Size standards in millions of dollars	Size standards in number of employees
114	Fishing, Hunting and Trapping	[3] 6–22	NA
211	Oil and Gas Extraction	NA	1,250
212	Mining except oil and gas	NA	[3] 250–1,500
221	Utilities	[4] 16.5–30	[3] 250–1,000
321	Wood Product Manufacturing	NA	[3] 250–1,250
322	Paper Manufacturing	NA	[3] 500–1,250
325	Chemical Manufacturing	NA	[3] 500–1,250
326	Plastics and Rubber Products Manufacturing	NA	[3] 500–1,500
327	Nonmetallic Mineral Product Manufacturing	NA	[3] 500–1,500
337	Furniture and Related Product Manufacturing	NA	[3] 500–1,000
486	Pipeline Transportation	[5] 30–40.5	[6] 1,500
541710	Research and Development	NA	NA
562213	Solid Waste Combustors and Incinerators	41.5	NA
6111	Elementary and Secondary Schools	12	NA
6112	Junior Colleges	22	NA
6113	Colleges, Universities, and Professional Schools	30	NA
622110	General Medical and Surgical Hospitals	41.5	NA
622310	Specialty Hospitals	41.5	NA
7121	Museums, Historical Sites and Similar Institutions	[3] 8–30	NA

[1] North American Industry Classification System.

[2] Small business size standards are not established for NAICS codes starting with 92 (Public administration). Establishments in the Public Administration Sector are Federal, state, and local government agencies that administer and oversee government programs and activities that are not performed by private establishments.

[3] Range represents the range of size standards for the more specific NAICS codes beyond the 3- or 4-digit codes shown, *e.g.,* 221117 (for biomass electric power generation) small business size standard is 250 employees, while 221310 (for natural gas distribution) small business size standard is 1,000 employees.

[4] Size standard in millions of dollars applies only to NAICS codes 221310, 221320, and 221330.

[5] Size standard in millions of dollars applies only to NAICS codes 486210 and 486990.

[6] Size standard in number of employees applies to NAICS codes 486110 and 486910.

The EPA is requesting comment and information to help assess the potential impact of regulating pyrolysis and gasification units on small businesses. This includes requesting information on the number of small businesses potentially impacted by regulating pyrolysis or gasification units; the source categories that contain these entities; any unique or disproportionate burden that these small businesses may face; and any suggestions for addressing the specific impacts on these sources. The EPA is also requesting suggestions for additional outreach opportunities to ensure that small businesses are aware of the potential action and its potential impact on their operations.

IV. Request for Data and Comments

Given that the United States is in the early stages in development of pyrolysis and gasification technologies, the EPA is soliciting real-world cost, design, process, and environmental information about these technologies, especially for those that have advanced beyond laboratory-scale or bench-scale research

[14] All comment letters associated with the August 31, 2020, proposal are contained in Docket ID No. EPA–HQ–OAR–2003–0156. For a complete history of the OSWI rule, refer to section I.B of the August 31, 2020, proposal preamble (85 FR 54178).

[15] The EPA currently is under a court order to sign a final OSWI rule by October 31, 2021. see *Sierra Club* v. *Wheeler, No. 1:16–cv–02461–TJK (D.D.C.).*

[16] *https://www.govinfo.gov/content/pkg/PLAW-104publ121/pdf/PLAW-104publ121.pdf.*

and development stages to operational pilot-scale plants or facilities that are already in commercial operation. The Agency identified several facilities that appear to be currently or should soon be operating in the United States that claim to use either the pyrolysis or gasification process to convert solid waste into char, syngas, and/or oil. Table 3 of this preamble lists the facility name, location, and a brief description of the feedstock and technology used at each of these facilities. This table may not be exhaustive, however, and is based on a search of the EPA's applicability determination index database,[17] a 2012 EPA report related to emerging waste conversion technologies,[18] internet searches, and various other information collected by the EPA.

TABLE 3—COMMERCIAL-SCALE OR PILOT-SCALE FACILITIES CURRENTLY OPERATING OR NEAR OPERATIONAL IN THE U.S. THAT USE EITHER PYROLYSIS OR GASIFICATION UNITS TO PRODUCE CHAR, SYNGAS, AND/OR OIL

Facility name	Location	Feedstock	Process description
Del-Tin Fiber LLC/Callidus Closed Loop Gasification System (CLGS).	El Dorado, AR	Bark and sander dust	Gasification.
Renew Phoenix	Phoenix, AZ	Mixed Plastics	Pyrolysis.
Aries-Holloway Bioenergy Facility	Lost Hills, CA	Biomass	Gasification.
Aemerge RedPak Services Southern California LLC.	Hesperia, CA	Medical Waste	Gasification.
Sierra Energy FastOx Gasification Biorefinery	Fort Hunter Liggett, Monterey County, CA.	Biomass and Waste	Gasification.
Synergy Solutions Crisp County	Cordele, GA	Biomass	Gasification.
Nexus Fuels, LLC	Atlanta, GA	Mixed Plastics	Pyrolysis.
Plastic Advanced Recycling Corporation (PARC).	Willowbrook, IL	Mixed Plastics	Pyrolysis.
Tradebe	East Chicago, IL	Organics-laden Solid Waste	Thermal Desorption Unit/Pyrolysis.
Brightmark/RES Polyflow	Ashley, IN	Mixed Plastics	Pyrolysis.
Coaltec—River View Farms (RVF)	Orleans, IN	Manure	Gasification.
Inez Power	Debord, KY	MSW	Gasification.
Thermaldyne	Port Allen, LA	Organics-laden Solid Waste	Thermal Desorption Unit/Pyrolysis.
Aries Taunton Biosolids Gasification Facility	Taunton, MA	Biosolids	Gasification.
InEnTec Dow Corning Corporation Midland	Midland, MI	Chlorosilane Industrial Waste	Gasification.
Ecoremedy—Hampton Alternative Energy Products.	Triplett, MO	Manure	Gasification.
Coaltec—Mead, NE	Mead, NE	Wet Distiller's Grain	Gasification.
Aries Linden Biosolids Gasification Facility	Linden, NJ	Biosolids	Gasification.
Aries Newark Bio-Fly-Ash Manufacturing Plant	Newark, NJ	Biosolids	Gasification.
Monarch Waste Technologies	Santa Fe, NM	Hospital/Medical/Infectious Waste.	Pyrolysis.
Fulcrum Bioenergy—Sierra BioFuels Plant	Storey County, NV	Prepared MSW	Gasification.
JBI/Plastic2Oil	Niagara Falls, NY	Mixed Plastics	Pyrolysis.
Lockheed Martin/Concord Blue—RMS facility	Owego, NY	Biomass and MSW	Gasification.
Alterra Energy (formerly Vadxx Energy)	Akron, OH	Mixed Plastics	Pyrolysis.
Intrinergy Coshocton LLC	Coshocton, OH	Biomass	Gasification.
Covanta Tulsa Cleergas Demonstration Plant	Tulsa, OK	MSW	Gasification.
Agilyx	Tigard, OR	Mixed Plastics	Pyrolysis.
InEnTec Columbia Ridge	Arlington, OR	MSW, Industrial Byproducts, Medical Waste.	Gasification.
Chemical Waste Management	Arlington, OR	Organics-laden Solid Waste	Thermal Desorption Unit/Pyrolysis.
Continental Energy Associates	Hazleton, PA	Anthracite coal refuse (culm)	Gasification.
Ecoremedy—Morrisville Municipal Authority	Morrisville, PA	Biosolids	Gasification.
Ecoremedy—Flintrock Farms	Central PA	Chicken Litter	Gasification.
Norbord South Carolina, Inc	Kinards, SC	Wood	Gasification.
Climax Global Energy	Allendale, SC	Mixed Plastics	Pyrolysis.
Lebanon Gasification Initiative	Lebanon, TN	Waste wood, tires and biosolids.	Gasification.
Carbon Black Global LLC	Dunlop, TN	Wood	Gasification.
TDX/US Ecology	Robstown, TX	Petroleum and Petrochemical Wastes.	Thermal Desorption Unit/Pyrolysis.
Clean Harbors	San Leon, TX	Organics-laden Solid Waste	Thermal Desorption Unit/Pyrolysis.
Renewlogy Salt Lake City	Salt Lake City, UT	Mixed Plastics	Pyrolysis.
Coaltec—Frye Poultry	Wardensville, WV	Chicken Litter	Gasification.

The EPA is also aware of numerous additional pyrolysis or gasification units that are currently operating under development or testing phases in the United States. However, the Agency requests comment on whether Table 3 of

[17] See *https://cfpub.epa.gov/adi/.*

[18] See ''*State of Practice for Emerging Waste Conversion Technologies*'' dated October 2012, EPA 600/R–12/705 at: *https://cfpub.epa.gov/si/si_public_record_report.cfm?Lab=NRMRL&dirEntryId=305250.*

this preamble accurately represents the full array of commercial-scale or pilot-scale facilities in the United States that are currently operating and claim to use either pyrolysis and gasification units to convert solid and semi-solid materials, such as waste, biomass, plastics, tires, and organic contaminants in soils and oily sludges, to useful products such as fuels and chemical commodities. The EPA also requests comment on whether the information provided in section II.A of this preamble appropriately captures the universe of pyrolysis and gasification units, and, if not, the Agency requests information on other types of pyrolysis and gasification units or other types of non-combustion units, such as thermal desorption units that process solid waste under pyrolytic conditions to recover oil or other marketable products, that may not be addressed in section II.A of this preamble or may be currently under development or testing phases in the United States.

As more pilot and commercial-scale facilities that use pyrolysis or gasification technologies are built and begin to operate in the United States, there is a growing interest in the general need to determine whether these conversion technologies should be regulated under CAA section 129 as part of a category (or subcategory) of solid waste incineration unit, or as a specific source category under other provisions of the CAA, including under CAA sections 111 or 112.[19] The Agency is seeking the following information for any pilot or commercial-scale U.S. facility that claims to use a pyrolysis or gasification technology:

- Construction date;
- Startup date;
- Physical address (*e.g.,* state and city);
- Brief description of the technology including the primary purpose of the technology (*e.g.,* to convert MSW into syngas) and how the products (thermal energy, tar, char) are utilized;
- Design type (*e.g.,* indirect heated gasifier or pyrolysis chamber in combination with a thermal oxidizer);
- Additional process equipment (*e.g.,* feed dryer);
- Description of process parameters for the pyrolysis or gasifier chamber which are monitored to ensure proper operation (such as temperature, residence time in reactor, etc.);
- Air pollution control devices or other abatement/upgrade systems and description of operating parameters which are monitored to ensure proper operation;
- Process flow diagram identifying all emission release points to the atmosphere for the facility with or without air pollution or abatement control;
- Air emissions data related to:
  - Emissions from the pyrolysis or gasification chamber(s);
  - Emissions from downstream combustion devices (*e.g.,* thermal oxidizer) where gases produced by the pyrolysis or gasification unit are combusted; [20]
- All applicable state and local air regulations specific to the pyrolysis or gasification unit;
- Feedstock composition (*e.g.,* plastics, tires, MSW);
- Facility design capacity (*e.g.,* tons of feedstock per day);
- Mode of operation (*e.g.,* batch or continuous);
- Heat recovery, if any (*e.g.,* feed dryer);
- Operating hours per day and number of operating days per year;
- Nature of operation (*e.g.,* commercial or research and development);
- Plant energy conversion efficiency (*i.e.,* percentage of feedstock energy value that is transformed to and contained in the end product);
- Recovery of materials for recycling, if applicable;
- Beneficial offsets (compared to disposal of feedstock or avoided fossil-fuel or petrochemical use or emissions) for different end product alternatives;
- Distance to market for liquid or gaseous fuels;
- Market prices for energy products; and
- Market prices for recyclable and other byproduct streams.

The EPA reviewed air permits for six of the facilities identified in Table 3 of this preamble. Unfortunately, the air permit review did not result in obtaining the types of information that was requested in this ANPRM.

The EPA is in the process of preparing a detailed questionnaire to obtain the information described above as well as additional process and operating information. The EPA intends to distribute this questionnaire in the form of a CAA section 114 request to entities that will likely include a mixture of vendors of pyrolysis and gasification units, owners of demonstration or pilot-scale plants, and owners of commercial-scale facilities. The first draft of the questionnaire can be found in Docket ID No. EPA–HQ–OAR–2021–0382. The EPA is soliciting comments on additional information or revisions that need to be incorporated in the questionnaire.

V. Statutory and Executive Order Reviews

Under Executive Order 12866, titled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

Because this action does not propose or impose any requirements and instead seeks comments and suggestions for the Agency to consider in possibly developing a subsequent proposed rule, the various statutes and Executive Orders that normally apply to rulemaking do not apply in this case. Applicable statutes and Executive Orders will be addressed once the Agency develops the proposed and final rulemakings.

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

Michael S. Regan,

Administrator.

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BILLING CODE 6560–50–P

[19] CAA section 111 generally relates to standards for source categories that cause or contribute to air pollution that may endanger public health or welfare and CAA 112 generally relates to standards for major and area sources of listed hazardous air pollutants.

[20] According to a 2019 report issued by the U.S. Department of Energy, a major challenge associated with gasification of the MSW is the prevalence of nitrogen and sulfur in the syngas that is produced. The presence of these substances requires cleanup and/or removal if the syngas is to be used in power generation units or catalytic processes to make fuels and co-products. See ''*Waste-to-Energy from Municipal Solid Wastes,*'' dated August 2019 at: *https://www.energy.gov/sites/prod/files/2019/08/f66/BETO--Waste-to-Energy-Report-August--2019.pdf.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 210830–0172]

RIN 0648–BJ87

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Lighthouse Repair and Tour Operations at Northwest Seal Rock, California

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS has received a request from the St. George Reef Lighthouse Preservation Society (Society) for authorization to take marine mammals over the course of 5 years (2021–2026) incidental to conducting aircraft operations, lighthouse renovation, light maintenance activities, and tour operations on the St. George Reef Lighthouse Station (Station) on Northwest Seal Rock (NWSR). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is proposing regulations to govern that take, and requests comments on the proposed regulations. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notification of our decision.

DATES: Comments and information must be received no later than October 8, 2021.

ADDRESSES: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2021–0079 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

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

FOR FURTHER INFORMATION CONTACT: Dwayne Meadows, Ph.D., 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:

Availability

A copy of the Society's application and any 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 (see **FOR FURTHER INFORMATION CONTACT**).

Purpose and Need for Regulatory Action

This proposed rule would establish a framework under the authority of the MMPA (16 U.S.C. 1361 *et seq.*) to allow for the authorization of take of marine mammals incidental to the Society conducting aircraft operations, lighthouse renovation, light maintenance activities, and tour operations on the Station on NWSR approximately 8 miles (12.9 km) northwest of Crescent City, CA.

We received an application from the Society requesting 5-year regulations and authorization to take multiple species of marine mammals. Take would occur by Level B harassment incidental to acoustic and visual disturbance of pinnipeds during helicopter operations, lighthouse repair, and tour operations. Please see Background section below for definitions of harassment.

Legal Authority for the Proposed Action

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region for up to 5 years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity and other means of effecting the ''least practicable adverse impact'' on the affected species or stocks and their habitat (see the discussion below in the Proposed Mitigation section), as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart I provide the legal basis for issuing this proposed rule containing 5-year regulations, and for any subsequent Letters of Authorization (LOAs). As directed by this legal authority, this proposed rule contains mitigation, monitoring, and reporting requirements.

Summary of Major Provisions Within the Proposed Rule

Following is a summary of the major provisions of this proposed rule regarding the Society's activities. These measures include:

- Required implementation of mitigation to minimize impact to pinnipeds and avoid disruption to dependent pups including several measures to approach haulouts cautiously to minimize disturbance, especially when pups are present.
- Required monitoring of the project areas to detect the presence of marine mammals before initiating work.

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) 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, regulations are issued, and notice is provided to the public.

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.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 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.

The MMPA states that the term ''take'' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, 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).

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 a proposed rule and subsequent LOAs) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed rule qualifies to be categorically excluded from further NEPA review.

Information in the Society's application and this notification collectively provide the environmental information related to proposed issuance of these regulations and subsequent incidental take authorization for public review and comment. We will review all comments submitted in response to this notification prior to concluding our NEPA process or making a final decision on the request.

Summary of Request

On March 23, 2020, NMFS received a request from the Society for a proposed rule and LOAs to take marine mammals incidental to lighthouse maintenance and preservation activities at NWSR, offshore of Crescent City, CA. The application was deemed adequate and complete on April 16, 2020. The Society's request is for take of a small number of California sea lions (*Zalophus californianus*), harbor seals (*Phoca vitulina*), Steller sea lions (*Eumetopias jubatus*), and northern fur seals (*Callorhinus ursinus*) by Level B harassment only. Neither the Society nor NMFS expects serious injury or mortality to result from this activity. On June 9, 2020 (85 FR 35268), we published a notice of receipt of the Coast Guard's application in the **Federal Register**, requesting comments and information related to the request for 30 days. We received no comments.

NMFS previously issued nine 1-year Incidental Harassment Authorizations (IHAs) for similar work (75 FR 4774, January 29, 2010; 76 FR 10564, February 25, 2011; 77 FR 8811, February 15, 2012; 78 FR 71576, November 29, 2013; 79 FR 6179, February 3, 2014; 81 FR 9440, February 25, 2016; 82 FR 11005, February 17, 2017; 83 FR 19254, May 2, 2018; and 84 FR 15598, April 16, 2019). Generally speaking, the Society complied with the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHAs. However, misunderstandings in past implementation have resulted in missing or incorrectly recorded monitoring data, which necessitates more frequent reporting in the first year (at least) of this rule to ensure appropriate monitoring and reporting implementation in the future. Information regarding their monitoring results may be found in the Potential Effects of Specified Activities on Marine Mammals and their Habitat and Estimated Take sections.

Description of Proposed Activity

Overview

The St. George Reef Lighthouse Station was built on NWSR in 1892 and is listed in the National Register of Historic Places. Covering much of the islet's surface, the structure consists of a 14.5 meter (m) high (48 foot (ft)) oval-shaped concrete base (the caisson) that holds much of the equipment and infrastructure for the lighthouse tower, which sits on the top of one end of the base. The square tower consists of hundreds of granite blocks topped with a cast iron lantern room reaching 45.7 m (150 ft) above sea level. An observation gallery platform surrounds the lantern room and provides a 360 degree view to the caisson and rocks below.

The purpose of the project is to conduct annual maintenance of the Station's optical light system, emergency maintenance in the event of equipment failure, restoration activities, and lighthouse tours. Because NWSR has no safe landing area for boats, the Society accesses the Station via helicopter. Restoration work sessions can occur over 3-day weekends or longer one to two week sessions. The following specific aspects of the proposed activities would likely result in the take of marine mammals: Acoustic and visual stimuli from (1) helicopter landings and takeoffs; (2) noise generated during restoration activities (*e.g.,* painting, plastering, welding, and glazing); (3) maintenance activities (*e.g.,* bulb replacement and automation of the light system); and (4) human presence. Thus, NMFS anticipates these activities may occasionally cause behavioral disturbance (*i.e.,* Level B harassment) of four pinniped species. It is expected that the disturbance to pinnipeds from the activities will be minimal and will be limited to Level B harassment.

The regulations proposed here (and any issued LOAs) would replace annual IHAs, providing a reduction in the time and effort necessary to obtain individual incidental take authorizations.

Dates and Duration

The Society proposes to conduct the activities (aircraft operations, lighthouse restoration and maintenance activities, and public tours) with a maximum of 70 helicopter flight days per year. The Society's deed restricts normal access from June 1 through October 15 annually, so currently proposed trips under this application would occur from October 16 through May 31. However, the Society is attempting to have the deed revised to allow visits at any time of the year. Therefore we will consider the implications of possible visits during any month of the year in our analyses below and we could issue LOAs to cover this time of year should the society be successful in revising their deed. The proposed regulations would be valid for a period of 5 years (January 1, 2022–December 31, 2026). Over the course of this 5-year authorization, the Society proposes a maximum of 350 days of activities.

Specific Geographic Region

The Station is located on NWSR (Figure 1), a small, rocky islet (41°50′24″ N, 124°22′06″ W), approximately 9

kilometers (km) (6.0 miles (mi)) offshore of Crescent City, California (41°46′48″ N; 124°14′11″ W). NWSR is approximately 91.4 meters (m) (300 feet (ft)) in diameter and peaks at 5.18 m (17 ft) above mean sea level.

Detailed Description of Specific Activity

Lighthouse Restoration Activities

Restoration and maintenance activities would involve the removal and restoration of interior plaster and paint, refurbishing structural and decorative metal, reworking original metal support beams throughout the lantern room and elsewhere, replacing glass as necessary, upgrading the present electrical system; and annual or biannual light beacon maintenance. The Society proposes to transport no more than 12 work crew members (requiring up to four round-trip flights) and equipment to NWSR for each restoration work session. Traditional work sessions in the past have been over 3-day long weekends. The Society now proposes to add occasional longer one to two week work sessions to address additional restoration needs.

Public Tours

The Society began conducting public tours to the lighthouse by helicopter in 1998 in conjunction with restoration activities and proposes to conduct public tours at the Station on one day of a traditional 3-day work session and on one to two weekend days of the longer work trips. The maximum number of expected tourists is 36 people per tour day.

Light Maintenance

As required by the United States Coast Guard, in order to maintain St. George Reef Lighthouse as a Private Aid to Navigation, the Society needs to conduct maintenance of the light. Normally this would occur in conjunction with a longer restoration work session. However, if the beacon light fails, the Society proposes to send a crew of two to three people to the Station by helicopter as soon as possible to repair the beacon light. Each repair event requires a 1-day trip to the Station.

The Society's deed currently limits visits between June 1 and October 15 of each year, but does permit limited emergency light repair trips to the station during that time. Should the Society be successful in eliminating the deed restriction on visitation dates, no light maintenance trips would be considered ''emergency''.

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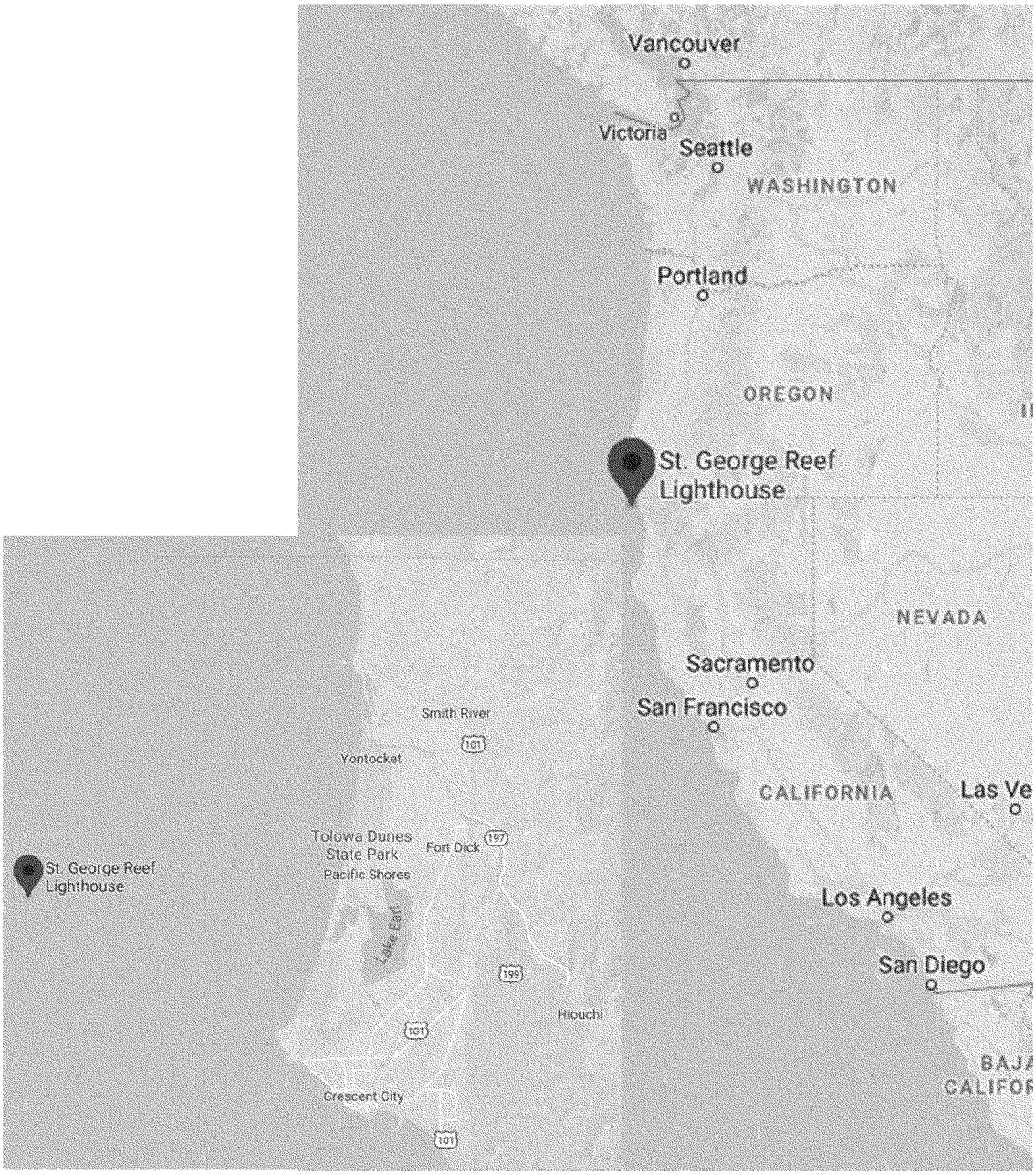
Figure 1. Location of the St. George Reef Lighthouse



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Aircraft Operations

Because NWSR has no safe landing area for boats, the proposed restoration, maintenance, and touring activities require the Society to transport work personnel, equipment, and tourists from the California mainland to NWSR by small helicopter. Helicopter landings take place adjacent to the tower on top of the oval base caisson. The landing area is small, so only small helicopters can be accommodated. The helicopter seats four passengers and one pilot and can also carry cargo in a net below the helicopter.

The number of flights per day varies by activity (restoration, tours, or light maintenance). We count each arrival and departure flight separately. For traditional 3-day restoration work sessions the 12 work crew members are transported to the Station on the morning of the first day (typically a Friday). The first flight would depart from Crescent City Airport no earlier than 8:30 a.m. for a 6-minute flight to Northwest Seal Rock. The helicopter would land and take-off immediately after offloading personnel and equipment every 20 minutes. To transport all 12 people and gear requires 4 departures and 4 arrivals on the first day for a total of 8 flights. The total duration of the first day's aerial operations would last for approximately 4 hours (hrs) and would end at approximately 12:30 p.m. Crew members would remain overnight at the Station and would not return to the mainland until the third day.

For the second day, the Society may conduct a maximum of four flights (two arrivals and two departures) to transport additional materials, if needed. The total duration of the second day's aerial

operations could last up to 3 hrs. Second-day operations are only conducted if needed; flights on the second day do not always occur.

For the final day of operations, the Society could conduct a maximum of eight flights (four arrivals and four departures) to transport the crew members and equipment/material back to the Crescent City Airport. The total duration of the third day's helicopter operations could last up to 2 hrs. Thus the total number of flights for restoration work on a 3 day trip is 20 (*i.e.,* 8 Friday, 4 Saturday, 8 Sunday). The Society proposes no more than 14 3-day work sessions per year.

The number of flights and days of flights on a one to two week restoration trip would be similar to a 3 day trip. That is eight flights on the first and last days of the trip plus four flights potentially on 1 day in the middle of the trip as needed. The Society is proposing no more than eight long trips per year. To date no more than three trips per year have ever been conducted. The Society would have no more than two restoration work trips per month.

On a 3-day restoration trip tours may occur on the last day. The tours would be scheduled on a weekend day on the beginning and or the end of the work party for the one to two week duration restoration trips. Additional flights would be conducted solely for the transport of tourists to and from the Lighthouse; those flights would be conducted in the later hours of the morning and early afternoon. The maximum number of expected tourists is 36 people per tour day. Thus the number of helicopter flights needed for tourists is 18 (9 arrivals and 9 departures). It is expected that each flight would land every 15–20 minutes. The scheduled duration of each visit is one hour per tour group (each tour group is one helicopter load of people). The last tour group would leave the island before 2 p.m. The total number of helicopter flights on a tour day is thus no more than 26 (18 for tourists, 8 for work crew members).

Light maintenance is expected to take no longer than 3 hours and one crew of two-three people. Only one-two helicopter landings at the Lighthouse are anticipated to ferry the crew an equipment to service the light. Thus a light maintenance trip requires a maximum of four flights on one day.

Most if not all of the disturbance from the Society's activity occurs on the flight days. When helicopters are not at the Station work crews remain inside or on the platform far above the marine mammals on the rocks below. Thus the number of flight days represents the general extent of the disturbance from these activities. The society proposes no more than 70 days of flight operations per year (4 for regular or emergency light maintenance trips and 66 for work restoration trips (with additional flights, but not days of flight activity on no more than 30 tour days).

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 1 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 the Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2020). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS'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. Pacific Marine Mammal SARs (*e.g.,* Carretta *et al.* 2020). All values presented in Table 1 are the most recent available at the time of publication and are available in the 2019 SARs (Carretta *et al.* 2020) and draft 2020 SARs (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

TABLE 1—SPECIES THAT SPATIALLY CO-OCCUR WITH THE ACTIVITY TO THE DEGREE THAT TAKE IS REASONABLY LIKELY TO OCCUR

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions)						
California sea lion	*Zalophus californianus*	U.S	-, -, N	257,606 (N/A, 233,515, 2014).	14,011	>320
Northern fur seal	*Callorhinus ursinus*	California Breeding	-, D, N	14,050 (N/A, 7,524, 2013).	451	1.8
Steller sea lion	*Eumetopias jubatus*	Eastern U.S	-, -, N	43,201 a (see SAR, 43,201, 2017).	2,592	113
Family Phocidae (earless seals)						

TABLE 1—SPECIES THAT SPATIALLY CO-OCCUR WITH THE ACTIVITY TO THE DEGREE THAT TAKE IS REASONABLY LIKELY TO OCCUR—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Pacific harbor seal	*Phoca vitulina richardii*	California	-, -, N	30,968 (N/A, 27,348, 2012).	1,641	43

[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/draft-marine-mammal-stock-assessment-reports*, CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual Mortality/Serious Injury (M/SI) often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

As indicated above, all four species (with four managed stocks) in Table 1 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have proposed authorizing it. All species that could potentially occur in the proposed survey areas are included in Table 1.

California Sea Lion

California sea lions occur from Vancouver Island, British Columbia, to the southern tip of Baja California. Sea lions breed on the offshore islands of southern and central California from May through July (Heath and Perrin, 2008). During the non-breeding season, adult and subadult males and juveniles migrate northward along the coast to central and northern California, Oregon, Washington, and Vancouver Island (Jefferson *et al.,* 1993). They return south the following spring (Heath and Perrin 2008, Lowry and Forney 2005). Females and some juveniles tend to remain closer to rookeries (Antonelis *et al.,* 1990; Melin *et al.,* 2008). Adult females generally remain south of Monterey Bay, California throughout the year, feeding in coastal waters in the summer and offshore waters in the winter, alternating between foraging and nursing their pups on shore until the next pupping/breeding season (Melin and DeLong, 2000; Melin *et al.,* 2008). In warm water years (El Niño), some females range as far north as Washington and Oregon, presumably following prey. The current maximum population growth rate for California sea lions is 12 percent (Carretta *et al.,* 2019).

Crescent Coastal Research (CCR) conducted a 3-year survey of the wildlife species on NWSR for the Society. They reported that counts of California sea lions on NWSR varied greatly (from 6 to 541) during the observation period from April 1997 through July 2000. CCR reported that counts for California sea lions during the spring (April–May), summer (June–August), and fall (September–October), averaged 60, 154, and 235, respectively (CCR 2001). NMFS Southwest Fisheries Science Center (SWFSC) conducted 14 annual marine mammal surveys over 19 years (1998 to 2017) at St. George Reef. California sea lions were last documented at NWSR in July of 2003 (11) (unpublished data, Beth Jaime, NMFS SWFSC, pers. comm., 2020).

Northern Fur Seal

Northern fur seals occur from southern California north to the Bering Sea and west to the Sea of Okhotsk and Honshu Island of Japan. NMFS recognizes two separate stocks of northern fur seals within U.S. waters: An Eastern Pacific stock distributed among sites in Alaska, British Columbia, and islets along the west coast of U.S. waters (*i.e.,* St. Paul, St. George, and Bogoslof); and a California stock (including San Miguel Island and the Farallon Islands) (Muto *et al.,* 2018).

Northern fur seals breed in Alaska and migrate along the west coast during fall and winter. Due to their pelagic habitat, they are rarely seen from shore in the continental United States, but individuals occasionally come ashore on islands well offshore (*i.e.,* Farallon Islands and Channel Islands in California). During the breeding season, approximately 45 percent of the worldwide population inhabits the Pribilof Islands in the Southern Bering Sea, with the remaining animals spread throughout the North Pacific Ocean (Caretta *et al.,* 2015).

Northern fur seals have not been observed during the NMFS SWFSC's marine mammal surveys of St. George Reef from 1998 to 2017 (Beth Jaime, NMFS, pers. comm., 2020). However, CCR observed one male northern fur seal on Northwest Seal Rock in October, 1998 (CCR 2001). It is possible that a few animals may use the island more often than indicated by the surveys, if they were mistaken for other otariid species (*i.e.,* eared seals or fur seals and sea lions) (M. DeAngelis, NMFS, pers. comm., 2007).

Steller Sea Lions

Steller sea lions range extends from the North Pacific Rim from northern Japan to California with areas of abundance in the Gulf of Alaska and Aleutian Islands (Muto *et al.,* 2019). Steller sea lions consist of two distinct stocks: The western and eastern stocks divided at 144° West longitude (Cape Suckling, Alaska). The western stock of Steller sea lions inhabit central and western Gulf of Alaska, Aleutian Islands, as well as coastal waters and breed in Asia (*e.g.,* Japan and Russia). The eastern stock includes sea lions living in southeast Alaska, British Columbia, California, Oregon, and Washington and is the only one in the project area. The stock was delisted under the ESA in 2013.

The species is not known to migrate, but individuals, especially juveniles and adult males, disperse widely outside of the breeding season (late May through early August), thus potentially intermixing eastern and western stocks (Muto *et al.,* 2018). Steller sea lions give birth in May through July and breeding commences a couple of weeks after birth. Pups are weaned during the winter and spring of the following year.

A northward shift in the overall breeding distribution has occurred, with a contraction of the range in southern California and new rookeries established in southeastern Alaska (Pitcher *et al.,* 2007). Overall, counts of pups in California, Oregon, British Columbia, and Southeast Alaska, as well as counts of non-pups in the same regions plus Washington has increased steadily since the 1980s. Stock increase has been attributed to escalation of pup counts in all regions (NMFS 2013).

Steller sea lion numbers at NWSR ranged from 20 to 355 animals between 1997 and 2000 (CCR 2001). Counts of

Steller sea lions during the spring (April–May), summer (June–August), and fall (September–October), averaged 68, 110, and 56, respectively (CCR 2001). A multi-year survey at NWSR between 2000 and 2004 showed Steller sea lion numbers ranging from 175 to 354 in July (M. Lowry, NMFS/SWFSC, unpubl. data). The SWFSC surveys document a consistent presence of Steller sea lions at NWSR in 11 out of 14 of yearly surveys between 1998 and 2017 with an average of 240 individuals (Beth Jaime, NMFS, pers. comm., 2020). The largest presence of Steller sea lions at St. George Reef is found on Southwest Seal Rock, approximately 6 km (3.7 miles) from NWSR, with an average of 915 individuals observed among the SWFSC surveys (unpublished data, Beth Jaime, NMFS/SWFSC, pers. comm., 2020). Southwest Seal Rock is a rookery that has contained up to 450 pups (Wright *et al.* 2017). Adults with pups are known to relocate from there to NWSR in the fall. (CCR 2001). Winter use of NWSR by Steller sea lions is thought to be minimal, due to inundation of the natural portion of the island by large swells.

Pacific Harbor Seal

Harbor seals are widely distributed in the North Atlantic and North Pacific. *Phoca vitulina richardii* inhabits coastal and estuarine areas from Mexico to Alaska (Carretta *et al.,* 2020) and is the only stock present in the action area.

In California, over 500 harbor seal haulout sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Lowry *et al.,* 2005). Harbor seals mate at sea and females give birth during the spring and summer, although, the pupping season varies with latitude. Females nurse their pups for an average of 24 days and pups are ready to swim minutes after being born. Harbor seal pupping takes place at many locations and rookery size varies from a few pups to many hundreds of pups. The nearest harbor seal rookery relative to the proposed project site is at Castle Rock National Wildlife Refuge, located approximately located 965 m (0.6 mi) south of Point St. George, and 2.4 km (1.5 mi) north of the Crescent City Harbor in Del Norte County, California (US Fish and Wildlife Service (USFWS) 2007).

CCR noted that harbor seal use of NWSR was minimal, with only one sighting of a group of six animals, during 20 observation surveys from 1997 through 2000 (CCR 2001). They hypothesized that harbor seals may avoid the islet because of its distance from shore, relatively steep topography, and full exposure to rough and frequently turbulent sea swells. The SWFSC surveys did not record harbor seals at NWSR (unpublished data, Beth Jaime, NMFS/SWFSC, pers. comm., 2020).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The Estimated Take section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Acoustic and visual stimuli generated by: (1) Helicopter landings/takeoffs; (2) restoration activities (*e.g.,* painting, plastering, welding, and glazing); (3) maintenance activities (*e.g.,* bulb replacement and automation of the light system); and (4) human presence may have the potential to cause behavioral disturbance.

Noise

This section includes a brief explanation of the sound measurements frequently used in the discussions of acoustic effects in this proposed rule. Sound pressure is the sound force per unit area, and is usually measured in micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level (SPL) is the ratio of a measured sound pressure and a reference level. The commonly used reference pressure is 1 μPa for under water, and the units for SPLs are dB re: 1 μPa. The commonly used reference pressure is 20 μPa for in air, and the units for SPLs are dB: 20 μPa.

SPL (in decibels (dB)) = 20 log (pressure/reference pressure).

SPL is an instantaneous measurement expressed as the peak, the peak-peak, or the root mean square (rms). Root mean square is the square root of the arithmetic average of the squared instantaneous pressure values. All references to SPL in this document refer to the rms unless otherwise noted. SPL does not take into account the duration of a sound.

Noise testing on the helicopter that has been used by the Society, a Robinson R66, as required for Federal Aviation Administration (FAA) approval, required an overflight at 150 m (492 ft) above ground level, 109 knots (202 km/hr) and a maximum gross weight of 1,225 kg (2,700 lbs). The noise level measured on the ground at this distance and speed was 84.5 dB re: 20 μPa (A-weighted). FAA testing also measured the sound levels on the ground for a typical helicopter takeoff and approach as 87.8 dB re: 20 μPa (A-weighted) (Robinson 2017). Based on this information, we expect that the received sound levels at the landing area on the Station's caisson would be between 84.5 and 87.8 dB re: 20 μPa (A-weighted). These sound levels are below the NMFS behavioral threshold for airborne pinniped disturbance (90 dB for harbor seals and 100dB for all other pinnipeds) (NMFS 2016).

There is a dearth of information on acoustic effects of helicopter overflights on pinniped hearing and communication (Richardson, *et al.,* 1995) and to NMFS' knowledge, there has been no specific documentation of temporary threshold shift (TTS), let alone permanent threshold shift (PTS), in free-ranging pinnipeds exposed to helicopter operations during realistic field conditions (Baker *et al.,* 2012; Scheidat *et al.,* 2011).

The primary factor that may influence abrupt movements of animals is engine noise, specifically changes in engine noise. The physical presence of aircraft could also lead to non-auditory effects on marine mammals involving visual or other cues. Airborne sound from a low-flying helicopter or airplane may be heard by marine mammals while at the surface or underwater. Responses by mammals could include hasty dives or turns, change in course, or flushing and stampeding from a haulout site. There are few well documented studies of the impacts of aircraft overflight over pinniped haulout sites or rookeries, and many of those that exist, are specific to military activities (Efroymson *et al.,* 2001). In 2008, NMFS issued an IHA to the USFWS for the take of small numbers of Steller sea lions and Pacific harbor seals, incidental to rodent eradication activities on an islet offshore of Rat Island, AK conducted by helicopter. The 15-minute aerial treatment consisted of the helicopter slowly approaching the islet at an elevation of over 1,000 ft (304.8 m); gradually decreasing altitude in slow circles; and applying the rodenticide in a single pass and returning to Rat Island.

The gradual and deliberate approach to the islet resulted in the sea lions present initially becoming aware of the helicopter and calmly moving into the water. Further, the USFWS reported that all responses fell well within the range of Level B harassment (*i.e.,* limited, short-term displacement resulting from aircraft noise due to helicopter overflights).

Several factors complicate the analysis of long- and short-term effects for aircraft overflights. Information on behavioral effects of overflights by military aircraft (or component stressors) on most wildlife species is sparse. Moreover, models that relate behavioral changes to abundance or reproduction, and those that relate behavioral or hearing effects thresholds from one population to another are generally not available. In addition, the aggregation of sound frequencies, durations, and the view of the aircraft into a single exposure metric is not always the best predictor of effects and it may also be difficult to calculate. Overall, there has been no indication that single or occasional aircraft flying above pinnipeds in water cause long term displacement of these animals (Richardson *et al.,* 1995). The Lowest Observed Adverse Effects Level (LOAEL) for aircraft elevation disturbance are rather variable for pinnipeds on land, ranging from just over 150 m (492 ft) to about 2,000 m (6,562 ft) (Efroymson *et al.,* 2001). Bowles and Stewart (1980) estimated an LOAEL of 305 m (1,000 ft) for helicopters (low and landing) affecting California sea lions and harbor seals observed on San Miguel Island, CA; animals responded to some degree by moving within the haulout and entering into the water, stampeding into the water, or clearing the haul out completely. Both species always responded with the raising of their heads. California sea lions appeared to react more to the visual cue of the helicopter than the noise.

It is possible that the initial helicopter approach to NWSR would cause a subset of the marine mammals hauled out to react. CCR found a range of from 0 to 40 percent of all pinnipeds present on the island were temporarily displaced (flushed) due to initial helicopter landings in 1998. Their data suggested that the majority of these animals returned to the island once helicopter activities ceased, over a period of minutes to 2 hours (CCR, 2001). Far fewer animals flushed into the water on subsequent takeoffs and landings, suggesting rapid habituation to helicopter landing and departure (CCR, 2001; Guy Towers, Society, pers. comm.). CCR's data also showed that the number of pinnipeds that flush is low when takeoffs and landings occur less than 30 minutes apart, which is the case for all of the flights by the Society. Observations from monitoring to date for this work confirms the above pattern of partial flushing at initial landing and increasing habituation thereafter.

Any noise associated with restoration and maintenance activities is likely to be from light construction (*e.g.,* sanding, hammering, or use of hand drills). The Society will confine all restoration activities to inside the existing structure, which would occur mostly on the upper levels of the Station. Pinnipeds hauled out on NWSR do not have access to the upper levels of the Station and sound levels are not likely to exceed the thresholds.

Human Presence

The appearance of Society personnel may have the potential to cause Level B harassment of marine mammals hauled out on NWSR. Disturbance includes a variety of effects, from subtle to conspicuous changes in behavior, movement, and displacement. Disturbance may result in reactions ranging from an animal simply becoming alert to the presence of the Society's restoration personnel (*e.g.,* turning the head, assuming a more upright posture) to flushing from the haulout site into the water. NMFS does not consider the lesser reactions to constitute behavioral harassment, or Level B harassment takes, but rather assumes that pinnipeds that move greater than two body lengths or longer, or if already moving, a change of direction of greater than 90 degrees in response to the disturbance, or pinnipeds that flush into the water, are behaviorally harassed, and thus considered incidentally taken by Level B harassment. NMFS uses a 3-point scale (Table 2) to determine which disturbance reactions constitute take under the MMPA. Levels two and three (movement and flush) are considered take, whereas level one (alert) is not. Animals that respond to the presence of the Society's personnel by becoming alert, but do not move or change the nature of locomotion as described, are not considered to have been subject to behavioral harassment.

TABLE 2—DISTURBANCE SCALE OF PINNIPED RESPONSES TO IN-AIR SOURCES TO DETERMINE TAKE

Level	Type of response	Definition
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.
2*	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3*	Flush	All retreats (flushes) to the water.

*Only Levels 2 and 3 are considered take, whereas Level 1 is not.

Reactions to human presence, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Southall *et al.,* 2007; Weilgart 2007). If a marine mammal does react briefly to human presence by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if visual stimuli from human presence displace marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart, 2007). Nevertheless, this is not likely to occur during the proposed activities since rapid habituation or movement to nearby haulouts is expected to occur after a potential pinniped flush.

Disturbances resulting from human activity can impact short- and long-term pinniped haulout behavior (Renouf *et al.,* 1981; Schneider and Payne, 1983; Terhune and Almon, 1983; Allen *et al.,* 1984; Stewart, 1984; Suryan and

Harvey, 1999; and Kucey and Trites, 2006). Numerous studies have shown that human activity can flush harbor seals off haulout sites (Allen *et al.,* 1984; Calambokidis *et al.,* 1991; and Suryan and Harvey 1999) or lead Hawaiian monk seals (*Neomonachus schauinslandi*) to avoid beaches (Kenyon 1972). In one case, human disturbance appeared to cause Steller sea lions to desert a breeding area at Northeast Point on St. Paul Island, Alaska (Kenyon 1962).

In cases where vessels actively approached marine mammals (*e.g.,* whale watching or dolphin watching boats), scientists have documented that animals exhibit altered behavior such as increased swimming speed, erratic movement, and active avoidance behavior (Acevedo, 1991; Trites and Bain, 2000; Williams *et al.,* 2002; Constantine *et al.,* 2003), reduced blow interval (Richter *et al.,* 2003), disruption of normal social behaviors (Lusseau 2003; 2006), and the shift of behavioral activities which may increase energetic costs (Constantine *et al.,* 2003; 2004). In 1997, Henry and Hammil (2001) conducted a study to measure the impacts of small boats (*i.e.,* kayaks, canoes, motorboats and sailboats) on harbor seal haul out behavior in Metis Bay, Quebec, Canada. During that study, the authors noted that the most frequent disturbances (n=73) were caused by lower speed, lingering kayaks, and canoes (33.3 percent) as opposed to motorboats (27.8 percent) conducting high speed passes. The seal's flight reactions could be linked to a surprise factor by kayaks and canoes which approach slowly, quietly, and low on the water making them look like predators. However, the authors note that once the animals were disturbed, there did not appear to be any significant lingering effect on the recovery of numbers to their pre-disturbance levels. In conclusion, the study showed that boat traffic at current levels has only a temporary effect on the haul out behavior of harbor seals.

In 2004, Acevedo-Gutierrez and Johnson (2007) evaluated the efficacy of buffer zones for watercraft around harbor seal haulout sites on Yellow Island, Washington. The authors estimated the minimum distance between the vessels and the haulout sites; categorized the vessel types; and evaluated seal responses to the disturbances. During the course of the 7-weekend study, the authors recorded 14 human-related disturbances which were associated with stopped powerboats and kayaks. During these events, hauled out seals became noticeably active and moved into the water. The flushing occurred when stopped kayaks and powerboats were at distances as far as 453 and 1,217 ft (138 and 371 m), respectively. The authors note that the seals were unaffected by passing powerboats, even those approaching as close as 128 ft (39 m), possibly indicating that the animals had become tolerant of the brief presence of the vessels and ignored them. The authors reported that on average, the seals quickly recovered from the disturbances and returned to the haulout site in less than or equal to 60 minutes. Seal numbers did not return to pre-disturbance levels within 180 minutes of the disturbance less than one quarter of the time observed. The study concluded that the return of seal numbers to pre-disturbance levels and the relatively regular seasonal cycle in abundance throughout the area counter the idea that disturbances from powerboats may result in site abandonment (Johnson and Acevedo-Gutierrez, 2007).

Stampede

There are other ways in which disturbance, as described previously, could result in more than Level B harassment of marine mammals. They are most likely to be consequences of stampeding, a potentially dangerous occurrence in which large numbers of animals succumb to mass panic and rush away from a stimulus. These situations are particularly injurious when: (1) Animals fall when entering the water at high-relief locations; (2) there is extended separation of mothers and pups; and (3) crushing of pups by large males occurs during a stampede. However, NMFS does not expect any of these scenarios to occur at NWSR as the proposed action occurs outside of the pupping/breeding season, no mother/pup pairs are expected to be at the Station, there are no cliffs on NWSR, and previous monitoring has not recorded stampeding events during prior authorizations. The haulout sites at NWSR consist of ridges with unimpeded and non-obstructive access to the water. If disturbed, the small number of hauled out adult animals may move toward the water without risk of encountering barriers or hazards that would otherwise prevent them from leaving the area or increase injury potential. Moreover, the proposed area would not be crowded with large numbers of Steller sea lions, further eliminating the possibility of potentially injurious mass movements of animals attempting to vacate the haulout. Thus, in this case, NMFS considers the risk of injury, serious injury, or death to hauled out animals as extremely low.

Stress Responses

An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Seyle, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.,* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.,* 2002b)

and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003), however distress is an unlikely result of this project based on observations of marine mammals during previous projects in the area.

Auditory Masking

Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995; Erbe *et al.,* 2016). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, aircraft, sonar) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007; Di Iorio and Clark, 2009; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (*e.g.,* Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Anticipated Effects on Marine Mammal Habitat

The only direct habitat modification associated with the proposed activity is the restoration of the existing light station structures. Indirect effects of the activities on nearby feeding or haulout habitat are not expected. Increased noise levels are not likely to affect acoustic habitat or adversely affect marine mammal prey in the vicinity of the project area because source levels are low, transient, well away from the water, and do not readily transmit into the water. The Society would remove all waste, discarded materials and equipment from the island after each visit. Thus, NMFS does not expect that the proposed activity would have any effects on marine mammal habitat and NMFS expects that there will be no long- or short-term physical impacts to pinniped habitat on NWSR.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this rulemaking, 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 helicopter operations and lighthouse maintenance activities. Based on the nature of the activity, Level A harassment is neither anticipated nor proposed to be authorized. As discussed earlier, behavioral (Level B) harassment is limited to movement and flushing, defined by the disturbance scale of pinniped responses to in-air sources to determine take (Table 2). Furthermore, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

The Society's monitoring efforts reported zero marine mammals present on NWSR, in 2010. Furthermore, operations were not conducted in the years 2013 through 2016; thus, monitoring was not conducted. No visits occurred in 2020. Visits have occurred in all other years since 2010.

Steller sea lions were first reported during restoration trips conducted in April (9) and November (350, with a maximum of 155/day) of 2011 (St. George Reef Lighthouse Preservation Society (SGRLPS) 2011). Zero observations of Steller sea lions were reported during the one 2012 restoration trip and three 2017 trips conducted

(SGRLPS 2012, 2018). Four trips were conducted in 2018 (February, March, April, and November); only the November session reported any individuals (three) on site (SGRLPS 2018). One restoration trip was conducted in November 2019 and had 22 Steller sea lions present (SGRLPS 2020). In the event of an emergency trip to the lighthouse for repairs in summer, or if deed restrictions are changed, more Steller sea lions may be present in June and July (up to 350–400 animals based on CCR (2001)).

The maximum number of California sea lions present per day (160) was observed during the November 2011 trip. The April and November 2011 trip maximums were 2 and 430 individuals, respectively (SGRLPS 2011). Zero California sea lions were reported during the March 2012 trip (SGRLPS 2012). In 2017, the Society reported 16 and zero California sea lions during March and April trips, and 16 during a November trip for a landing zone inspection (SGRLPS 2017). Observations for the 2018 season totaled 40 individuals among its four trips (SGRLPS 2018). Eighteen California sea lions were reported during the November 2019 trip with a maximum of 10 per day (SGRLPS 2020). Should deed restrictions be altered to allow access during summer months, numbers could be somewhat higher based on the data in CCR (2001).

Northern fur seals have not been observed during any of the Society's work from 2010 through 2019 (SGRLPS 2010; 2011; 2012; 2017; 2018; 2020).

The Society first reported 2 Pacific harbor seals on site during the March 2012 restoration trip (SGRLPS 2012). Zero harbor seals were reported during the 2017, 2018, or 2019 work seasons (SGRLPS 2017; 2018; 2020).

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate. The monitoring observations described above serve as the underpinnings of the take estimate calculation used to determine the actual number of marine mammals that may be subject to take. Take estimates for each species for which take would be authorized were based on the following equation:

Take estimate per species = maximum number of observations/day during prior monitoring * number of proposed operations days

Based on the Society's previous monitoring reports, the maximum number of observations per day for each species is: Steller sea lions 155, California sea lions 160, and Pacific harbor seals 2. No Northern fur seals have been seen in prior project monitoring but one was observed during the survey work for this project by CCR (2001), so we use one for these calculations.

As discussed above, The Society is proposing no more than 70 flight days per year. This is an optimistic estimate that far exceeds prior efforts, but given adequate funding there is the need for extensive restoration work to the Station so the Society requested consideration of the additional days of work in the take estimate. Therefore NMFS estimates that approximately 10,850 Steller sea lions (calculated by multiplying the maximum single-day count of Steller sea lions that could be present (155) by 70 days of activities), 11,200 California sea lions, 140 Pacific harbor seals, and 70 Northern fur seals could be potentially taken by Level B behavioral harassment annually over the course of this rulemaking (Table 3). NMFS bases these estimates of the numbers of marine mammals that might be affected on consideration of the number of marine mammals that could be on NWSR in a worst case scenario based on prior monitoring. Should deed restrictions be altered to allow access during summer months, numbers of California sea lions and Steller's sea lions could be somewhat higher during a couple of those months based on the data in CCR (2001). Given these increases are limited in duration, only a fraction of the potential flight days could occur in summer, and the conservative nature of the maximum daily counts relative to the average observed animal counts from prior monitoring discussed above, we believe the proposed take estimates are adequately precautionary.

TABLE 3—PROPOSED ANNUAL LEVEL B HARASSMENT TAKE CALCULATIONS AND PERCENTAGE OF EACH STOCK AFFECTED

Species	Maximum number per day	Days of proposed activity	Proposed take	Percent of stock
California sea lion	160	70	11,200	4.3
Steller sea lion	155	70	10,580	25.1
Pacific harbor seal	2	70	140	0.5
Northern fur seal	1	70	70	0.5

Proposed Mitigation

In order to promulgate regulations and issue LOAs under Section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS does not have a regulatory definition for ''least practicable adverse impact.'' NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

The mitigation strategies described below largely follow those required and successfully implemented under previous incidental take authorizations issued in association with this project.

The following mitigation measures are proposed:

- No more than six flight days (up to two work trips) per month;
- Avoid direct physical interaction with marine mammals during activity. If a marine mammal comes within 10 m of such activity, operations must cease until the animal leaves of its own accord;
- Conduct training between construction supervisors and crews and tourists and the marine mammal monitoring team and relevant Society staff prior to the start of all visits and when new personnel join the work, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. Visitors to the Station will be instructed to avoid unnecessary noise and not expose themselves visually to pinnipeds around the base of the lighthouse;
- Halt loud outside activity upon observation on NWSR of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met;
- Keep the door to the lower platform closed and barricaded to all tourists and other personnel. The door will only be opened when necessary and at a time when no animals are present on the lower platform;
- Ensure that helicopter approach patterns to the NWSR shall be such that the timing and techniques are least disturbing to marine mammals. To the extent possible, the helicopter should approach NWSR when the tide is too high for marine mammals to haul out on NWSR. Avoid rapid and direct approaches by the helicopter to the station by approaching NWSR at a relatively high altitude (*e.g.,* 800–1,000 ft; 244–305 m). Before the final approach, the helicopter shall circle lower, and approach from an area where the density of pinnipeds is the lowest. If for any safety reasons (*e.g.,* wind conditions or visibility) such helicopter approach and timing techniques cannot be achieved, the Society must abort the restoration and maintenance session for the day;
- Employ a protected species observer (PSO) and establish monitoring locations as described in the application and Section 5 of any LOA. The Holder must monitor the project area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions. For all helicopter flights at least one PSO must be used; and
- Monitoring must take place for all take-offs and landings.

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 effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(A) 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).
- Mitigation and monitoring effectiveness.

Visual Monitoring

- Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following: PSOs must be independent and have no other assigned tasks during monitoring periods. At least one PSO must have prior experience performing the duties of a PSO. Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training. PSOs resumes must be approved by NMFS prior to beginning any activity subject to these regulations.
- PSOs must record all observations of marine mammals as described in Section 5 of any LOA, regardless of distance from the activity. PSOs shall document any behavioral reactions in concert with distance from the activity.

PSOs must have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior;
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary;
- The Society must establish the following monitoring locations. For the first flight of the day a PSO with high definition camera will be on the first flight to the station. During all other

takeoffs and landings a PSO will be stationed on the platform of the lantern room gallery or on the last departing helicopter;

- Aerial photo coverage of the island will be completed by an observer using a high definition camera. Photographs of all marine mammals hauled out on the island will be taken at an altitude greater than 300 meters. Photographs of marine mammals present at the last flight of the day will be taken from the helicopter or from the lantern room gallery platform just before the last flight; and
- The Society and/or its designees must forward the photographs to a biologist capable of discerning marine mammal species if one is not present on the trip. The Society must provide the data to NMFS in the form of a report with a data table, any other significant observations related to marine mammals, and a report of restoration activities. The Society must make available the original photographs to NMFS or to other marine mammal experts for inspection and further analysis.

Reporting

A draft marine mammal monitoring report will be submitted to NMFS within 90 days after the completion of each activity period, or 60 days prior to a requested date of issuance of any future LOAs for projects at the same location, whichever comes first. For the first year of the activities, at least, the reports will be submitted quarterly; following submission of the first three quarterly reports, NMFS will evaluate whether it is appropriate to modify subsequent annual LOAs require annual reports, based on whether the information provided in the first three quarterly reports adequately complies with the requirement. The report will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring.
- Activities occurring during each daily observation period.
- PSO locations during marine mammal monitoring.
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance.
- Upon each flight, the following information will be reported: Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting; time of sighting; identification of the animal(s) (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species; distance and bearing of the nearest marine mammal observed relative to the activity for each flight; estimated number of animals (min/max/best estimate); estimated number of animals by cohort (adults, juveniles, neonates, group composition, etc.); animal's closest point of approach to activity; and description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing) using pinniped disturbance scale (Table 2).
- Number of marine mammals detected, by species.
- Detailed information about any implementation of any mitigation triggered, a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

Reporting Injured or Dead Marine Mammals

In the event that personnel involved in the activities discover an injured or dead marine mammal, the LOA-holder must immediately cease the specified activities and report the incident to the Office of Protected Resources (OPR) (*PR.ITP.MonitoringReports@noaa.gov*), NMFS and to West Coast Regional Stranding Coordinator as soon as feasible. If the death or injury was clearly caused by the specified activity, the Society must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the LOA and regulations. The LOA-holder must not resume their activities until notified by NMFS. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Activities associated with the restoration, light maintenance and tour projects, as described previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) from in-air sounds and visual disturbance. Potential takes could occur if individual marine mammals are present nearby when activity is happening.

No serious injury or mortality would be expected even in the absence of the proposed mitigation measures. For all species, no Level A harassment is anticipated given the nature of the activities, *i.e.,* much of the anticipated activity would involve noises below thresholds and visual disturbance from tens of meters away, and measures designed to minimize the possibility of injury. The potential for injury is small for pinnipeds, and is expected to be essentially eliminated through implementation of the planned mitigation measures.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as alerts or movements away from the lighthouse structure. Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas.

Reporting from prior years of these activities has similarly reported no apparently consequential behavioral reactions or long-term effects on marine mammal populations as noted above. Repeated exposures of individuals to relatively low levels of sound and visual disturbance outside of preferred habitat areas are unlikely to significantly disrupt critical behaviors. Thus, even repeated Level B harassment of some small subset of the 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. Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures described herein and, if sound and visual disturbance produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring.

In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activities will have only minor, short-term effects on individuals. The specified activities are not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts.

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 is anticipated or authorized.
- No important habitat areas have been identified within the project area.
- For all species, NWSR is a very small and peripheral part of their range.
- Monitoring reports from prior activities at the site have documented little to no effect on individuals of the same species impacted by the specified activities.

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) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS proposes to authorize is below one third of the estimated stock abundance of all species (in fact, take of individuals is less than 10 percent of the abundance of all of the affected stocks except Steller sea lions, see Table 3). This is likely a conservative estimate because they assume all takes are of different individual animals which is likely not the case, especially within individual trips. Many individuals seen within a single multi-day trip are likely to be the same across consecutive days, but PSOs would count them as separate takes across days.

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.

Adaptive Management

The regulations governing the take of marine mammals incidental to Society lighthouse repair and tour operation activities would contain an adaptive management component.

The reporting requirements associated with this proposed rule are designed to provide NMFS with monitoring data from the prior year(s) to allow consideration of whether any changes are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the Society regarding practicability) on an annual basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to marine mammals and if the measures are practicable. Additionally, monitoring or reporting measures may be modified if appropriate and, in this case, the rule specifies quarterly monitoring and reporting requirements for the first year, which may subsequently be modified to annual requirements, based on NMFS evaluation of the first three reports.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) Results from monitoring reports, as required by MMPA authorizations; (2) results from general marine mammal and sound research; and (3) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure

ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species, in this case with the West Coast Regional Protected Resources Division Office.

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

Request for Information

NMFS requests interested persons to submit comments, information, and suggestions concerning the Society's request and the proposed regulations (see **ADDRESSES**). All comments will be reviewed and evaluated as we prepare a final rule and make final determinations on whether to issue the requested authorization. This notification and referenced documents provide all environmental information relating to our proposed action for public review.

Classification

Pursuant to the procedures established to implement Executive Order 12866, the Office of Management and Budget has determined that this proposed rule is not significant.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The Society, a 501(c)(3) non-profit whose mission is to preserve the St. George Reef lighthouse, is the sole entity that would be subject to the requirements in these proposed regulations, and the Society is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. Because of this certification, a regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains a collection-of-information requirement subject to the provisions of the Paperwork Reduction Act. These requirements have been approved by OMB under control number 0648–0151 and include applications for regulations, subsequent LOAs, and reports.

List of Subjects in 50 CFR Part 217

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: August 31, 2021.

Samuel D. Rauch III,

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

For reasons set forth in the preamble, 50 CFR part 217 is proposed to be amended as follows:

PART 217—REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITES

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. Add subpart F to part 217 to read as follows:

Subpart F—Taking Marine Mammals Incidental to Lighthouse Repair and Tour Operations at Northwest Seal Rock, California

Sec.

Subpart F—Taking Marine Mammals Incidental to Lighthouse Repair and Tour Operations at Northwest Seal Rock, California

§ 217.50 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the St. George Reef Lighthouse Preservation Society (Society) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the areas outlined in paragraph (b) of this section and that occurs incidental to lighthouse repair and tour operation activities.

(b) The taking of marine mammals by the Society may be authorized in a Letter of Authorization (LOA) only if it occurs within Pacific Ocean waters in the vicinity of Northwest Seal Rock near Crescent City, California.

§ 217.51 Effective dates.

Regulations in this subpart are effective from [EFFECTIVE DATE OF FINAL RULE] through [DATE 5 YEARS AFTER EFFECTIVE DATE OF FINAL RULE].

§ 217.52 Permissible methods of taking.

Under LOAs issued pursuant to §§ 216.106 of this chapter and 217.56, the Holder of the LOA (hereinafter ''Society'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.50(b) by Level B harassment associated with lighthouse repair and tour operation activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

§ 217.53 Prohibitions.

Except for taking authorized by a LOA issued under §§ 216.106 of this chapter and 217.56, it shall be unlawful for any person to do any of the following in connection with the activities described in § 217.50 may:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 of this chapter and 217.56;

(b) Take any marine mammal not specified in such LOAs;

(c) Take any marine mammal specified in such LOAs in any manner other than as specified;

(d) Take a marine mammal specified in such LOAs if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(e) Take a marine mammal specified in such LOAs if NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses.

§ 217.54 Mitigation requirements.

When conducting the activities identified in § 217.50(a), the mitigation measures contained in any LOA issued under §§ 216.106 of this chapter and 217.56 must be implemented. These mitigation measures shall include but are not limited to:

(a) *General conditions.* (1) A copy of any issued LOA must be in the possession of the Society, supervisory personnel, pilot, protected species observers (PSOs), and any other relevant designees of the Holder operating under the authority of this LOA at all times that activities subject to this LOA are being conducted.

(2) The Society shall conduct training between supervisors and crews and the marine mammal monitoring team and relevant Society staff prior to the start of all trips and when new personnel join the work, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. Visitors to the Station will be instructed to avoid

unnecessary noise and not expose themselves visually to pinnipeds around the base of the lighthouse.

(3) Avoid direct physical interaction with marine mammals during activity. If a marine mammal comes within 10 m of such activity, operations must cease until the animal leaves of its own accord.

(4) Loud outside activity must be halted upon observation on Northwest Seal Rock (NWSR) of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met.

(5) No more than two restoration trips, or 6 days of flight operations, are permitted per month.

(b) *Protocols.* (1) The door to the lower platform will remain closed and barricaded to all tourists and other personnel. The door will only be opened when necessary and at a time when no animals are present on the lower platform.

(2) The pilot will ensure that helicopter approach patterns to the NWSR shall be such that the timing and techniques are least disturbing to marine mammals. To the extent possible, the helicopter should approach NWSR when the tide is too high for marine mammals to haul out on NWSR. Avoid rapid and direct approaches by the helicopter to the station by approaching NWSR at a relatively high altitude (*e.g.,* 800–1,000 ft; 244–305 m). Before the final approach, the helicopter shall circle lower, and approach from an area where the density of pinnipeds is the lowest. If for any safety reasons (*e.g.,* wind conditions or visibility) such helicopter approach and timing techniques cannot be achieved, the Society must abort the restoration and maintenance session for the day.

(3) Monitoring shall be conducted by a trained PSO, who shall have no other assigned tasks during monitoring periods. Trained PSOs shall be placed at the best vantage point(s) practicable to monitor for marine mammals and implement mitigation procedures when applicable. The Society shall adhere to the following additional PSO qualifications:

(i) Independent PSOs are required;

(ii) At least one PSO must have prior experience working as an observer;

(iii) Other observers may substitute education (degree in biological science or related field) or training for experience; and

(iv) The Society shall submit PSO resumes for approval by NMFS prior to beginning any activity subject to these regulations.

(4) The PSO must monitor the project area to the maximum extent possible based on the required monitoring locations and environmental conditions. They must record all observations of marine mammals as described in Section 5 of any LOA, regardless of distance from the activity. Monitoring must take place for all take-offs and landings.

§ 217.55 Requirements for monitoring and reporting.

(a) PSOs shall document any behavioral reactions in concert with distance from any project activity.

(b) *Reporting*—(1) *Reporting frequency.* (i) The Society shall submit a quarterly summary report to NMFS not later than 90 days following the end of each work quarter; after the first three quarterly submissions, NMFS will evaluate whether it is appropriate to modify to annual reports, and modify future LOAs as appropriate to indicate annual reporting requirements if so. The Society shall provide a final report within 30 days following resolution of comments on each draft report.

(ii) These reports shall contain, at minimum, the following:

(A) Dates and times (begin and end) of all marine mammal monitoring;

(B) Activities occurring during each daily observation period;

(C) PSO locations during marine mammal monitoring;

(D) Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;

(E) Upon each flight, the following information: Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting; time of sighting; identification of the animal(s) (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species; distance and bearing of each marine mammal observed relative to the activity for each flight; estimated number of animals (min/max/best estimate); estimated number of animals by cohort (adults, juveniles, neonates, group composition, etc.); animal's closest point of approach and estimated time spent within the harassment zone; and description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);

(F) Number of marine mammals detected, by species; and

(G) Detailed information about any implementation of any mitigation triggered, a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

(2) The Society shall submit a comprehensive summary report to NMFS not later than 90 days following the conclusion of marine mammal monitoring efforts described in this subpart.

(c) *Reporting of injured or dead marine mammals.* (1) In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the LOA-holder must immediately cease the specified activities and report the incident to the Office of Protected Resources (OPR) (*PR.ITP.MonitoringReports@noaa.gov*), NMFS and to West Coast Regional Stranding Coordinator as soon as feasible. If the death or injury was clearly caused by activities specified at § 217.50, the Society must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of these regulations and LOAs. The LOA-holder must not resume their activities until notified by NMFS. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

(ii) Species identification (if known) or description of the animal(s) involved;

(iii) Condition of the animal(s) (including carcass condition if the animal is dead);

(iv) Observed behaviors of the animal(s), if alive;

(v) If available, photographs or video footage of the animal(s); and

(vi) General circumstances under which the animal was discovered.

(2) [Reserved]

§ 217.56 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the Society must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, the

Society may apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, the Society must apply for and obtain a modification of the LOA as described in § 217.207.

(e) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of an LOA shall be published in the **Federal Register** within 30 days of a determination.

§ 217.57 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 217.206 for the activity identified in § 217.200(a) shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 of this chapter and 217.206 for the activity identified in § 217.200(a) may be modified by NMFS under the following circumstances:

(1) *Adaptive management.* NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with the Society regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from the Society's monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound or disturbance research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) *Emergencies.* If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in LOAs issued pursuant to §§ 216.106 of this chapter and 217.206, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

§§ 217.58–217.59 [Reserved]

[FR Doc. 2021–19124 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648–BK68

Fisheries of the Northeastern United States; Amendment 21 to the Atlantic Sea Scallop Fishery Management Plan

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

ACTION: Announcement of availability of amendment; request for comments.

SUMMARY: NMFS announces that the New England Fishery Management Council has submitted Amendment 21 to the Atlantic Sea Scallop Fishery Management Plan, incorporating the Environmental Assessment and the Regulatory Flexibility Analysis, for review by the Secretary of Commerce, and is requesting comments from the public. This action would allow for more controlled access to the scallop resource by the limited access and limited access general category fleets and increase monitoring to support a growing directed scallop fishery in Federal waters, including the Northern Gulf of Maine Management Area. These proposed management measures are intended to promote conservation of the scallop resource in the Northern Gulf of Maine Management Area and to manage total removals from the area by all fishery components. Amendment 21 would also expand flexibility in the limited access general category individual fishing quota fishery to reduce impacts of potential decreases in ex-vessel price and increases in operating costs.

DATES: Comments must be received on or before November 8, 2021.

ADDRESSES: The Council has prepared a draft Environmental Assessment (EA) for this action that describes the proposed measures in Amendment 21 to the Atlantic Sea Scallop Fishery Management Plan (FMP) and other considered alternatives and analyzes the impacts of the proposed measures and alternatives. The Council submitted a draft of the amendment to NMFS that includes the draft EA, a description of the Council's preferred alternatives, the Council's rationale for selecting each alternative, and a Regulatory Impact Review (RIR). Copies of supporting documents used by the Council, including the EA and RIR, are available from: Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at: *https://www.nefmc.org/library/amendment-21.*

You may submit comments, identified by NOAA–NMFS–2021–0065, by:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2021–0065 in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public

viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Policy Analyst, (978) 281–9233.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act requires that each Regional Fishery Management Council submit any amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, immediately publish notification in the **Federal Register** that the amendment is available for public review and comment. The Council submitted its final version of Amendment 21 to the Atlantic Sea Scallop FMP to NMFS for review on August 13, 2021. NMFS has declared a transmittal date of August 30, 2021. The Council has reviewed the Amendment 21 proposed rule regulations as drafted by NMFS and deemed them to be necessary and appropriate as specified in section 303(c) of the Magnuson-Stevens Act.

Background

The Atlantic sea scallop fishery is prosecuted along the East Coast from Maine to Virginia, although most fishing activity takes place between Massachusetts and New Jersey. Management measures were first adopted in 1982, but there have been several major revisions to the management program over the following decades.

Development of the Limited Access General Category (LAGC) Fishery

The Council established the general category component as an open access permit category in 1994 while developing a limited access program for qualifying vessels (now the limited access component). Through Amendment 11 to the Scallop FMP (73 FR 20090; April 14, 2008), the Council transitioned the general category component from open access to limited access to limit fishing mortality and control fleet capacity. The Council's vision for the LAGC component was a fleet made up of relatively small vessels, with possession limits to maintain the historical character of this fleet and provide opportunities to various participants, including vessels from smaller coastal communities. Amendment 11 established three LAGC permit categories, which allowed for continued participation in the general category fishery at varying levels. Vessels that met a qualifying criteria were issued an LAGC individual fishing quota (IFQ) permit and allocated quota based on the 'contribution factor' (*i.e.,* if you fished longer and landed more during the qualification period, you received a higher allocation). General category permit holders that did not meet the qualifying criteria for an LAGC IFQ permit were eligible to receive either an LAGC Northern Gulf of Maine (NGOM) permit or LAGC incidental permit. Limited access vessels that fished under general category rules and qualified under the same IFQ qualification criteria were issued LAGC IFQ permits and allocated a portion of (0.5 percent) of the total scallop allocation. Unlike vessels with only LAGC IFQ permits, limited access vessels that also qualified for an LAGC IFQ permit were not allowed to transfer quota to or from other vessels.

NGOM Management Area

The Council also established the NGOM Management Area and permit category through Amendment 11. The area was developed to enable continued fishing and address concerns related to conservation, administrative burden, and enforceability of scallop fishing within the Gulf of Maine. Amendment 11 authorized vessels with either an LAGC NGOM permit or LAGC IFQ permit to fish within the NGOM Management Area at a 200 lb per day (91 kg per day) trip limit until the annual total allowable catch (TAC) for the area is caught. The Council did not recommend restrictions on limited access vessels fishing in the NGOM because the improved management and abundance of scallops in the major resource areas on Georges Bank and in the Mid-Atlantic region made access to Gulf of Maine scallops less important for the limited access boats and general category boats from other regions. From 2008 through 2017, limited access vessels were able to operate in the NGOM management area under days-at-sea (DAS) management as long as the LAGC TAC had not been caught. The initial measures were intended to allow directed scallop fishing in the NGOM, and the Council envisioned that management of this area would be reconsidered if the scallop population and fishery in the NGOM grew in the future.

From 2009–2015 the NGOM TAC of 70,000 lb (31,751 kg) was not caught, and the fishery remained open for the entire year. In fishing years 2016 and 2017, there was a notable increase in effort in the NGOM management area by both LAGC and limited access vessels fishing the large year class of scallops on Stellwagen Bank, located mostly within the NGOM. Monitoring removals by the limited access component in the NGOM was challenging because vessels could fish both inside and outside NGOM management area while fishing DAS on the same trip.

In response to the increase in effort and landings in the NGOM area in 2016 and 2017, the Council developed the following problem statement for the Federal scallop fishery in the NGOM management area: Recent high landings and unknown biomass in the NGOM Scallop Management Area underscore the critical need to initiate surveys and develop additional tools to better manage the area and fully understand total removals.

Recent actions have developed measures that allow managers to track fishing effort and landings by all components from the NGOM management area. The NGOM TAC is now based on recent survey information, with separate TACs for the limited access and LAGC components. These measures were intended to be a short-term solution to allow controlled fishing in the NGOM management area until a future action (this action) could be developed to address NGOM issues more holistically.

LAGC IFQ Possession Limits

The initial general category possession limit was set at 400 lb (181 kg) per trip through Amendment 4 (59 FR 2757; January 19, 1994). In 2007, Amendment 11 maintained the general category possession limit of 400 lb (181 kg) for qualifying IFQ vessels. Amendment 15 (76 FR 43746; July 21, 2011) increased the LAGC IFQ possession limit to 600 lb (272 kg) following concerns from industry members that the 400-lb (181-kg) possession limit was not economically feasible due to increased operating costs. The 200-lb (91-kg) trip limit increase was not expected to change the nature of the ''day boat'' fishery and would keep the LAGC IFQ component consistent with the vision statement laid out by the Council in Amendment 11. The Council recently completed a program review of the LAGC IFQ fishery and analyzed the impacts of changes to IFQ trip limits. This review found that increasing the possession limit for IFQ trips would increase flexibility in

fishing decisions, which could improve safety. Further, a higher possession limit would provide increased fishing revenue and vessel profit. The results of the program review are summarized in the Amendment 21 scoping document, which can be found at this website: *https://www.nefmc.org/library/amendment-21.*

Quota Transfers by Limited Access/LAGC IFQ Vessels

Amendment 15 allowed LAGC IFQ permit holders to permanently transfer some or all of their quota allocation to another LAGC IFQ permit holder while retaining the permit itself. During development of Amendment 15, the Council considered an option that would have included limited access permit holders that also have LAGC IFQ permits (combo vessels) in this allowance; however, the Council opted against this option because it would change the overall 5-percent and 0.5-percent allocations specified in Amendment 11. For example, the 5-percent allocation would be expected to increase if a combo vessel permanently transferred quota to an LAGC IFQ-only vessel and, therefore, would have implications on quota accumulation caps that apply to LAGC IFQ-only permit holders (*i.e.,* 5-percent maximum for owners, 2.5-percent maximum for individual vessels).

The Council initiated Amendment 21 to consider adjusting the management of the NGOM to allow for more controlled access by the limited access and LAGC components, to increase monitoring to support a growing directed scallop fishery in Federal waters, and to consider adjusting the LAGC IFQ program to support overall economic performance while allowing for continued participation in the general category fishery at varying levels. To address these issues the Council approved Amendment 21 at its September 2020 meeting. Amendment 21 would:

- Change the Annual Catch Limit flow chart to account for biomass in the NGOM as part of the Overfishing Limit and the Acceptable Biological Catch to be consistent with other portions of scallop resource management;
- Develop landing limits for all permit categories in the NGOM and establish an 800,000-lb (362,874 kg) NGOM Set-Aside trigger for the NGOM directed fishery, with a sharing agreement for access by all permit categories for allocation above the trigger. Allocation above the trigger would be split 5 percent for the NGOM fleet and 95 percent for limited access and LAGC IFQ fleets;
- Expand the scallop observer program to monitor directed scallop fishing in the NGOM by using a portion of the NGOM allocation to off-set monitoring costs;
- Allocate 25,000 lb (11,340 kg) of the NGOM allocation to increase the overall Scallop Research Set-Aside (RSA) and support Scallop RSA compensation fishing;
- Increase the LAGC IFQ possession limit to 800 lb (363 kg) per trip only for access area trips;
- Prorate the daily observer compensation rate in 12-hour increments for observed LAGC IFQ trips longer than 1 day; and
- Allow for temporary transfers of IFQ from limited access vessels with IFQ to LAGC IFQ-only vessels.

The Magnuson-Stevens Act allows us to approve, partially approve, or disapprove measures recommended by the Council in an amendment based on whether the measures are consistent with the FMPs, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. The Council develops policy for its fisheries and we defer to the Council on policy decisions unless those policies are inconsistent with the Magnuson-Steven Act or other applicable law. As such, we are seeking comment on whether measures in Amendment 21 are consistent with the FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. Through this notice, NMFS seeks comments on Amendment 21 and its incorporated documents through the end of the comment period stated in the **DATES** section of this notice of availability (NOA). Following the publication of this NOA a rule proposing the implementation of measures in this amendment is anticipated to be published in the **Federal Register** for public comment. Public comments must be received by the end of the comment period provided in this NOA of Amendment 21 to be considered in the approval/disapproval decision. All comments received by the end of the comment period on the NOA, whether specifically directed to the NOA or the proposed rule, will be considered in the approval/disapproval decision. Comments received after the end of the comment period for the NOA will not be considered in the approval/disapproval decision of Amendment 21.

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

Dated: September 2, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021–19367 Filed 9–2–21; 4:15 pm]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 86, No. 171
Wednesday, September 8, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Economic Development Administration

National Advisory Council on Innovation and Entrepreneurship (NACIE); Solicitation of Applications

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice of opportunity to apply for membership on the National Advisory Council on Innovation and Entrepreneurship (NACIE).

SUMMARY: The Department of Commerce (DOC) is currently seeking applications for membership on the National Advisory Council on Innovation and Entrepreneurship (NACIE). NACIE advises the Secretary of Commerce (the Secretary) on matters related to accelerating innovation and entrepreneurship, advancing the commercialization of research and development, promoting workforce development, and other related matters.

DATES: Applications for immediate consideration for membership must be received by the Economic Development Administration (EDA) by 5:00 p.m. Eastern Daylight Time (EDT) on October 25, 2021. EDA will continue to accept applications under this notice for two years from the deadline to fill any vacancies.

ADDRESSES: Please submit application information by email to *nacie@doc.gov.*

FOR FURTHER INFORMATION CONTACT: For further information, interested parties can contact Eric Smith, Director of EDA's Office of Innovation and Entrepreneurship at *nacie@doc.gov* or +1 (202) 302–6570.

SUPPLEMENTARY INFORMATION: An agency within the U.S. Department of Commerce (DOC), the Economic Development Administration (EDA) invests in communities and supports regional collaboration to create jobs for U.S. workers, promote American innovation, and accelerate long-term sustainable economic growth. The mission of EDA is to lead the federal economic development agenda by promoting competitiveness and preparing the nation's regions for growth and success in the worldwide economy. Additional information regarding EDA can be found at *https://eda.gov/.*

The National Advisory Council on Innovation and Entrepreneurship (NACIE)'s establishment is authorized by section 25(c) of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3720(c)) and is managed by EDA's Office of Innovation and Entrepreneurship (OIE). Additional information regarding OIE can be found at *https://eda.gov/oie/.* Additional information regarding NACIE can be found at *https://www.eda.gov/oie/nacie/.*

EDA is accepting applications for membership on NACIE for a two-year term beginning on the date of appointment. Members will be selected based on their ability to advise the Secretary on matters relating to the acceleration of innovation and the support for and expansion of entrepreneurship including but not limited to the matters set forth in 15 U.S.C. 3720(b) and:

- Strategies to support geographic diversification and growth of America's innovation clusters and technology hubs in regions outside of traditional coastal markets;
- the development of federal policy and program recommendations, through policy and program vehicles such as the American Jobs Plan and the American Rescue Plan, to support economic growth, resilience, high-growth entrepreneurship and innovation across business sectors and geographies;
- policies that increase equitable access to, and representation in, entrepreneurship opportunities by historically excluded populations, communities, and geographies;
- insights into opportunities to increase American innovation and competitiveness in industries of the future, including but not limited to artificial intelligence, biotechnology, advanced computing, advanced materials and manufacturing, cybersecurity, and clean technology;
- the development and expansion of successful talent and workforce development initiatives to create high quality jobs and to support American innovation and competitiveness; and
- the identification and promotion of best practices that accelerate the commercialization of research and intellectual property.

NACIE will identify and recommend solutions to issues critical to driving the innovation economy, including enabling entrepreneurs and firms to successfully access and develop a skilled, globally competitive workforce. NACIE will also serve as a vehicle for ongoing dialogue with the innovation, entrepreneurship, and workforce development communities, including but not limited to business and trade associations. The duties of NACIE are solely advisory, and it shall report to the Secretary through EDA and the Office of the Secretary.

NACIE members shall be selected in a manner that ensures that NACIE is balanced and diverse, including diverse perspectives and expertise with regard to innovation, technology commercialization, and related capital and talent and workforce development issues. Considerations when making appointments will also include geographic diversity; diversity in the size of the appointee's company or organization; diversity of technology sector; and representation of workers, business and industry, academic institutions, nonprofit and nongovernmental organizations, and other stakeholders.

Additional factors which may be considered in the selection of NACIE members include each candidate's proven experience in the design, creation, or improvement of innovation systems; commercialization of research and development; entrepreneurship; business-driven talent development that leads to a globally competitive workforce; and the creation and growth of innovation- and entrepreneurship-focused ecosystems. Members' affiliations may include, but are not limited to, successful executive-level business leaders; entrepreneurs; innovators; investors; post-secondary education leaders; directors of workforce and training organizations; and other experts drawn from industry, government, academia, philanthropic foundations with a demonstrated track record of research or support of innovation, entrepreneurship, or workforce development, and non-

governmental organizations. Nominees will be evaluated consistent with factors specified in this notice and their ability to carry out the goals of NACIE.

Self-nominations will be accepted.

Appointments will be made without regard to political affiliation.

Membership. Members shall serve at the discretion of the Secretary. Because members will be appointed as experts, members will be considered special government employees (SGEs). Members participating in NACIE meetings and events will be responsible for their travel, living, and other personal expenses. Meetings will be held regularly and not less than twice annually, usually in Washington, DC. Members are required to attend a majority of NACIE's meetings. For the first meeting of the Council, members may be required to arrive one day early for onboarding and orientation activities.

Eligibility. Eligibility for membership is limited to (i) U.S. citizens who are not full-time employees of the United States government or of a foreign government; (ii) are not required to register with the Department of Justice as a foreign agent under the Foreign Agents Registration Act of 1938, as amended, and (iii) are not federally-registered lobbyists.

Application Procedure. For consideration, a nominee should submit:

(1) Name and title of the individual requesting consideration;

(2) the applicant's personal resume and short bio (fewer than 300 words);

(3) a personal statement of interest including an outline of one's abilities to advise the Secretary on the matters described above;

(4) confirmation that the applicant meets all eligibility criteria, including a signed affirmative statement that the applicant is:

(i) A U.S. citizen who is not a full-time employee of the United States government or of a foreign government;

(ii) not required to register with the Department of Justice as a foreign agent under the Foreign Agents Registration Act of 1938, as amended; and

(iii) not a federally-registered lobbyist; and

(5) all relevant contact information, including mailing address, email address, phone number, and support staff information where relevant.

Applications must be submitted via email to *nacie@doc.gov* with a subject line that includes the text ''[NACIEApplication]'' (without quotation marks).

Appointments of members to NACIE will be made by the Secretary.

Dated: August 31, 2021.

Craig Buerstatte,

Deputy Assistant Secretary for Regional Affairs.

[FR Doc. 2021–19169 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–61–2021]

Foreign-Trade Zone (FTZ) 261—Alexandria, Louisiana, Notification of Proposed Production Activity, Avant Organics LLC (Specialty Chemicals), Alexandria, Louisiana

Avant Organics LLC (Avant) submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Alexandria, Louisiana, under FTZ 261. The notification conforming to the requirements of the regulations of the Board (15 CFR 400.22) was received on September 1, 2021.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.*

The proposed finished products include: 4-methoxy-2,5-dimethylfuran-3-one; 5-Methyl-2-phenyl-2-hexenal; Phenyl Acetaldehyde 50% in Phenyl Ethyl Alcohol; and, Esiferane—2,5-dimethyl-4-ethoxy-e(2H)-Furanone (duty rate ranges from free to 5.5%).

The proposed foreign-status materials and components include: 4-Hydroxy-2,5-dimethyl-3(2H)-Furanone; Methylcyclopentenolone; Phenethyl Alcohol; and, 2-Trans,4-Trans-decadienal (duty rate ranges from 4.8% to 6.5%). 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 October 18, 2021.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Diane Finver at *Diane.Finver@trade.gov.*

Dated: September 2, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–19430 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–38–2021]

Foreign-Trade Zone (FTZ) 134—Chattanooga, Tennessee, Authorization of Production Activity, Volkswagen Group of America Chattanooga Operations, LLC (Passenger Motor Vehicles), Chattanooga, Tennessee

On May 6, 2021, Volkswagen Group of America Chattanooga Operations, LLC submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 134, in Chattanooga, Tennessee.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (86 FR 26460, May 14, 2021). On September 3, 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: September 3, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–19431 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–821–831]

Investigation of Urea Ammonium Nitrate Solutions From the Russian Federation: Notice of Extension of Due Date for the Submission of Comments on the Russian Federation's Status as a Market Economy Country Under the Antidumping Duty Laws

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

SUMMARY: The Department of Commerce (Commerce) has granted a three-day extension of the deadline to submit comments on the Russian Federation's (Russia) status as a market economy (ME) country. Accordingly, the deadline to submit such comments, for all interested parties, is now no later than the close of business (*i.e.,* 5 p.m. Eastern Time) on September 10, 2021.

DATES: Applicable September 8, 2021.

FOR FURTHER INFORMATION CONTACT: Leah Wils-Owens, Office of Policy, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4203.

SUPPLEMENTARY INFORMATION: On July 30, 2021, Commerce published in the **Federal Register** the notice *Investigation of Urea Ammonium Nitrate Solutions From the Russian Federation: Opportunity to Comment on the Russian Federation's Status as a Market Economy Country Under the Antidumping Duty Laws,* 86 FR 41008 (July 30, 2021). In that notice, Commerce announced that it is seeking public comment and information with respect to whether to continue to treat Russia as a ME country for purposes of the antidumping duty law, and it invited the public to submit comments by August 30, 2021, on such inquiry. In response to a request to extend the comment period, we extended the due date for the submission of comments to September 7, 2021.[1]

On September 2, 2021, we received a second request to extend the comment period. In response to this request, we have extended the due date for the submission of comments by three additional days.[2] The revised due date for comments is September 10, 2021. Interested parties may submit comments and information at the Federal eRulemaking Portal: *www.Regulations.gov.* The identification number is ITA–2021–0003. To be assured of consideration, written comments and information must be received no later than September 10, 2021.

Dated: September 3, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–19481 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Investigation of Urea Ammonium Nitrate Solutions From the Russian Federation: Notice of Extension of Due Date for the Submission of Comments on the Russian Federation's Status as a Market Economy Country Under the Antidumping Duty Laws,* 86 FR 47625 (August 26, 2021).

[2] *See* Memorandum, ''Urea Ammonium Nitrate Solutions from the Russian Federation: Extension of Time to File Comments on Status,'' dated September 3, 2021.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–877]

Stainless Steel Flanges From India: Notice of Court Decision Not in Harmony With the Final Determination of Antidumping Investigation; Notice of Amended Final Determination

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

SUMMARY: On August 20, 2021, the U.S. Court of International Trade (CIT) issued its final judgment in *Echjay Forgings Private Limited* v. *United States,* Consol. Court no. 18–00230, sustaining the Department of Commerce (Commerce)'s remand redetermination pertaining to the antidumping duty (AD) investigation of stainless steel flanges (flanges) from India covering the period of investigation, July 1, 2016, through June 30, 2017. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final determination in that investigation, and that Commerce is amending the final determination and the resulting AD order with respect to the dumping margin assigned to Echjay Forgings Private Limited (Echjay) and the ''all other'' companies.

DATES: Applicable August 30, 2021.

FOR FURTHER INFORMATION CONTACT: Christopher Maciuba, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482- 0213.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 2018, Commerce published its *Final Determination* in the AD investigation of flanges from India.[1] Commerce found that Echjay, along with Echjay Industries Private Limited (EIPL), Echjay Forgings Industry Private Limited (EFIPL), and Spire Industries Private Limited (Spire), constituted a single entity. Having collapsed the companies, Commerce requested that Echjay provide information on behalf of the constituent companies of the collapsed entity. Echjay did not provide such information. Therefore, Commerce treated Echjay as noncooperative and assigned Echjay a margin based on facts available, with adverse inferences (AFA). Specifically, Commerce assigned Echjay a dumping margin of 145.25 percent and a cash deposit rate of 140.39 percent, accounting for an export subsidy offset based on the parallel countervailing duty (CVD) investigation.[2] Commerce subsequently published the AD order on flanges from India.[3]

Echjay appealed Commerce's *Final Determination.* On October 8, 2020, the CIT remanded the *Final Determination* to Commerce, concluding that Commerce's finding of affiliation and subsequent decision to collapse Echjay with EIPL, EFIPL and Spire were unsupported by substantial evidence.[4]

In its remand redetermination, issued in February 2021, Commerce revisited its prior collapsing determination and concluded that it was not appropriate to treat Echjay, EIPL, EFIPL, and Spire as a single entity. As a result, Commerce also revisited its concomitant application of AFA in determining Echjay's weighted-average dumping margin and calculated a revised dumping margin for the company.[5] Finally, in light of Echjay's revised margin, and the method used in the investigation for determining the all-others rate, we calculated a revised all-others rate of 7.00 percent. The CIT

[1] *See Stainless Steel Flanges from India: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstance Determination,* 83 FR 40745, 40746 (August 15, 2018) (*Final Determination*).

[2] *Id.,* 83 FR 40746.

[3] *See Stainless Steel Flanges from India: Antidumping Duty Order,* 83 FR 50639 (October 9, 2018).

[4] *See Echjay Forgings Private Limited* v. *United States,* 475 F. Supp. 3d 1350 (CIT 2020).

[5] *See* Final Results of Redetermination Pursuant to Court Remand, *Echjay Forgings Private Limited* v. *United States,* Consol. Court No. 18–00230, Slip Op 20–140 (February 17, 2021).

sustained Commerce's final redetermination.[6]

Timken Notice

In its decision in *Timken,*[7] as clarified by *Diamond Sawblades,*[8] the Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's August 20, 2021, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Determination.* Thus, this notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Determination

Because there is now a final court judgment, Commerce is amending its *Final Determination* as follows:

Company	Dumping margin (%)	Cash deposit rate (%)
Echjay Forgings Private Limited	4.58	[9] 0.00
All Others	11.87	[10] 7.00

Cash Deposit Requirements

Because there is a superseding cash deposit rate, *i.e.,* there have been final results published in a subsequent administrative review,[11] we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP) for Echjay. Commerce will issue revised all-others cash deposit instructions to CBP.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

[6] *See Echjay Forgings Private Limited* v. *United States,* Consol. Court No. 18–00230, Slip. Op. 21–105 (CIT August 20, 2021).

[7] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[8] See *Diamond Sawblades Manufacturers Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[9] Commerce reduced Echjay's dumping margin by the *ad valorem* export subsidy rate (4.87 percent) found in the companion CVD investigation. *See Final Determination,* 83 FR 40746.

[10] We calculated this rate by offsetting the weighted-average margin determined for the ''all others'' companies of 11.87 percent by the export subsidies rate (4.87 percent) found in the companion CVD investigation.

[11] *See Stainless Steel Flanges from India: Final Results of Antidumping Duty Administrative Review; 2018–2019,* 86 FR 47619 (August 26, 2021).

Dated: September 2, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–19442 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Call for Nominations To Serve on the National Artificial Intelligence Advisory Committee and Call for Nominations To Serve on the Subcommittee on Artificial Intelligence and Law Enforcement

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Call for nominations to serve on the National Artificial Intelligence Advisory Committee and call for nominations to serve on the Subcommittee on Artificial Intelligence and Law Enforcement.

SUMMARY: The Secretary of Commerce (Secretary), in consultation with the Director of the Office of Science and Technology Policy, the Secretary of Defense, the Secretary of Energy, the Secretary of State, the Attorney General, and the Director of National Intelligence, shall establish the National Artificial Intelligence Advisory Committee (the NAIAC or the Committee) in accordance with the requirements of Section 5104 of the National Artificial Intelligence Initiative Act of 2020, and in accordance with the Federal Advisory Committee Act, as amended. The Committee shall provide advice to the President and the National Artificial Intelligence Initiative Office on matters related to the National Artificial Intelligence Initiative (Initiative). The purposes of the Initiative are: (1) Ensuring continued United States leadership in artificial intelligence research and development; (2) leading the world in the development and use of trustworthy artificial intelligence systems in the public and private sectors; (3) preparing the present and future United States workforce for the integration of artificial intelligence systems across all sectors of the economy and society; and (4) coordinating ongoing artificial intelligence research, development, and demonstration activities among the civilian agencies, the Department of Defense, and the Intelligence Community to ensure that each informs the work of the others.

DATES: Nominations to serve on the inaugural Committee and Subcommittee on Artificial Intelligence and Law Enforcement must be submitted by 5:00 p.m. Eastern Time on October 25, 2021. In addition, nominations for the Committee and Subcommittee on Artificial Intelligence and Law Enforcement will be accepted on an ongoing basis and will be considered as and when vacancies arise. Nominations may be submitted to serve on either or both the NAIAC or Subcommittee on Artificial Intelligence and Law Enforcement.

ADDRESSES: Please submit nominations to Alicia Chambers, Committee Liaison Officer, National Institute of Standards and Technology, 100 Bureau Drive, MS 1000, Gaithersburg, MD 20899 and Melissa Banner, Designated Federal Officer, National Institute of Standards and Technology, 100 Bureau Drive, MS 1000, Gaithersburg, MD 20899. Nominations may also be submitted via email to *alicia.chambers@nist.gov* and *melissa.banner@nist.gov.*

FOR FURTHER INFORMATION CONTACT: Elham Tabassi, Chief of Staff, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, MS 8940, Gaithersburg, MD 20899. Her email is *elham.tabassi@nist.gov.*

SUPPLEMENTARY INFORMATION:

Committee Information: The National Institute of Standards and Technology (NIST or Institute) invites and requests nominations of individuals for appointment to the Committee and to the Subcommittee on Artificial Intelligence and Law Enforcement. Registered Federal lobbyists may not serve on NIST Federal Advisory Committees in an individual capacity.

The Secretary of Commerce shall establish the National Artificial Intelligence Advisory Committee (the NAIAC or the Committee) pursuant to Section 5104 of the National Artificial Intelligence Initiative Act of 2020 (Pub. L. 116–283), hereinafter referred to as the Act, and the Federal Advisory Committee Act, as amended (FACA), 5 U.S.C. App.

Objectives and Duties: The Committee shall advise the President and the Initiative Office on matters related to the Initiative, including recommendations related to:

a. The current state of United States competitiveness and leadership in artificial intelligence, including the scope and scale of United States investments in artificial intelligence research and development in the international context;

b. The progress made in implementing the Initiative, including a review of the degree to which the Initiative has achieved the goals according to the metrics established by the Interagency Committee under Section 5103(d)(2) of the Act;

c. The state of the science around artificial intelligence, including progress toward artificial general intelligence;

d. Issues related to artificial intelligence and the United States workforce, including matters relating to the potential for using artificial intelligence for workforce training, the possible consequences of technological displacement, and supporting workforce training opportunities for occupations that lead to economic self-sufficiency for individuals with barriers to employment and historically underrepresented populations, including minorities, Indians (as defined in 25 U.S.C. 5304), low-income populations, and persons with disabilities;

e. How to leverage the resources of the Initiative to streamline and enhance operations in various areas of government operations, including health care, cybersecurity, infrastructure, and disaster recovery;

f. The need to update the Initiative;

g. The balance of activities and funding across the Initiative;

h. Whether the strategic plan developed or updated by the Interagency Committee established under Section 5103(d)(2) of the Act is helping to maintain United States leadership in artificial intelligence;

i. The management, coordination, and activities of the Initiative;

j. Whether ethical, legal, safety, security, and other appropriate societal issues are adequately addressed by the Initiative;

k. Opportunities for international cooperation with strategic allies on artificial intelligence research activities, standards development, and the compatibility of international regulations;

l. Accountability and legal rights, including matters relating to oversight of artificial intelligence systems using regulatory and nonregulatory approaches, the responsibility for any violations of existing laws by an artificial intelligence system, and ways to balance advancing innovation while protecting individual rights; and

m. How artificial intelligence can enhance opportunities for diverse geographic regions of the United States, including urban, Tribal, and rural communities.

In addition, pursuant to Section 5104(e) of the Act, the Committee's Chairperson shall establish a subcommittee that shall provide advice to the President, through the Committee, on matters related to the development of AI relating to law enforcement, including advice on the following:

A. Bias, including whether the use of facial recognition by government authorities, including law enforcement agencies, is taking into account ethical considerations and addressing whether such use should be subject to additional oversight, controls, and limitations.

B. Security of data, including law enforcement's access to data and the security parameters for that data.

C. Adoptability, including methods to allow the United States Government and industry to take advantage of artificial intelligence systems for security or law enforcement purposes while at the same time ensuring the potential abuse of such technologies is sufficiently mitigated.

D. Legal standards, including those designed to ensure the use of artificial intelligence systems are consistent with the privacy rights, civil rights and civil liberties, and disability rights issues raised by the use of these technologies.

Not later than one (1) year after the date of the enactment of the Act, and not less frequently than once every three (3) years thereafter, the Committee shall submit to the President, the Committee on Science, Space, and Technology, the Committee on Energy and Commerce, the House Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Armed Services of the House of Representatives, and the Committee on Commerce, Science, and Transportation, the Senate Select Committee on Intelligence, the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Committee on Armed Services of the Senate, a report on the Committee's findings and recommendations under Section 5104(d) and Section 5104(e) of the Act. The report on the Committee's findings and recommendations will be administratively delivered to the President and Congress through the Secretary of Commerce.

Membership

Members of the Committee shall be appointed by the Secretary of Commerce. The Committee shall consist of not less than 9 members, who represent broad and interdisciplinary expertise and perspectives, including from academic institutions, companies across diverse sectors, nonprofit and civil society entities, including civil rights and disability rights organizations, and Federal laboratories, who represent geographic diversity, and who are qualified to provide advice and information on science and technology research, development, ethics, standards, education, technology transfer, commercial application, security, and economic competitiveness related to artificial intelligence.

In selecting the members of the Committee, the Secretary of Commerce shall seek and give consideration to recommendations from Congress, industry, nonprofit organizations, the scientific community (including the National Academies of Sciences, Engineering, and Medicine, scientific professional societies, and academic institutions), the defense and law enforcement communities, and other appropriate organizations.

The Committee members serve three-year terms and may serve two consecutive terms at the discretion of the Secretary. A member who has served two consecutive terms is ineligible to serve a third term for a period of one year following the expiration of the second term, to include its subcommittees. Vacancies are filled as soon as highly qualified candidates in a needed area of expertise, sector, or perspective are identified and available to serve. Members of the Committee who are not full-time or permanent part-time Federal officers or employees and appointed for their individual expertise and experience will be appointed to serve as Special Government Employee (SGE) members. Members of the Committee appointed on behalf of specific interests will serve as Representatives. Members of the Committee who are full-time or permanent part-time Federal officers or employees will be appointed pursuant to 41 CFR 102.3.130(h) to serve as Regular Government Employee (RGE) members. Members will be individually advised of the capacity in which they will serve by the DFO.

Members shall be selected on the basis of established records of distinguished service and shall be eminent in their fields.

The Secretary of Commerce shall appoint the Chairperson and the Vice Chairperson from among the members of the Committee. The Chairperson and the Vice Chairperson's tenure shall be two years and can be modified at the discretion of the Secretary of Commerce.

Members of the Committee shall not be compensated for their services. Non-Federal members of the Committee, while attending meetings of the Committee or while otherwise serving at the request of the head of the Committee away from their homes or regular place

of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by Section 5703 of Title 5, United States Code, for individuals in the Government serving without pay. Nothing in this section shall be construed to prohibit members of the Committee who are officers of employees of the United States from being allowed travel expenses, including per diem in lieu of subsistence, in accordance with existing law.

Members shall not reference or otherwise utilize their membership on the Committee or its subcommittees in connection with public statements made in their personal capacities without a disclaimer that the views expressed are their own and do not represent the views of the Committee or its subcommittees, NIST, the Office of Science and Technology Policy, the Department of Defense, the Department of Energy, the Department of State, the Attorney General, the Office of National Intelligence, the Initiative Office, the President, or the Department of Commerce.

Miscellaneous

Meetings will be conducted at least twice each year.

1. Generally, Committee meetings are open to the public.

2. Meeting may be held in-person in selected locations across the country and/or virtually.

Nomination Information

1. Nominations are sought from all fields, sectors, and perspectives described above.

2. Nominees should represent broad and interdisciplinary expertise and perspectives, including from academic institutions, companies across diverse sectors, nonprofit and civil society entities, including civil rights and disability rights organizations, and Federal laboratories, who represent geographic diversity, and who are qualified to provide advice and information on science and technology research, development, ethics, standards, education, technology transfer, commercial application, security, and economic competitiveness related to artificial intelligence. The field of eminence for which the candidate is qualified should be specified in the nomination letter. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on Federal advisory boards and Federal employment. In addition, each nomination letter should state whether the candidate seeks to serve on the Committee, the Subcommittee, or both; and that the candidate acknowledges the responsibilities of serving and will actively participate in good faith in the tasks of the Committee or Subcommittee, as appropriate. Third-party nomination letters should state that the candidate agrees to the nomination.

3. The Department of Commerce seeks a broad-based and diverse Committee and subcommittee membership.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2021–19287 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID: 0648–XB360]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Surfclam and Ocean Quahog Committee (Committee) will hold a public meeting.

DATES: The meeting will be held on Friday, October 15, 2021, from 9:30 a.m. until 12 p.m.

ADDRESSES: The meeting will be held via webinar. Webinar connection information will be available at: *https://www.mafmc.org/council-events.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council's Surfclam and Ocean Quahog Committee will meet to review the draft document being prepared for the Council to address issues related to the species separation requirements in the Atlantic surfclam and ocean quahog fisheries.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: September 3, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–19488 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB408]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council, NEFMC) will hold a three-day meeting to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Due to ongoing public safety considerations related to COVID–19, this meeting will be conducted entirely by webinar.

DATES: The webinar meeting will be held on Tuesday, Wednesday, and Thursday, September 28, 29, and 30, 2021, beginning at 9 a.m. each day.

ADDRESSES: All meeting participants and interested parties can register to join the webinar at *https://register.gotowebinar.com/register/6852048029928028172.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492; *www.nefmc.org.*

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492, ext. 113.

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, September 28, 2021

After introductions and brief announcements, NMFS's Regional Administrator for the Greater Atlantic Regional Fisheries Office (GARFO) will swear in new and reappointed Council members. The Council then will conduct its 2021–22 election of officers.

Reports on recent activities will be next. The Council will hear from its Chairman and Executive Director, GARFO's Regional Administrator, the Northeast Fisheries Science Center (NEFSC) Director, the NOAA Office of General Counsel, the Mid-Atlantic Fishery Management Council liaison, staff from the Atlantic States Marine Fisheries Commission (ASMFC), and representatives from the U.S. Coast Guard, NOAA's Office of Law Enforcement, the Stellwagen Bank National Marine Sanctuary, and NMFS's Highly Migratory Species Advisory Panel. Next, the Council will receive an overview of H.R 4690, ''Sustaining America's Fisheries for the Future Act of 2021,'' which is a bill to reauthorize the Magnuson-Stevens Fishery Conservation and Management Act. The Council will discuss the bill and approve comments.

Following the lunch break, the Council will receive a presentation from GARFO on two actions under the Atlantic Large Whale Take Reduction Plan. These will cover: (1) The Phase 1 final rule for Northeast lobster and Jonah crab trap/pot fisheries; and (2) Phase 2 scoping on potential measures for U.S. gillnet and other trap/pot fisheries to reduce entanglements of North Atlantic right whales, humpback whales, and fin whales with commercial fishing gear. The Council will discuss Phase 2 and provide input on scoping comments. Next, the Council will discuss and take final action on Framework Adjustment 9 to the Atlantic Herring Fishery Management Plan (FMP). This framework includes a rebuilding plan to address the overfished status of Atlantic herring, and it contains adjustments to herring accountability measures. As the final order of business for the day, the Council will receive an overview of NMFS's National Standard 1 Draft Technical Guidance Memo on managing with annual catch limits (ACLs) for data-limited stocks in federal fishery management plans. Following discussion, the Council will approve comments on the draft memo.

Wednesday, September 29, 2021

The Council will start off the day with a report on the 43rd annual meeting of the Northwest Atlantic Fisheries Organization (NAFO). Then, the Council will receive a presentation from the Scientific and Statistical Committee's (SSC) Social Science Subpanel on its review of socioeconomic information in Groundfish Framework Adjustment 59 and Scallop Framework Adjustment 32. The Council will discuss the results of this review. The Scallop Committee Report will be next. The Council will receive a summary of 2021 scallop survey results and a progress report on Framework Adjustment 34 to the Atlantic Sea Scallop FMP, which includes 2022 fishery specifications, 2023 default specifications, and measures that will be made available soon under Amendment 21 to the FMP. Additionally, the Council will receive: (1) A progress report on work being done to evaluate the scallop fishery's rotational area management program; and (2) an update on the Scallop Survey Working Group's activities. The Council then will transition into groundfish issues, beginning with a report from the Transboundary Resources Assessment Committee (TRAC) on the TRAC's 2021 assessment results and updates for shared U.S./Canada resources, which include Eastern Georges Bank cod, Eastern Georges Bank haddock, and Georges Bank yellowtail flounder. The Council then will hear the SSC's recommendations on overfishing limits (OFLs) and acceptable biological catches (ABCs) for Georges Bank yellowtail flounder for fishing years 2022 and 2023. This will be followed by the Transboundary Management Guidance Committee's recommendations for 2022 total allowable catches (TACs) for shared U.S./Canada resources on Georges Bank. The Council will review and approve the recommendations.

Following the lunch break, the Council will receive the Groundfish Committee Report, which will cover two items. The first will be a progress report on Framework Adjustment 63 to the Northeast Multispecies (Groundfish) FMP, which includes (1) 2022 TACs for U.S./Canada shared resources on Georges Bank; (2) 2022–23 specifications for Georges Bank yellowtail flounder; (3) 2022–24 specifications for Georges Bank cod and Gulf of Maine cod; (4) possible adjustment of 2022 specifications for Georges Bank and Gulf of Maine haddock; (5) adjustment of 2022 specifications for white hake based on a rebuilding plan; (6) additional measures to promote stock rebuilding; and (7) alternatives for setting groundfish default specifications. The second groundfish item pertains to the recent series of Atlantic Cod Stock Structure Workshops. The Council will consider measures that can be adopted regardless of outcomes from the next stock assessments for Atlantic cod. Then, the Council will receive the Skate Committee Report, starting with the SSC's overfishing limit and acceptable biological catch recommendations for the 2022–23 fishing years. The Council will take final action on 2022–23 skate specifications. Following this discussion, the Council will receive an update on recent meetings of the Northeast Trawl Advisory Panel (NTAP). The Council will review and approve a revised NTAP charter. After that, the Council will adjourn for the day.

Thursday, September 30, 2021

The Council will begin the third day of its meeting with a report from its Ecosystem-Based Fishery Management (EBFM) Committee, which will include updates on: (1) EBFM public information workshops; (2) National Standard 1 issues related to potentially managing catches by stock complex rather than as individual stocks; and (3) a potential committee recommendation for an example EBFM Management Strategy Evaluation exercise. The Habitat Committee Report will follow. The Council will receive updates on: (1) Recent Council comments to federal agencies on offshore wind projects and other issues; (2) upcoming comment opportunities; and (3) other habitat-related work. The Monkfish Committee then will report on its discussion of analyses of discard estimation methods and potential next steps resulting from this work. Next, the Northeast Fisheries Science Center will provide a presentation on the peer review of the June 2021 Management Track Stock Assessments for black sea bass, scup, Atlantic mackerel, and golden tilefish. This will be followed by the Whiting Committee Report, which will include an overview of the committee's discussion on the 2020 Annual Monitoring Report and follow-up on whether management adjustments are needed.

After the lunch break, members of the public will have the opportunity to speak during an open comment period on issues that relate to Council business but are not included on the published agenda for this meeting. The Council asks the public to limit remarks to 3–5 minutes. These comments will be received through the webinar. A guide for how to publicly comment through the webinar is available on the Council website at *https://s3.amazonaws.com/nefmc.org/NEFMC-meeting-remote-participation_generic.pdf.* Following the public comment period, the Council will begin its initial discussion on 2022 Council Priorities for all fishery management plans and other Council responsibilities. Final action on 2022 priorities will take place during the Council's December 2021 meeting. After this discussion, the Council will close out the meeting with other business.

Although non-emergency issues not contained on this agenda may come before the Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is being conducted entirely by webinar. Requests for auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: September 3, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–19485 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB397]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a four-day in-person and virtual (hybrid) meeting of its Standing, Reef Fish, Socioeconomic, and Ecosystem Scientific and Statistical Committees (SSC).

DATES: The meeting will take place Monday, September 27 to Thursday, September 30, 2021, from 8:30 a.m. to 5 p.m., EDT daily.

ADDRESSES: The in-person meeting will take place at the Gulf Council office. If you are unable to travel, you may attend via webinar. Registration information will be available on the Council's website by visiting *www.gulfcouncil.org* and clicking on the SSC meeting on the calendar.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Rindone, Lead Fishery Biologist, Gulf of Mexico Fishery Management Council; *ryan.rindone@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Monday, September 27, 2021; 8:30 a.m.–5 p.m., EDT

The meeting will begin with Introductions and Adoption of Agenda, Approval of Verbatim Minutes and Meeting Summary from the August 9–11, 2021 webinar meeting, and review of Scope of Work. The Committees will select an SSC Representative for the October 25–28, 2021 Gulf Council Meeting, and then briefly discuss the Final Draft of the Scientific and Statistic Committee's Best Practices and Voting Procedures. Next, the Committees will review and discuss a Decision Tree for Making Informed Decisions on Parameters for Yield Projections, along with an Evaluation of a Novel Projection Method to Streamline Allocation-informed Yields.

The Committees will review and discuss SEDAR 70: Gulf of Mexico *Greater Amberjack* Stock Assessment, including presentations, discussion of Maximum Sustainable Yield (MSY) proxies, and projections using the updated method. The Committees will then review and discuss the Terms of Reference for Gulf of Mexico Migratory Group *Spanish Mackerel* Operational Assessment, followed by the Scope of Work for Gulf of Mexico Migratory Group *Cobia* Operational Assessment.

Tuesday, September 28, 2021; 8:30 a.m.–5 p.m., EDT

The Committees will review a presentation and supporting documentation for Red Tide Ecosystem Modeling. Next, the Committees will review and discuss SEDAR 72: Gulf of Mexico Gag Stock Assessment Report, including presentations on the data, analyses, and projections used in the assessment. The Committees will then review a presentation on Using Field Experiments to Assess Alternative Mechanisms for Distributing Fish to the Recreational Sector.

Wednesday, September 29, 2021; 8:30 a.m.–5 p.m., EDT

The Committees will spend the day reviewing the LGL Ecological Associates absolute abundance study of *Red Snapper* off Louisiana, beginning with the Introduction: Estimating Absolute Abundance of *Red Snapper* off Louisiana. The Committees will review presentations on Study Area and Habitats, Habitat Areas and Discrete Structures, and Sampling Sites. Next, the Committees will review Field Surveys and Sample Processing, with presentations on: Hydroacoustic Field Surveys and Initial Data Processing; Hydroacoustic Data Processing Methods; and Other Survey Methods, including Camera Surveys, Hook and Line Surveys, Mark/Recapture Surveys, and Age Determinations. The Committees will then review Statistical Analyses and Modeling, with presentations on Mean Site Abundance of *Red Snapper,* Modeled Abundance of *Red Snapper,* Mark/Recapture Population Estimates, and Growth and Condition. The Committees will then review the project Results, with presentations on Mean Site Abundance Results; Modeled Site Abundance; and Age, Growth, and Condition. Finally, the Committees will have Discussion, with presentations on Overall Abundance, Impact on Stock Status, and Summary and Conclusions.

Thursday, September 30, 2021; 8:30 a.m.–5 p.m., EDT

The Committees will review the Finalized Great *Red Snapper* Count Report, including a presentation on the Response to Reviewer Comments and Final Project Outcomes. Next the Committees will receive a presentation on the Essential Fish Habitat Consultation Process, followed by reviews of the SEDAR Schedule and the Council's Interim Analysis Schedule. The Committees will then review the Standardized Bycatch Reporting Methodology. Lastly, the Committees will receive public comment before addressing any items under Other Business.

—Meeting Adjourns

The meeting will be also be broadcast via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the SSC meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Scientific and Statistical Committee will be restricted to those

issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take-action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Pereira, (813) 348–1630, at least 5 days prior to the meeting date.

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

Dated: September 3, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–19487 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID: 0648–XB359]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Surfclam and Ocean Quahog Advisory Panel will hold a public meeting.

DATES: The meeting will be held on Wednesday, October 13, 2021 from 9:30 a.m. until 12:00 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Webinar connection information will be available at: *https://www.mafmc.org/council-events.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council's Surfclam and Ocean Quahog Advisory Panel will meet to provide input on a draft document being prepared for the Council to address issues related to the species separation requirements in the Atlantic surfclam and ocean quahog fisheries.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: September 3, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–19484 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID: 0648–XB411]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Spiny Dogfish Committee will hold a public meeting.

DATES: The meeting will be held on Friday, October 1, 2021; from 9:30 a.m. to 1 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Webinar connection information will be available at: *https://www.mafmc.org/council-events.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their website at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for the Spiny Dogfish Committee to provide recommendations regarding future specifications, including potential federal trip limit modifications.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden at (302) 526–5251, at least 5 days prior to any meeting date.

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

Dated: September 3, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–19493 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB330]

Notice of Availability of a Draft Environmental Impact Statement for the Bering Sea and Aleutian Islands Halibut Abundance-Based Management of Amendment 80 Prohibited Species Catch Limit

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

ACTION: Notice of availability of a draft environmental impact statement (DEIS); request for comments.

SUMMARY: This DEIS is prepared pursuant to the National Environmental Policy Act (NEPA) to assess the environmental impacts from alternatives associated with a proposed management measure to link the Pacific halibut (*Hippoglossus stenolepis*) prohibited species catch (PSC) limit for the Amendment 80 commercial groundfish trawl fleet in the Bering Sea and Aleutian Islands (BSAI) groundfish fisheries to halibut abundance. The objectives of linking the PSC limit are to minimize halibut PSC to the extent practicable under National Standard 9 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and to achieve optimum yield in the BSAI groundfish fisheries on a continuing basis under National Standard 1. The action would also be expected to provide incentives for the Amendment 80 fleet to minimize halibut mortality at all times. Achievement of these objectives could result in additional harvest opportunities in the commercial halibut fishery.

DATES: Comments must be received on or before October 25, 2021.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2021–0074, by any of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2021–0074 in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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

Electronic copies of the DEIS may be obtained from *http://www.regulations.gov* or from the NMFS Alaska Region website at *https://www.fisheries.noaa.gov/alaska/bycatch/bering-sea-and-aleutian-islands-bsai-halibut-abundance-based-management.*

FOR FURTHER INFORMATION CONTACT: Joseph Krieger, telephone: 907–586–7221.

SUPPLEMENTARY INFORMATION: The International Pacific Halibut Commission (IPHC) and NMFS manage Pacific halibut fisheries through regulations established under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act) (16 U.S.C. 773–773k). The IPHC adopts regulations governing the target fishery for Pacific halibut under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979). For the United States, regulations governing the fishery for Pacific halibut developed by the IPHC are subject to acceptance by the Secretary of State with concurrence from the Secretary of Commerce. After acceptance by the Secretary of State with the concurrence of the Secretary of Commerce, NMFS publishes the IPHC regulations in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62. IPHC and NMFS regulations authorize the harvest of halibut in commercial, personal use, sport and subsistence fisheries by hook-and-line gear and pot gear. In the BSAI, (which largely coincides with IPHC Regulatory Area 4 (hereafter referred to as ''Area 4'') and its five subsareas (ABCDE)), halibut is harvested in all of these fisheries.

Section 5(c) of the Halibut Act also provides the North Pacific Fisheries Management Council (Council) with authority to develop regulations that are in addition to, and not in conflict with, approved IPHC regulations. The Council has exercised this authority in the development of Federal regulations for the halibut fishery such as (1) subsistence halibut fishery management measures, codified at 50 CFR 300.65; (2) the limited access program for charter vessels in the guided sport fishery, codified at § 300.67; and (3) the Individual Fishing Quota (IFQ) Program for the commercial halibut and sablefish fisheries, codified at 50 CFR part 679, under the authority of Section 5 of the Halibut Act and Section 303(b) of the MSA.

The Council manages the groundfish fisheries of the BSAI under the authority of the MSA and the Fishery Management Plan for the Groundfish for the Bering Sea and Aleutian Islands (BSAI FMP). National Standard 9 of the MSA requires that fishery conservation and management measures shall, to the extent practicable: (1) Minimize bycatch; and (2) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

In the BSAI FMP, the Council has designated Pacific halibut, along with several other fully utilized species such as salmon, herring, and crab species, as ''prohibited species'' in the groundfish fisheries (Section 3.6.1 of the BSAI FMP). By regulation, the operator of any vessel fishing for groundfish in the BSAI must minimize the catch of prohibited species (§ 679.21(a)(2)(i)). The Council has also set catch limits for individual PSC species, which are defined in BSAI FMP Section 3.6.2.1. Under the designation as a PSC species; their capture is required to be avoided; and their retention is prohibited except when retention is required or authorized by other applicable law. Unintended removals of prohibited species are separately monitored and controlled under the BSAI FMP.

The Council does not have authority to set catch limits for the commercial halibut fisheries, and halibut PSC in the groundfish fisheries is only one of the factors that affects harvest limits for the commercial halibut fisheries. Nonetheless, halibut PSC in the groundfish fisheries is a significant portion of total mortality in BSAI IPHC areas and has the potential to affect catch limits for the commercial halibut fisheries in Area 4 under the current IPHC harvest policy. While the impact of halibut PSC reductions on catch limits for commercial halibut fisheries is dependent on IPHC policy and management decisions, reductions to the current Amendment 80 halibut PSC limit in the BSAI could provide additional harvest opportunities in the BSAI commercial halibut fishery.

A Notice of Intent to prepare this DEIS was published in the **Federal Register** on December 12, 2017 (82 FR 58374). This DEIS analyzes alternative management measures to link the Pacific halibut PSC limit for the Amendment 80 commercial groundfish trawl fleet in the BSAI groundfish fisheries to halibut abundance. The Council is considering a program that provides incentives for the fleet to minimize halibut mortality at all times, that could promote conservation of the halibut stock, and may provide additional opportunities for the directed halibut fishery.

Pacific halibut is targeted in Alaska in commercial, personal use, recreational (sport), and subsistence halibut fisheries. Halibut has significant social, cultural, and economic importance to fishery participants and communities throughout the geographic range of the resource. Halibut is also incidentally taken as bycatch in commercial groundfish fisheries.

The Council is examining abundance-based approaches to set the halibut PSC limit for the Amendment 80 sector in the BSAI. Currently halibut PSC limits for groundfish fishery sectors are set in the BSAI FMP at a fixed amount of halibut mortality in metric tons. When halibut abundance declines, halibut PSC becomes a larger proportion of total halibut removals and can result in lower catch limits for directed halibut fisheries. This action is limited to the Amendment 80 sector because that sector is responsible for the majority of BSAI halibut mortality in the groundfish fisheries. In light of the continued decline of the halibut stock, both the Council and the IPHC have expressed concern about impacts on directed halibut fisheries under the status quo and identified abundance-based halibut PSC limits as a potential management approach to address these concerns.

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

Dated: September 2, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021–19380 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB402]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of web conference.

SUMMARY: The North Pacific Fishery Management Council (Council) Halibut and Sablefish Individual Fishing Quota Committee (IFQ Committee) will meet.

DATES: The meeting will be held on Monday, September 27, 2021, from 9 a.m. to 4 p.m., Alaska Time.

ADDRESSES: The meeting will be a web conference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/2500.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via video conference are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Sarah Marrinan, Council staff; phone; (907) 271–2809; email: *sarah.marrinan@noaa.gov.* For technical support please contact our admin Council staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Monday, September 27, 2021

The IFQ Committee agenda will include the review of the Initial Review Analysis of an Omnibus IFQ amendment package. Under consideration in this package are proposed changes to regulations regarding the sablefish pot fishery: Including gear specifications, buoy requirements, pot limits, and gear retrieval. Additionally, this package considers authorizing jig gear as a legal gear type to harvest sablefish IFQ and temporarily removing the Adak CQE residency requirement. There will be time scheduled on the agenda for NMFS update on IFQ related issues and the Committee may also address other items of business as necessary. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/2500* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/2500.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/2500.*

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

Dated: September 3, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–19486 Filed 9–7–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0077]

Notice of Request for Comments on Barriers Facing Small Businesses in Contracting With the Department of Defense

AGENCY: Office of Small Business Programs, Office of the Deputy Assistant Secretary of Defense (Industrial Policy), Department of Defense (DoD).

ACTION: Notice of request for public comments.

SUMMARY: The participation of dynamic, resilient, and innovative small businesses in the defense industrial base is critical to the United States' efforts to maintain its technological superiority, military readiness, and warfighting advantage. In furtherance of its efforts to maximize opportunities for small businesses to contribute to national security, the Department seeks public input on the barriers that small businesses face in working with the Department. This input will be used to update the Department's Small Business Strategy led by the DoD Office of Small Business Programs.

DATES: The due date for submitting comments is October 25, 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: 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 as they are received, without change, including any personal identifiers or contact information for public viewing on the internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Mundt, Associate Director, of the Office of Small Business Programs, at (703) 697–0051 or *osd.business.defense@mail.mil.*

SUPPLEMENTARY INFORMATION:

Background

President Biden issued Executive Order (E.O.) 14017, ''America's Supply Chains''; E.O. 13985, ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government''; and E.O. 14036, ''Promoting Competition in the American Economy.'' E.O. 14017 focuses on the need for resilient, diverse, and secure supply chains to ensure U.S. economic prosperity and national security. E.O. 13985 focuses on identifying potential barriers that underserved communities and individuals may face in taking advantage of agency procurement and contracting opportunities. E.O. 14036 focuses on reviewing the state of competition within the defense industrial base, including areas where a lack of competition may be of concern. In support of E.O.s and through DoD's Small Business Strategy, DoD is focusing on reducing barriers to entry that can reduce critical manufacturing capacity, competition and the availability and integrity of vital goods, products, and services.

Small businesses play a major role in the DoD's supply chains, and they allow the U.S. to maintain its technological superiority, military readiness, and warfighting advantages. These companies also play a crucial role in ensuring supply chain resilience. Last year, the Department awarded a record $80 billion dollars to small businesses through prime contracts, of which over $30 billion dollars was awarded to small disadvantaged businesses.

Still, over the last decade small businesses in the defense industrial base

have decreased by more than 40%. Further, a recent survey of small businesses conducted by the National Defense Industrial Association found that nearly four out of five (77.3%) businesses reported that the COVID–19 pandemic impacted them, with 85% of those saying the pandemic had negatively affected them. The Department seeks additional insight from the public in understanding the impact of the pandemic, as well as other negative influences, on small businesses in the defense industrial base.

This notice requests comments and information from the public (specifically small business currently in, or interested in becoming part of, the defense industrial base) to assist the DoD in updating its Small Business Strategy.

Written Comments

The DoD is particularly interested in comments and information directed to the policy objectives listed in E.O. 14017, E.O. 14036, and E.O. 13985 as they affect the U.S. and global supply chains. The Department is seeking input from small businesses as well as from those with relevant expertise on the following topics:

i. Government business practices that might inhibit or deter small businesses' from producing and/or providing goods, services, and materials for DoD requirements, to the detriment of the small business sector and in turn the defense industrial base;

ii. Regulations and business practices which may strain rather than strengthen the relationship between the Department and small businesses;

iii. The impact of the Department's major programs to support small business participation in the defense industrial base, specifically, the Mentor-Protégé Program, Indian Incentive Program, Procurement Technical Assistance Centers, the Rapid Innovation Fund, Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR);

iv. The use of past performance information during the periods of source selection, ongoing performance, and collection of information;

v. Increasing the Department's utilization of small business innovations;

vi. The Department's efforts to assist small businesses that seek to do business with the government, including experiences in working with the Department's contracting workforce;

vii. Contracting timelines and the impact of those timelines on small businesses;

viii. The availability of skilled labor and other personnel to sustain a competitive small business ecosystem;

ix. Research, development, and demonstration priorities to support production and an advanced manufacturing base for the Department's requirements;

x. Policy recommendations or suggested executive, legislative, regulatory action to foster more resilient supply chains, greater competition in the defense industrial base, and/or more small business participation during the procurement process;

xi. Any additional comments from small businesses relevant to the assessment of supply chain resilience required by E.O. 14017, E.O. 14036, and E.O. 13985.

The DoD encourages respondents to structure their comments using the same text above as identifiers for the areas of inquiry to which they are responding. This will assist the DoD in more easily reviewing and summarizing the comments received in response to these specific areas. For example, a commenter submitting comments responsive to (i), ''Government business practices that might cause deterioration in capabilities, to the detriment of the small business sector and in turn the defense industrial base,'' would use that same text as a heading in the public comment followed by the commenter's specific comments in this area. The Department encourages the use of an Executive Summary at the beginning of all comments and information to affect a more efficient Departmental review of the submitted documents.

Requirements for Written Comments

The *http://www.regulations.gov* website allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. The DoD prefers that comments be provided in an attached document. The Department prefers submissions in Microsoft Word (.doc files) or Adobe Acrobat (.pdf files). If the submission is provided in a format other than Microsoft Word or Adobe Acrobat, please indicate the name of the application in the ''Type Comment'' field. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter within the comments. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file, so the submission consists of one file instead of multiple files. Comments (both public comments and non-confidential versions of comments containing business confidential information) will be placed in the docket and open to public inspection. Comments may be viewed on *http://www.regulations.gov* by entering docket number DoD–2021–OS–0077 in the search field on the home page.

All filers should name their files using the name of the person or entity submitting the comments. Anonymous comments are also accepted. Communications from agencies of the United States Government will not be made available for public inspection.

Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential version of the submission. The non-confidential version of the submission will be placed in the public file on *http://www.regulations.gov.* For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC.'' Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. The non-confidential version must be clearly marked ''PUBLIC.'' The file name of the non-confidential version should begin with the character ''P.'' The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or rebuttal comments. If a public hearing is held in support of this assessment, a separate **Federal Register** notice will be published providing the date and information about the hearing. The Office of the Deputy Assistant Secretary of Defense (Industrial Policy) does not maintain a separate public inspection facility. Requesters should first view the Department's web page, which can be found at *https://https://open.defense.gov/* (see ''Electronic FOIA'' heading). The records related to this assessment are made accessible in accordance with the regulations published in part 4 of title 15 of the Code of Federal Regulations (15 CFR 4.1 through 4.11).

Dated: September 1, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–19352 Filed 9–7–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0132]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Public Education Financial Survey (NPEFS) 2019–2021: Common Core of Data (CCD)

AGENCY: Institute of Educational Science (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before October 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, 202–245–6347.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Public Education Financial Survey (NPEFS) 2019–2021: Common Core of Data (CCD).

OMB Control Number: 1850–0067.

Type of Review: A revision of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 6,738.

Abstract: The National Public Education Financial Survey (NPEFS) is the Nation's only source of annual statistical information about total revenues and expenditures for public elementary and secondary education at the state level. NCES collects data annually from SEAs under Section 153(a)(1)(I) of the Education Sciences Reform Act of 2002, 20 U.S.C. 9543(a)(1)(I), which authorizes NCES to gather data on the financing and management of education. NCES and the Economic Reimbursable Surveys Division of the U.S. Census Bureau collaborate to collect public education finance data. The U.S. Census Bureau (Census), Governments Division, administers the NPEFS data collection for NCES under interagency agreement.

NPEFS provides detailed finance data at the state level, including average daily attendance; school district revenues by source (local, state, and federal); and expenditures by function (instruction, support services, and non-instruction), sub function (*e.g.,* school administration), and object (*e.g.,* salaries). This survey also includes capital outlay and debt service expenditures. The NPEFS includes data on all public schools from the 50 states, the District of Columbia, American Samoa, the Northern Mariana Islands, Guam, Puerto Rico, and the Virgin Islands. NPEFS serves as both a statistical and an administrative collection used for a number of federal program funding allocations.

In 2019, NCES requested an extension of approval for the NPEFS data collection, OMB Control Number 1850–0067. NPEFS is an annual collection of state-level finance data that have been a component of NCES's Common Core of Data (CCD) since FY 1982 (covering school year 1981/82). On August 22, 2019, the Office of Management and Budget (OMB) approved the collection of state-level finance data for the data collections of FY 19–FY 21 data. The expiration date is August 31, 2022. The statistical uses of NPEFS were previously set forth in National Public Education Financial Survey (NPEFS) 2019–2021: Common Core of Data (CCD), Supporting Statement Part A, OMB #1850–0067 v.17. Subsequent packages (OMB #1850–0067 v.18–19) cleared the **Federal Register** Notices for FY 2019 and 2020 data collections.

This submission for 30-day public review requests changes to the National Public Education Financial Survey (NPEFS) data collection. As a direct result of the COVID–19 circumstances, the National Center for Education Statistics (NCES) is requesting to: (1) Amend the instructions for Average Daily Attendance (ADA) on NPEFS; (2) Obtain approval to send a letter to Chief State School Officers (CSSOs) and State Fiscal Coordinators pertaining to ADA; (3) Amend the data plan for NPEFS; (4) Add certain data items to NPEFS; (5) Make other small changes to FY 20 NPEFS, based on regular communication with state fiscal coordinators; and (6) Change the estimated respondent burden and the costs to the federal government incurred by the above changes.

Dated: September 2, 2021.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–19332 Filed 9–7–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Reopening the Fiscal Year (FY) 2021 Competition for Certain Eligible Applicants; Education Innovation and Research (EIR) Program—Early-Phase Grants

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: On July 28, 2021, we published in the **Federal Register** a notice inviting applications (NIA) for the FY 2021 Education Innovation and Research Program—Early-phase Grants, Assistance Listing Number 84.411C (Early-phase Grants). This notice reopens this competition to allow more time for the preparation and submission of applications by eligible applicants affected by the severe storm and flooding in the following counties in Tennessee: Dickson, Hickman, Houston,

and Humphreys which have been designated for Individual Assistance or Public Assistance under Presidential major disaster declaration 4609–DR–TN (''affected applicants'').

DATES:

Deadline for Transmittal of Applications for Affected Applicants: September 13, 2021.

Deadline for Intergovernmental Review: November 12, 2021.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Yvonne Crockett, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E344, Washington, DC 20202–5900. Telephone: (202) 453–7122. Email: *eir@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

On July 28, 2021, we published in the **Federal Register** (86 FR 40510) the NIA for EIR Early-phase Grants. Under the NIA, applications were due on August 27, 2021. We are reopening this competition for five days for affected applicants to allow those applicants more time to prepare and submit their applications.

Eligibility:

The reopening of this competition applies to eligible applicants under the Early-phase Grants competition that are affected applicants. An eligible applicant for the Early-phase Grant competition is defined in the NIA. The federally declared disaster areas under this declaration are the jurisdictions identified by the Federal Emergency Management Agency under declaration 4609–DR–TN in which assistance to individuals or public assistance has been authorized. To determine if you are an affected applicant, see the Emergency Declaration available at: *www.fema.gov/disaster/4609* and *https://www.fema.gov/disaster/4609/designated-areas.*

An affected applicant submitting an application as part of the reopened competition must provide a certification in its application that it is located in a jurisdiction that is part of one of the applicable federally declared disaster areas and must provide appropriate supporting documentation, if requested.

We are not reopening the application period for all applicants. Thus, applications from applicants that are not affected applicants may not be submitted as part of this reopened period for submission of applications.

Note: All information in the NIA remains the same, except for the deadline date for affected applicants and the deadline for intergovernmental review.

Program Authority: 20 U.S.C. 7261.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Ruth Ryder,

Deputy Assistant Secretary for Policy and Programs, Office of Elementary and Secondary Education.

[FR Doc. 2021–19283 Filed 9–7–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0131]

Agency Information Collection Activities; Comment Request; Early Childhood Longitudinal Study, Kindergarten Class of 2023–24 (ECLS–K:2024) Kindergarten and First-Grade Field Test Data Collection, National Sampling, and National Recruitment

AGENCY: Institute of Educational Science (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before November 8, 2021.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2021–SCC–0131. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208B, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, 202–245–6347.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be

processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Early Childhood Longitudinal Study, Kindergarten Class of 2023–24 (ECLS–K:2024) Kindergarten and First-Grade Field Test Data Collection, National Sampling, and National Recruitment.

OMB Control Number: 1850–0750.

Type of Review: A revision of a currently approved collection.

Respondents/Affected Public: Individuals and households.

Total Estimated Number of Annual Responses: 20,895.

Total Estimated Number of Annual Burden Hours: 15,599.

Abstract: The Early Childhood Longitudinal Study (ECLS) program, conducted by the National Center for Education Statistics (NCES) within the Institute of Education Sciences (IES) of the U.S. Department of Education (ED), draws together information from multiple sources to provide rich, descriptive data on child development, early learning, and school progress. The ECLS program studies deliver national data on children's status at birth and at various points thereafter; children's transitions to non-parental care, early care and education programs, and school; and children's experiences and growth through the elementary grades. The Early Childhood Longitudinal Study, Kindergarten Class of 2023–24 (ECLS–K:2024) is the fourth cohort in the series of early childhood longitudinal studies that began with the Early Childhood Longitudinal Study, Kindergarten Class of 1998–99 (ECLS–K) and continued with the Early Childhood Longitudinal Study, Birth Cohort (ECLS–B), and the Early Childhood Longitudinal Study, Kindergarten Class of 2010–11 (ECLS–K:2011).

In preparation for the ECLS–K:2024 data collections, several OMB packages have been cleared or have been planned for submission. Prior to the field test collection of data from parents of preschool-aged children, in-person focus groups with parents of preschoolers and usability testing of the preschool parent survey instruments were conducted in 2019 (OMB 1850–0803 v.246 and OMB 1850–0803 v.253, respectively). The field test with preschool parents was conducted in the spring of 2020 (OMB 1850–0750 v.19). In order to test recruitment messages and materials for the field test and national data collections, online focus groups with school administrators, teachers, and parents were conducted in fall 2019 and spring 2020 (OMB 1850–0803 v.255 & v.264). Additionally, usability testing of the kindergarten and first-grade field test instruments was conducted in early 2021 (OMB 1850–0803 v.280).

This current request is to conduct a field test of the ECLS–K:2024 kindergarten and first-grade data collection activities to evaluate the design of the national study's kindergarten and first-grade surveys and child assessments, as well as the operational procedures (that is, sampling and recruitment) for the national kindergarten and first-grade data collections in the fall 2023, spring 2024, and spring 2025. This data collection to evaluate the kindergarten and first-grade instruments and procedures is referred to throughout the remainder of this package as the K–1 field test. District and school sampling and recruitment activities for the K–1 field test will occur in spring 2022, while student sampling will occur in August and September 2022. From September through November 2022, trained study field staff will visit the participating schools to conduct in-person, one-on-one child assessments. Parents, teachers, and school administrators will also be asked to complete web surveys. As testing and development continues, it is anticipated that changes to the surveys, website language, and respondent materials will be necessary; a change request describing these changes will be submitted in spring 2022 prior to the K–1 field test data collection. Furthermore, this package also includes a request to conduct national district and school sampling and recruitment from fall 2022 to spring 2023. These recruitment activities will closely mimic what will be done in the K–1 field test, but will occur over a much longer period of time.

Dated: September 2, 2021.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–19331 Filed 9–7–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0095]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Trends in International Mathematics and Science Study (TIMSS 2023) Field Test Data Collection and Main Study Sampling, Recruitment, and Data Collection

AGENCY: Institute of Educational Science (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before October 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, 202–245–6347.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the

information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Trends in International Mathematics and Science Study (TIMSS 2023) Field Test Data Collection and Main Study Sampling, Recruitment, and Data Collection.

OMB Control Number: 1850–0695.

Type of Review: A revision of a currently approved collection.

Respondents/Affected Public: Individuals and households.

Total Estimated Number of Annual Responses: 50,996.

Total Estimated Number of Annual Burden Hours: 20,336.

Abstract: The Trends in International Mathematics and Science Study (TIMSS), conducted by the National Center for Education Statistics (NCES), within the U.S. Department of Education (ED), is an international assessment of fourth and eighth grade students' achievement in mathematics and science. Since its inception in 1995, TIMSS has continued to assess students every 4 years (1995, 1999, 2003, 2007, 2011, 2015, and 2019), with the next TIMSS assessment, TIMSS 2023, being the eighth iteration of the study. In TIMSS 2023, approximately 65 countries or education systems will participate. The United States will participate in TIMSS 2023 to continue to monitor the progress of its students compared to that of other nations and to provide data on factors that may influence student achievement.

TIMSS is led by the International Association for the Evaluation of Educational Achievement (IEA), an international collective of research organizations and government agencies that create the frameworks used to develop the assessment, the survey instruments, and the study timeline. IEA decides and agrees upon a common set of standards, procedures, and timelines for collecting and reporting data, all of which must be followed by all participating countries. As a result, TIMSS is able to provide a reliable and comparable measure of student skills in participating countries. In the U.S., NCES conducts this study in collaboration with the IEA and a number of contractors to ensure proper implementation of the study and adoption of practices in adherence to the IEA's standards. Participation in TIMSS is consistent with NCES's mandate of acquiring and disseminating data on educational activities and student achievement in the United States compared with foreign nations [The Educational Sciences Reform Act of 2002 (ESRA 2002, 20 U.S.C. 9543)].

A previous request to conduct sampling and recruitment activities associated with the TIMSS 2023 field test, which will be conducted in March and April 2022, was approved by OMB in May 2021 (OMB #1850–0695 v.16). Because TIMSS is a collaborative effort among many parties, the United States must adhere to the international schedule set forth by the IEA, including the availability of final field test and main study plans as well as draft and final questionnaires. In order to meet the international data collection schedule, to align with recruitment for other NCES studies (*e.g.,* the National Assessment of Education Progress, NAEP), and for schools to put the TIMSS 2023 field test assessment on their Spring 2022 calendars, recruitment activities for the field test will begin in June of 2021. This package requests approval for the field test data collection materials and the main study sampling, recruiting, and data collection plans. Recruitment activities for the main study will begin in January 2022, with the data collection activities currently scheduled to begin in March 2023.

Dated: September 2, 2021.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–19330 Filed 9–7–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board Chairs

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open virtual meeting

SUMMARY: This notice announces an online virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB) Chairs. The Federal Advisory Committee Act requires that public notice of this online virtual meeting be announced in the **Federal Register**.

DATES: Wednesday, October 6, 2021; 12:00 p.m.–4:15 p.m. EDT, and Thursday, October 7, 2021; 12:00 p.m.–4:00 p.m. EDT

ADDRESSES: Online Virtual Meeting. To attend, please contact Alyssa Harris by email, *Alyssa.Harris@em.doe.gov,* no later than 5:00 p.m. EDT on Monday, October 4, 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, September 29, 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 Wednesday, October 13, 2021 to be included in the official meeting record. Please send comments to Alyssa Harris at *Alyssa.Harris@em.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Alyssa Harris, EM SSAB Federal Coordinator. U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. Email: *Alyssa.Harris@em.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda Topics

Wednesday, October 6, 2021

- Update from Principal Deputy Assistant Secretary
- Chairs Round Robin
- Public Comment
- EM–4 Update
- Membership Recruitment and Package Education
- Board Business/Open Discussion

Thursday, October 7, 2021

- FY 2022 Budget Update
- Office of Technology Development Overview
- Public Comment
- Charge #1 Discussion and Path Forward
- Charge #2 Discussion and Path Forward
- Board Business/Open Discussion

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 Alyssa Harris at the email address listed above. Minutes will also be available at the following website: *https://energy.gov/em/listings/chairs-meetings.*

Signed in Washington, DC, on September 2, 2021.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2021–19353 Filed 9–7–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–443–000]

National Fuel Gas Supply Corporation; Notice of Request for Extension of Time

Take notice that on July 22, 2021, National Fuel Gas Supply Corporation (National Fuel) requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time, until December 31, 2024, to complete the Wharton WH23 Storage Well Abandonment Project (Project), as authorized after the 60-day deadline of National Fuel's prior notice issued by the Commission on May 25, 2017. By that process, National Fuel was initially required to abandon the facilities in one year, by July 24, 2018.

On July 27, 2018, the Office of Energy Projects, by delegated order, extended the deadline through July 24, 2019. On July 12, 2019, the Office of Energy Projects, by delegated order, extended the deadline through July 24, 2020. The Commission granted this extension request on October 21, 2020.[1] National Fuel now requests an extension of this deadline, through December 31, 2024. National Fuel states that it needs to re-plug Well WH23 and monitor the well to ensure that well has been plugged successfully.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on National Fuel's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).[2]

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas Act facilities when such requests are contested before order issuance. For those extension requests that are contested,[3] the Commission will aim to issue an order acting on the request within 45 days.[4] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.[5] The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act.[6] At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.[7] The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' 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 September 17, 2021.

Dated: September 2, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19455 Filed 9–7–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–48–000]

Iroquois Gas Transmission System, L.P.; Notice of Revised Schedule for Environmental Review of the Enhancement by Compression Project

This notice identifies the Federal Energy Regulatory Commission staff's revised schedule for the completion of the environmental impact statement (EIS) for Iroquois Gas Transmission System, L.P.'s (Iroquois) Enhancement by Compression Project. The *Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Enhancement by Compression Project and Schedule for Environmental Review,* issued on May 27, 2021, identified September 3, 2021 as the final EIS issuance date. However, we are modifying this issuance date because of the number and complexity of comments received on the draft EIS. Further, staff will require additional information from Iroquois to respond to several of these comments in the final EIS, and is currently preparing a data request to obtain that information.

Schedule for Environmental Review

Issuance of the final EIS—November 12, 2021

90-day Federal Authorization Decision Deadline—February 9, 2022

If a schedule change becomes necessary, an additional notice will be provided so that the relevant agencies are kept informed of the project's progress.

Additional Information

In order to receive notification of the issuance of the EIS and to keep track of

[1] See National Fuel Gas Supply Corporation, Request for Extension of Time, filed July 20, 2020 and Commission October 21, 2020 unpublished letter to National Fuel order granting National Fuel's request.

[2] Only motions to intervene from entities that were party to the underlying proceeding will be accepted. *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 39 (2020).

[3] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2019).

[4] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

[5] *Id.* at P 40.

[6] Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

[7] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. 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.

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, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' (*i.e.,* CP20–48), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: September 2, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19456 Filed 9–7–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10489–020]

City of River Falls Municipal Utilities; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent License.

b. *Project No.:* 10489–020.

c. *Date Filed:* August 26, 2021.

d. *Applicant:* City of River Falls Municipal Utilities (City of River Falls).

e. *Name of Project:* River Falls Hydroelectric Project (River Falls Project).

f. *Location:* The River Falls Project is located on the Kinnickinnic River in the City of River Falls in Pierce County, Wisconsin. The project does not occupy federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Kevin Westhuis, Utility Director of the City of River Falls Municipal Utilities; *kwesthuis@rfcity.org* (preferred contact) or (715) 426–3442.

i. *FERC Contact:* Shana Wiseman at (202) 502–8736 or email at *shana.wiseman@ferc.gov.*

j. This application is not ready for environmental analysis at this time.

k. The River Falls Project consists of: (1) A 140-foot-long, 32-foot-high concrete dam; (2) an impoundment with a surface area of 15.5 acres; (3) a 200-foot-long, 6-foot-diameter penstock; (4) a powerhouse containing one generating unit rated at 250 kilowatts; (5) a 50-foot-long transmission line; and (6) appurtenant facilities.

The River Falls Project is operated in a run-of-river mode with an estimated annual energy production of approximately 1,220,000 kilowatt hours. The City of River Falls proposes to continue operating the project as a run-of-river facility and does not propose any new construction to the project.

l. A copy of the application can be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19) issued on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

m. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Issue Deficiency Letter (if necessary)	September 2021.
Request Additional Information	October 2021.
Notice of Acceptance/Notice of Ready for Environmental Analysis	February 2021.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: September 2, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19454 Filed 9–7–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC06–129–008.

Applicants: Capital Research and Management Company.

Description: Request for Extension of Blanket Authorization Under Section 203 of the Federal Power Act of Capital Research and Management Company, et al.

Filed Date: 8/30/21.

Accession Number: 20210830–5177.

Comment Date: 5 p.m. ET 9/20/21.

Docket Numbers: EC21–124–000.

Applicants: Gruver Wind Interconnection, LLC, Gruver Wind, LLC, KODE Novus I, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Gruver Wind Interconnection, LLC, et al.

Filed Date: 9/1/21.

Accession Number: 20210901–5234.

Comment Date: 5 p.m. ET 9/22/21.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL21–100–000.

Applicants: Nebraska Public Power District v. Tri-State Generation and Transmission Association, Inc., and Southwest Power Pool, Inc.

Description: Complaint of Nebraska Public Power District.

Filed Date: 9/1/21.

Accession Number: 20210901–5220.

Comment Date: 5 p.m. ET 9/21/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–676–005.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Compliance filing: Settlement Compliance Filing to be effective 3/1/2021.

Filed Date: 9/1/21.

Accession Number: 20210901–5169.

Comment Date: 5 p.m. ET 9/22/21.

Docket Numbers: ER21–2438–001.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 3630SR1 Maverick Wind Project GIA to be effective 6/29/2021.

Filed Date: 9/2/21.

Accession Number: 20210902–5083.

Comment Date: 5 p.m. ET 9/23/21.

Docket Numbers: ER21–2490–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Errata to Amendment to ISA No.2967, in Docket No. ER21–2490–000 to be effective 6/17/2011.

Filed Date: 9/2/21.

Accession Number: 20210902–5090.

Comment Date: 5 p.m. ET 9/23/21.

Docket Numbers: ER21–2818–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Revisions to Rate Schedule FERC No. 281 (Modified CTP Methodology) to be effective 11/1/2021.

Filed Date: 9/1/21.

Accession Number: 20210901–5171.

Comment Date: 5 p.m. ET 9/22/21.

Docket Numbers: ER21–2819–000.

Applicants: South Field Energy LLC.

Description: § 205(d) Rate Filing: Reactive Power Rate Schedule and Request for Waiver and Expedited Action to be effective 10/1/2021.

Filed Date: 9/2/21.

Accession Number: 20210902–5000.

Comment Date: 5 p.m. ET 9/23/21.

Docket Numbers: ER21–2820–000.

Applicants: York Generation Company LLC.

Description: Tariff Amendment: Notice of Cancellation to be effective 9/20/2021.

Filed Date: 9/2/21.

Accession Number: 20210902–5033.

Comment Date: 5 p.m. ET 9/23/21.

Docket Numbers: ER21–2821–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3558R1 WAPA, MDU & MISO Interconnection Agreement to be effective 12/31/9998.

Filed Date: 9/2/21.

Accession Number: 20210902–5046.

Comment Date: 5 p.m. ET 9/23/21.

Docket Numbers: ER21–2822–000.

Applicants: Commonwealth Edison Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Commonwealth Edison Company submits tariff filing per 35.13(a)(2)(iii): ComEd submits revisions to Att. H–13 re: Sterling Rail, L.L.C. to be effective 9/3/2021.

Filed Date: 9/2/21.

Accession Number: 20210902–5078.

Comment Date: 5 p.m. ET 9/23/21.

Docket Numbers: ER21–2823–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021–09–02_SA 3313 WAPA–MDU 1st Revised Interconnection Agreement to be effective 12/31/9998.

Filed Date: 9/2/21.

Accession Number: 20210902–5113.

Comment Date: 5 p.m. ET 9/23/21.

Docket Numbers: ER21–2824–000.

Applicants: Duke Energy Carolinas, LLC.

Description: Tariff Amendment: DEC-Broad River Energy, LLC SA No. 240—Notice of Cancellation to be effective 11/2/2021.

Filed Date: 9/2/21.

Accession Number: 20210902–5117.

Comment Date: 5 p.m. ET 9/23/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 2, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19458 Filed 9–7–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1121–132]

Pacific Gas and Electric Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Application for Temporary Variance of Flow Requirements.

b. *Project No:* 1121–132.

c. *Date Filed:* August 25, 2021.

d. *Applicant:* Pacific Gas and Electric Company (licensee).

e. *Name of Project:* Battle Creek Hydroelectric Project.

f. *Location:* The project is located on Battle Creek and its tributaries in Shasta and Tehama counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Ms. Megan Young, License Coordinator, Pacific Gas and Electric Company, Mail Code: N11D, P.O. Box 770000, San Francisco, CA 94177, Phone: (530) 364–6009.

i. *FERC Contact:* John Aedo, (415) 369–3335, *john.aedo@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* September 21, 2021.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–1121–132. 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 licensee requests a temporary variance of the minimum flow requirements at three project locations, including North Fork Battle Creek below North Battle Creek Dam, North Fork Battle Creek below Macumber Reservoir, and Battle Creek below Coleman Powerhouse. Specifically, the licensee requests Commission approval to reduce flows below North Battle Creek Reservoir and Macumber Reservoir from a 0.3 cubic feet per second (cfs) instantaneous requirement to a 24-hour average flow. Similarly, the licensee proposes to reduce flows in Battle Creek from a 150 cfs instantaneous minimum flow to a 24-hour average flow. The licensee states that the flow modification would conserve limited water resources during the current drought conditions and to maintain reservoir elevation and water quality in project reservoirs. The licensee requests the variance through October 31, 2021.

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: September 1, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19358 Filed 9–7–21; 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:

Filings Instituting Proceedings

Docket Numbers: RP21–1086–000.
Applicants: Alliance Pipeline L.P.
Description: § 4(d) Rate Filing: Negotiated Rates—Various September 1 Capacity Releases to be effective 9/1/2021.
Filed Date: 9/1/21.
Accession Number: 20210901–5072.
Comment Date: 5 p.m. ET 9/13/21.

Docket Numbers: RP21–1087–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreements—9/1/2021 to be effective 9/1/2021.
Filed Date: 9/1/21.
Accession Number: 20210901–5075.
Comment Date: 5 p.m. ET 9/13/21.

Docket Numbers: RP21–1088–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Marathon releasese effective 9–1–2021) to be effective 9/1/2021.
Filed Date: 9/1/21.
Accession Number: 20210901–5090.
Comment Date: 5 p.m. ET 9/13/21.

Docket Numbers: RP21–1089–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rate—UGI Energy 8967380 eff 09–01–2021 to be effective 9/1/2021.
Filed Date: 9/1/21.
Accession Number: 20210901–5092.
Comment Date: 5 p.m. ET 9/13/21.

Docket Numbers: RP21–1090–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Releases eff 09–01–2021 to be effective 9/1/2021.
Filed Date: 9/1/21.
Accession Number: 20210901–5094.
Comment Date: 5 p.m. ET 9/13/21.

Docket Numbers: RP21–1091–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate—Amended DTE Gas 860003 eff 9–1–2021 to be effective 9/1/2021.
Filed Date: 9/1/21.
Accession Number: 20210901–5097.
Comment Date: 5 p.m. ET 9/13/21.

Docket Numbers: RP21–1092–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Amendment to Neg Rate Agmt and Cap Rel Agmt (Calyx 51762) to be effective 9/1/2021.
Filed Date: 9/1/21.
Accession Number: 20210901–5102.
Comment Date: 5 p.m. ET 9/13/21.

Docket Numbers: RP21–1093–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Adding Firm PALS Option Under Rate Schedule PHS to be effective 10/1/2021.
Filed Date: 9/1/21.
Accession Number: 20210901–5153.
Comment Date: 5 p.m. ET 9/13/21.

Docket Numbers: RP21–1094–000.
Applicants: NEXUS Gas Transmission, LLC.

Description: § 4(d) Rate Filing: NEXUS Tariff Modification—ACA Unit Charge to be effective 10/1/2021.

Filed Date: 9/1/21.

Accession Number: 20210901–5176.

Comment Date: 5 p.m. ET 9/13/21.

Docket Numbers: RP21–1095–000.

Applicants: MIGC LLC.

Description: § 4(d) Rate Filing: 2021 Annual Fuel Tracker/Waiver Request to be effective 10/1/2021.

Filed Date: 9/1/21.

Accession Number: 20210901–5182.

Comment Date: 5 p.m. ET 9/13/21.

Docket Numbers: RP11–2473–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Refund Report: Gulf South Pipeline Company, LLC submits tariff filing per 154.501: 2021 Annual CICO Filing to be effective N/A.

Filed Date: 9/1/21.

Accession Number: 20210901–5088.

Comment Date: 5 p.m. ET 9/13/21.

Docket Numbers: RP21–525–003.

Applicants: Midwestern Gas Transmission Company.

Description: Compliance filing: Motion to Place Unrevised Suspended Tariff Records into Effect to be effective 9/1/2021.

Filed Date: 9/1/21.

Accession Number: 20210901–5081.

Comment Date: 5 p.m. ET 9/13/21.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

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: September 2, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19457 Filed 9–7–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2020–0631; FRL–8973–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Hot Mix Asphalt Facilities (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Hot Mix Asphalt Facilities (EPA ICR Number 1127.13, OMB Control Number 2060–0083), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through December 31, 2021. Public comments were previously requested, via the **Federal Register**, on February 8, 2021 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 neither conduct nor 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 October 8, 2021.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2020–0631 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.

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: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@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 Building, 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: The New Source Performance Standards (NSPS) for Hot Mix Asphalt Facilities (40 CFR part 60, subpart I) apply to hot mix asphalt facilities comprised only of a combination of the following: Dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring, and storing mineral filler; systems for mixing hot mix asphalt; and the loading, transfer, and storage systems associated with emission control systems. In general, all NSPS standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NSPS.

Form Numbers: None.

Respondents/affected entities: Hot mix asphalt facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart I).

Estimated number of respondents: 828 (total).

Frequency of response: Initially and occasionally.

Total estimated burden: 4,120 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $488,000 (per year), which includes $0 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is a decrease in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This decrease is not due to any program changes. The decrease in burden from the most-recently approved ICR is due to a decrease in the number of sources. This ICR reflects a decrease in the number of respondents and additional respondents that the Agency anticipates will become subject to these standards or modify existing facilities. The estimates in the current approved ICR were based on estimates collected in 2008 and adjusted for growth over time. This ICR adjusts the number of respondents based on a review of facilities identified in EPA's Enforcement and Compliance History Online (ECHO) database, assuming a similar rate of growth and modification of existing facilities (about two and three percent, respectively). EPA's ECHO database is the most-recent source of facility information available for hot mix asphalt facilities and should reflect a more accurate estimate of existing facilities. We have assumed a similar rate of growth and modification of existing facilities due to anticipated continuous demand within the asphalt mixing industry. This ICR also corrects an error from the most-recently approved ICR by accounting for the burden for responses for notifications of performance tests for respondents required to conduct a repeat performance test. The overall result is a decrease in burden.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2021–19473 Filed 9–7–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2020–0630; FRL–8970–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Inorganic Arsenic Emissions From Glass Manufacturing Plants) (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), ''NESHAP for Inorganic Arsenic Emissions from Glass Manufacturing Plants (EPA ICR Number 1081.13, OMB Control Number 2060–0043), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through December 31, 2021. Public comments were previously requested via the **Federal Register** on February 8, 2021 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 neither conduct nor 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 October 8, 2021.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2020–0630 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.

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: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@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 *https://www.regulations.gov/,* or in person at the EPA Docket Center, WJC West Building, 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: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Inorganic Arsenic Emissions from Glass Manufacturing Plants (40 CFR part 61, subpart N) apply to each existing and new glass melting furnace that uses commercial arsenic as a raw material located at a glass manufacturing plant. These standards do not apply to pot furnaces; in addition, these standards do not consider re-bricking as either construction or modification for the purposes of 40 CFR 61.05(a). New facilities include those that commenced either construction or reconstruction after the date of proposal. In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance with 40 CFR part 61, subpart N.

Form Numbers: None.

Respondents/affected entities: Glass manufacturing plants.

Respondent's obligation to respond: Mandatory (40 CFR part 61, subpart N).

Estimated number of respondents: 16 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 3,100 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $423,000 (per year), which includes $56,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in burden from the most-recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup or

operation and maintenance (O&M) costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2021–19433 Filed 9–7–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8926–01–OA]

Request for Nominations of Candidates for Two Review Panels of the Clean Air Scientific Advisory Committee (CASAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office requests public nominations of scientific experts for two ad hoc review panels of the Clean Air Scientific Advisory Committee (CASAC). The review panels will provide advice through the chartered CASAC on the scientific and technical aspects of air quality criteria and the primary and secondary National Ambient Air Quality Standards (NAAQS) for lead and the secondary NAAQS for oxides of nitrogen, oxides of sulfur, and particulate matter (PM).

DATES: Nominations should be submitted by September 29, 2021 per the instructions below.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this Notice and Request for Nominations may contact Mr. Aaron Yeow, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564–2050 or via email at *yeow.aaron@epa.gov.* General information concerning the CASAC can be found on the following website: *https://casac.epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The CASAC was established pursuant to the Clean Air Act (CAA) Amendments of 1977, codified at 42 U.S.C. 7409(d)(2), to review air quality criteria and NAAQS and recommend to the EPA Administrator any new NAAQS and revisions of existing criteria and NAAQS as may be appropriate. The CASAC shall also: Advise the EPA Administrator of areas in which additional knowledge is required to appraise the adequacy and basis of existing, new, or revised NAAQS; describe the research efforts necessary to provide the required information; advise the EPA Administrator on the relative contribution to air pollution concentrations of natural as well as anthropogenic activity; and advise the EPA Administrator of any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such NAAQS. As amended, 5 U.S.C., App. Section 109(d)(1) of the Clean Air Act (CAA) requires that EPA carry out a periodic review and revision, as appropriate, of the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including lead, oxides of nitrogen oxides, oxides of sulfur, and PM.

The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA). As a Federal Advisory Committee, the CASAC conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations. The CASAC and the CASAC Review Panels will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

History of the Lead NAAQS Review: With the publication of the National Ambient Standards for lead (81 FR 71906) on October 18, 2016, the Agency completed its most recent review of the lead NAAQS. The CASAC's Lead Review Panel for that review was formed in July 2010 and completed its work in June 2013. In July 2020, the EPA publicly announced the initiation of the current primary and secondary NAAQS review for lead (85 FR 40641).

This **Federal Register** notice solicitation is seeking nominations for subject matter experts to serve on the CASAC Lead Review Panel for the next review of the lead NAAQS that began with a call for information in July 2020 (85 FR 40641). The Panel will be charged with reviewing the science and policy assessments, and related documents, that form the basis for the EPA's review of the lead NAAQS, and will provide advice through the Chartered CASAC.

History of the Current Oxides of Nitrogen, Oxides of Sulfur, and PM Secondary NAAQS Review: In August 2013, the EPA publicly announced the initiation of the NAAQS review for oxides of nitrogen and oxides of sulfur (78 FR 53452). In the *Integrated Review Plan for the Secondary NAAQS for Ecological Effects of Oxides of Nitrogen, Oxides of Sulfur, and Particulate Matter* (IRP), EPA recognized the combined contribution of oxides of nitrogen, oxides of sulfur and PM to deposition of nitrogen and sulfur and the overlap of effects of these air pollutants on ecological systems. As such, EPA stated the plan to review the ecological effects of these three criteria pollutants together in this review and the IRP was finalized in 2017 following consultation with the CASAC and the CASAC Secondary NAAQS Review Panel for Oxides of Nitrogen and Sulfur. The first and second drafts of the *Integrated Science Assessment for Oxides of Nitrogen, Oxides of Sulfur and Particulate Matter—Ecological Criteria* were released in 2017 and 2018 and reviewed by the CASAC and the CASAC Secondary NAAQS Review Panel for Oxides of Nitrogen and Sulfur. The final ISA was published in 2020 (85 FR 66328). In addition, EPA released the *Review of the Secondary Standards for Ecological Effects of Oxides of Nitrogen, Oxides of Sulfur, and Particulate Matter: Risk and Exposure Assessment Planning Document* in 2018 (83 FR 42497), which the CASAC Secondary NAAQS Review Panel for Oxides of Nitrogen and Sulfur provided consultative advice on.

On March 31, 2021, the Administrator reset membership of the Chartered CASAC and existing CASAC panels, including the CASAC Secondary NAAQS Review Panel for Oxides of Nitrogen and Sulfur. On June 17, 2021, the new Chartered CASAC members were announced.

This **Federal Register** notice solicitation is seeking nominations for subject matter experts to serve on the CASAC Oxides of Nitrogen, Oxides of Sulfur, and PM Secondary NAAQS Panel to review the Policy Assessment for the EPA's review of the Oxides of Nitrogen, Oxides of Sulfur, and PM Secondary NAAQS, and will provide advice through the Chartered CASAC.

Request for Nominations: The SAB Staff Office is seeking nominations of nationally and internationally recognized scientists with demonstrated expertise and research in the field of air pollution related to criteria pollutants.

For the Lead Panel, experts are being sought in the following fields, especially with respect to lead: Air quality; environmental fate and transport; exposure and biomarker assessment; biokinetic modeling; toxicology; epidemiology; risk assessment; biostatistics; and ecology.

For the Oxides of Nitrogen, Oxides of Sulfur, and PM Secondary NAAQS Panel, experts are being sought in the following fields, especially with respect to nitrogen oxides, sulfur oxides and PM: Ecological effects of atmospheric concentrations and deposition to terrestrial, wetland and aquatic ecosystems; ecosystem exposure and risk assessment/modeling; ecosystem service and resource valuation; and atmospheric sciences.

Process and Deadline for Submitting Nominations: Any interested person or organization may nominate qualified individuals in the areas of expertise described above. Individuals may self-nominate. Nominations should be submitted in electronic format (preferred) using the online nomination form under ''Public Input on Membership'' on the CASAC web page at *https://casac.epa.gov.* To be considered, all nominations should include the information requested below. EPA values and welcomes diversity. All qualified candidates are encouraged to apply regardless of sex, race, disability or ethnicity. Nominations should be submitted by September 29, 2021.

The following information should be provided on the nomination form: Contact information for the person making the nomination; contact information for the nominee; and the disciplinary and specific areas of expertise of the nominee. Nominees will be contacted by the SABSO and will be asked to provide a recent *curriculum vitae* and a narrative biographical summary that includes: Current position, educational background; research activities; sources of research funding for the last two years; and recent service on other national advisory committees or national professional organizations. Persons having questions about the nomination process or the public comment process described below, or who are unable to submit nominations through the CASAC website, should contact the DFO, as identified above. The names and biosketches of qualified nominees identified by respondents to this **Federal Register** notice, and additional experts identified by the SAB Staff Office, will be posted in a List of Candidates on the CASAC website at *https://casac.epa.gov.* Public comments on each List of Candidates will be accepted for 21 days from the date the list is posted. The public will be requested to provide relevant information or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates.

For the EPA SAB Staff Office, a balanced review panel includes candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. In forming this expert panel, the SAB Staff Office will consider public comments on the List of Candidates, information provided by the candidates themselves, and background information independently gathered by the SAB Staff Office. Selection criteria to be used for panel membership include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) availability and willingness to serve; (c) absence of financial conflicts of interest; (d) absence of an appearance of a lack of impartiality; (e) skills working in committees, subcommittees and advisory panels; and (f) for the panel as a whole, diversity of expertise and viewpoints.

Candidates may be asked to submit the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form is required for Special Government Employees (SGEs) and allows EPA to determine whether there is a statutory conflict between that person's public responsibilities as an SGE and private interests and activities, or the appearance of a loss of impartiality, as defined by Federal regulation. The form may be viewed and downloaded through the ''Ethics Requirements for Advisors'' link on the CASAC home page at *https://casac.epa.gov.* This form should not be submitted as part of a nomination.

V. Khanna Johnston,

Deputy Director, Science Advisory Board Staff Office.

[FR Doc. 2021–19301 Filed 9–7–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R03–CBP–2021–0235; FRL–8955–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Chesapeake Bay Program Citizen Stewardship Index, Diversity Profile, and Local Leadership Surveys

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Chesapeake Bay Program Citizen Stewardship Index, Diversity Profile, and Local Leadership Surveys (EPA ICR Number 2679.01, OMB Control Number 2003–NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a request for approval of a new collection. Public comments were previously requested via the **Federal Register** on May 3, 2021 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 October 8, 2021.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–R03–CBP–2021–0235 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.

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: Tuana Phillips, U.S. Environmental Protection Agency Region III—Chesapeake Bay Program Office, mail code: 3CB10, Annapolis City Marina, Suite 109, 410 Severn Ave., Annapolis, MD 21403; telephone number: (410)–267–5704; fax number: 1–410–267–5777; email address: *Phillips.tuana@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's

public docket, visit *http://www.epa.gov/dockets.*

Abstract: The U.S. Environmental Protection Agency's (EPA) Chesapeake Bay Program (the Program) is interested in tracking its progress at attaining its goals under the 2014 Chesapeake Bay Watershed Agreement (the Agreement). To do this, the Program plans to implement three surveys: The Citizen Stewardship Survey, the Diversity Profile Survey, and the Local Leadership Survey.

EPA has specified the target audience and the implementation approach for each to maximize the data that can be obtained. The Citizen Stewardship Survey will be implemented as a multi-mode survey that includes phone, web, and mail components of residents living the Chesapeake Bay area, stratified by jurisdiction (states and the District of Columbia). The Diversity Profile Survey will be implemented among people who work on partnership efforts within the Bay area as a web-based survey. The Local Leadership Survey will be implemented among state and local elected officials involved in policy making in the Bay area also as a web-based survey.

The Program will be using the data from these three surveys to track it progress under the Stewardship goal of the 2014 Agreement. The Stewardship goal includes three outcomes: (1) Citizen Stewardship, (2) Local Leadership, and (3) Diversity. Three surveys under this ICR each address one of the outcomes and contributes to EPA's Government Performance and Results Act (GPRA) goals (EPA Goal 1, A Cleaner, Healthier Environment; Objective 1.2: Provide for Clean and Safe Water).

Each of the surveys under this ICR were funded and implemented by other partners in the Chesapeake Bay area in prior years. The Program determined that the best approach for continued implementation of these surveys would be for the EPA assume the responsibility for implementing these surveys; thus, EPA is seeking approval for implementing these surveys under this ICR.

Collecting these data and publishing them for public review will allow the public to track how well the Agreement is working to preserve and protect the Chesapeake Bay region from the standpoint of the Stewardship goal outlined in the Agreement. Overall, the Agreement contains 10 goals and their associated outcomes; data for the other nine goals are collected through other means. Combining the data for Stewardship goal outcomes from these surveys with the data for the other nine goals will provide the public will have a comprehensive picture of the progress being made to preserve and protect Chesapeake Bay.

Form Numbers: None.

Respondents/affected entities: Stewardship survey: Members of the general public; Local Leaders survey: Individuals in local government leadership roles; Diversity Profile survey: Individuals working at organizations to conserve/restore Chesapeake Bay.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 6,430 (total).

Frequency of response: Once.

Total estimated burden: 2,298 hours (total). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $100,931 (total), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: This is a new collection.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2021–19334 Filed 9–7–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2018–0443; FRL–8850–01–OCSPP]

Octamethylcyclotetra-Siloxane (D4); Draft Scope of the Risk Evaluation To Be Conducted Under the Toxic Substances Control Act; Notice of Availability and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with implementing regulations for the Toxic Substances Control Act (TSCA), the Environmental Protection Agency (EPA) is announcing the availability of and soliciting public comment on the draft scope of the risk evaluation to be conducted for octamethylcyclotetra-siloxane (D4). D4 (Cyclotetrasiloxane, 2,2,4,4,6,6,8,8-octamethyl-; Chemical Abstracts Service Registry Number (CASRN) 556–67–2), is a chemical substance for which EPA received a manufacturer request for risk evaluation. The draft scope for this chemical substance includes the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations that EPA plans to consider in conducting the risk evaluation for this chemical substance. EPA is also opening a 45-calendar day comment period on the draft scope to allow for the public to provide additional data or information that could be useful to the Agency in finalizing the scope of the risk evaluation; comments may be submitted to this docket.

DATES: Comments must be received on or before October 25, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0443, online using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets/about-epa-dockets.*

Due to the public health emergency the EPA Docket Center (EPA/DC) and Reading Room were closed to public visitors on March 31, 2020. Our EPA/DC staff will continue to provide customer service via email, phone, and webform. For further information on EPA/DC services, docket contact information and the current status of the EPA/DC and Reading Room, please visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Bethany Masten, Existing Chemical Risk Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency (Mailcode 7404T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8803; email address: *masten.bethany@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to entities that manufacture (including import) a chemical substance regulated under TSCA, 15 U.S.C. 2601 *et seq.,* (*e.g.,* entities identified under North American Industrial Classification System (NAICS) codes 325 and 324110). The action may also be of interest to

chemical processors, distributors in commerce, and users; non-governmental organizations in the environmental and public health sectors; state and local government agencies; and members of the public. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities and corresponding NAICS codes for entities that may be interested in or affected by this action.

B. What is the Agency's authority for taking this action?

The draft scope of the risk evaluation is issued pursuant to TSCA implementing regulations at 40 CFR 702.41(c)(7).

C. What action is the Agency taking?

EPA is publishing and requesting public comment on the draft scope of the risk evaluation for D4 under TSCA. Through the risk evaluation process, EPA will determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use, as determined by the Administrator, in accordance with TSCA section 6(b)(4).

II. Background

TSCA allows chemical manufacturers to request an EPA-conducted risk evaluation of a chemical substance under 40 CFR 702.37. On March 19, 2020, EPA received a manufacturer request for a risk evaluation of D4. In the **Federal Register** notice of June 17, 2020 (85 FR 36586; FRL–10010–49), EPA opened a 45-day public comment period to gather information relevant to the requested risk evaluation. EPA granted the request on October 6, 2020, and subsequently initiated the scoping process for the risk evaluation for this chemical substance on November 5, 2020. The purpose of a risk evaluation is to determine whether a chemical substance, or group of chemical substances, presents an unreasonable risk to health or the environment, under the conditions of use, including an unreasonable risk to a relevant potentially exposed or susceptible subpopulation (15 U.S.C. 2605(b)(4)(A)). As part of this process, EPA must evaluate both hazards and exposures for the conditions of use; describe whether aggregate or sentinel exposures were considered and the basis for consideration; not consider costs or other non-risk factors; take into account where relevant, likely duration, intensity, frequency, and number of exposures; and describe the weight-of-scientific-evidence for hazards and exposures (15 U.S.C. 2605(b)(4)(F)). This process will culminate in a determination of whether or not the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use (15 U.S.C. 2605(b)(4)(A); 40 CFR 702.47).

III. Draft Scope of the Risk Evaluation for Octamethylcyclotetra-Siloxane (D4)

The chemical substance for which EPA is publishing the draft scope of the risk evaluation is listed on the TSCA Inventory with CA Index Name ''Cyclotetrasiloxane, 2,2,4,4,6,6,8,8-octamethyl-'' and the associated Chemical Abstracts Service Registry Number (CASRN) 556–67–2. The draft scope of the risk evaluation for this chemical substance includes the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations EPA plans to consider in the risk evaluation (15 U.S.C. 2605(b)(4)(D)). Development of the scope is the first step of a risk evaluation. The draft scope of the risk evaluation will include the following components (40 CFR 702.41(c)):

- The conditions of use, as determined by the Administrator, that EPA plans to consider in the risk evaluation.
- The potentially exposed populations that EPA plans to evaluate; the ecological receptors that EPA plans to evaluate; and the hazards to health and the environment that EPA plans to evaluate.
- A description of the reasonably available information and the science approaches that the Agency plans to use.
- A conceptual model that will describe the actual or predicted relationships between the chemical substance, the conditions of use within the scope of the evaluation and the receptors, either human or environmental, with consideration of the life cycle of the chemical substance—from manufacturing, processing, distribution in commerce, storage, use, to release or disposal—and identification of human and ecological health hazards EPA plans to evaluate for the exposure scenarios EPA plans to evaluate.
- An analysis plan, which will identify the approaches and methods EPA plans to use to assess exposure, hazards, and risk, including associated uncertainty and variability, as well as a strategy for using reasonably available information and science approaches.
- A plan for peer review.

EPA encourages commenters to provide information they believe might be missing or may further inform the risk evaluation. EPA will publish a notice in the **Federal Register** announcing the availability of the final scope of the risk evaluation within three months of publishing the draft scope.

Authority: 15 U.S.C. 2601 *et seq.*

Michael S. Regan,

Administrator.

[FR Doc. 2021–19392 Filed 9–7–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2020–0629; FRL–8964–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Primary and Secondary Emissions From Basic Oxygen Furnaces (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Primary and Secondary Emissions from Basic Oxygen Furnaces (EPA ICR Number 1069.13, OMB Control Number 2060–0029), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through December 31, 2021. Public comments were previously requested, via the **Federal Register**, on February 8, 2021 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 neither conduct nor 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 October 8, 2021.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2020–0629 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.

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: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@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 *https://www.regulations.gov,* or in person at the EPA Docket Center, WJC West Building, 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: This rule applies to Basic Oxygen Process Furnaces (BOPFs) in iron and steel plants commencing construction, modification or reconstruction after June 11, 1973 and top-blown BOPFs, hot metal transfer stations or skimming stations for which construction, reconstruction, or modification commenced after January 20, 1983. Respondents are required to submit initial notifications, conduct performance tests and report test results for the primary emission control devices, and submit periodic reports. Sources also must develop and implement a startup, shutdown, and malfunction plan (SSMP) and submit semiannual reports of any event where the procedures in the plan were not followed. This information is being collected to assure compliance with 40 CFR part 60, subparts N and Na.

Form Numbers: None.

Respondents/affected entities: Basic oxygen process furnaces (BOPF).

Respondent's obligation to respond: Mandatory (40 CFR part 60, subparts N and Na).

Estimated number of respondents: 13 (total).

Frequency of response: Semiannually.

Total estimated burden: 4,560 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $562,000 (per year), which includes $21,600 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is decrease in burden from the most-recently approved ICR. This decrease is due to a decrease in the number of sources. The estimate of 13 respondents in this ICR reflects a decrease in the number of respondents from the prior ICR due to the closing or merger of existing facilities, as confirmed through Agency review of iron and steel facilities in related rulemaking activities. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup or operation and maintenance (O&M) costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2021–19432 Filed 9–7–21; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT SYSTEM INSURANCE CORPORATION

Regular Meeting; Farm Credit System Insurance Corporation Board

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Notice, regular meeting.

SUMMARY: Notice is hereby given, in accordance with the provisions of Article VI of the Bylaws of the Farm Credit System Insurance Corporation (FCSIC), of a forthcoming regular meeting of the Board that a regular meeting of the Board of Directors of FCSIC will be held.

DATES: September 14, 2021, at 10:00 a.m. EDT, until such time as the Board may conclude its business. *Note: Because of the COVID–19 pandemic, we will conduct the board meeting virtually. If you would like to observe the open portion of the virtual meeting, see instructions below for board meeting visitors.*

ADDRESSES: To observe the open portion of the virtual meeting, go to *FCSIC.gov*, select ''News & Events,'' then ''Board Meetings.'' There you will find a description of the meeting and ''Instructions for board meeting visitors.'' See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

FOR FURTHER INFORMATION CONTACT: Dale Aultman, Secretary to the Board of the Farm Credit System Insurance Corporation, (703) 883–4009. TTY is (703) 883–4056.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public and parts will be closed. If you wish to observe the open portion, follow the instructions above in the **ADDRESSES** section at least 24 hours before the meeting. *Please note that this meeting begins at 10:00 a.m. EDT with a session that is closed to the public. You may join this meeting at 10:45 a.m. EDT. We will begin the open session promptly at 11:00 a.m. EDT.*

Assistance: If you need assistance for accessibility reasons or if you have any questions, contact Dale Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are as follows:

A. Closed Session

- *Report on Insurance Risk/Premium Risk Factors*

B. Approval of Minutes

- *June 17, 2021*

C. Quarterly Business Reports

- *FCSIC Financial Reports*
- *Report on Insured Obligations*
- *Report on Annual Performance Plan*

D. New Business

- *Annual Performance Plan*
- *Budget for 2022 and 2023*
- *Insurance Fund Progress Review and Setting of* Premium Range Guidance for 2022

Dated: September 3, 2021.

Dale Aultman,

Secretary, Farm Credit System Insurance Corporation.

[FR Doc. 2021–19474 Filed 9–7–21; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 45237]

Privacy Act of 1974; System of Records

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified system of records.

SUMMARY: The Federal Communications Commission (FCC or Commission or

Agency) has modified an existing system of records, FCC/OMD–16, Personnel Security Files, subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirement of the Privacy Act to publish in the **Federal Register** notice of the existence and charger of records maintained by the agency. The FCC's Security Operations Center (SOC) in the Office of Managing Director (OMD) uses this system of records to determine an individual's suitability for access to classified information and/or a security clearance; evaluate an individual's suitability for Federal employment, including temporary hires such as interns, consultants, and experts, or to perform contractual services for the FCC; respond to complaints of threats, harassment, violence, or other inappropriate behavior at the FCC; and, document security violations and related activities such as insider threats.

DATES: This system of records will become effective on September 8, 2021. Written comments on the routine uses are due by October 8, 2021. The routine uses will become effective on October 8, 2021, unless written comments are received that require a contrary determination.

ADDRESSES: Send comments to Margaret Drake, at *privacy@fcc.gov,* or at Federal Communications Commission, 45 L Street NE, Washington, DC 20554 at (202) 418–1707.

FOR FURTHER INFORMATION CONTACT: Margaret Drake, (202) 418–1707, or *privacy@fcc.gov* (and to obtain a copy of the Narrative Statement and the Supplementary Document, which includes details of the modifications to this system of records).

SUPPLEMENTARY INFORMATION: This notice serves to modify FCC/OMD–16, Personnel Security Files, to reflect various necessary updates, including format changes required by OMB Circular A–108 since its previous publication and edits to existing routine uses, two of which address data breaches, as required by OMB Memorandum M–17–12. The substantive changes and modifications to the previously published version of the FCC/OMD–16 system of records include:

1. Updating the System Location to show the FCC's new headquarters address.

2. Updating the Purposes section for clarity and to include determinations about an individual's suitability, eligibility, and fitness to access FCC and other Federal facilities, information, systems, or applications.

3. Updating the Categories of Individuals Covered section for clarity and to include witnesses, references, and other individuals who may have provided information contained in this system.

4. Updating the Categories of Records for clarity and to include information related to maintenance of a public trust or national security position.

5. Renumbering and revising language in four routine uses: (2) Law Enforcement and Investigation; (4) Government-wide Program Management and Oversight; (9) Employment, Clearances, Licensing, Contract, Grant, or other Benefits Decisions by Other than the FCC, and (10) Labor Relations.

6. Removing two routine uses: (5) Contract Services, Grants, or Cooperative Agreements and (13) National Security and Intelligence Matters.

7. Adding a new Routine Use: (14) For Non-Federal Personnel, to allow contractors performing or working on a contract for the Federal Government access to information in this system.

8. Updating the History section referencing the previous publication of this SORN in the **Federal Register**, as required by OMB Circular A–108.

The system of records is also updated to reflect various administrative changes related to the system managers and system addresses; policy and practices for storage, retrieval, and retention and disposal of the records; administrative, technical, and physical safeguards; and updated notification, records access, and contesting records procedures.

SYSTEM NAME AND NUMBER:

FCC/OMD–16, Personnel Security Files.

SECURITY CLASSIFICATION:

Most personnel identity verification records are not classified. However, in some cases, records of certain individuals, or portions of some records may have national defense/foreign policy classifications.

SYSTEM LOCATION:

Security Operations Center, Office of Managing Director (OMD), Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554.

SYSTEM MANAGER(S):

Security Operations Center (SOC), Office of the Managing Director (OMD), Federal Communications Commission, (FCC), 45 L Street NE, Washington, DC 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1303, 1304, 3301, 7902, 9101; 42 U.S.C. 2165 and 2201; 50 U.S.C. 781 to 887; 5 CFR parts 5, 732, and 736; *Executive Orders* 9397, 10450, 10865, 12196, 12333, 12356, and 12674, 13587; and *Homeland Security Presidential Directive (HSPD) 12,* Policy for a Common Identification Standard for Federal Employees and Contractors, August 27, 2004.

PURPOSE(S) OF THE SYSTEM:

The FCC must document, support, and track its decisions regarding personnel security. The SOC uses the information in this system to document and track:

1. Determinations about an individual's suitability, eligibility, and fitness for Federal employment, as well as access to classified information or restricted areas and security clearances;

2. Determinations about an individual's suitability, eligibility, and fitness to perform contractual services for the U.S. Government;

3. Determinations about an individual's suitability, eligibility, and fitness to access FCC and other Federal facilities, information, systems, or applications, and documenting such determinations;

4. Investigate, respond, document, and track complaints about inappropriate workplace behavior; and

5. Document security violations, such as insider threats, and management actions taken in response to those violations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The individuals in this system include:

1. Current and former FCC employees, including full and part time employees, interns, detailees, and volunteers;

2. Current and former contractor employees and prospective contractor employees, for whom an investigation is initiated and/or conducted;

3. Individuals who are authorized to perform, provide, or to use services in FCC facilities (either on an ongoing or occasional basis), such as security personnel, custodial staff, maintenance workers, contractors, health clinic staff, and employee assistance program staff;

4. All other individuals who may require regular on-going access to the FCC's buildings and facilities, information technology (IT) systems, or information classified in the interest of national security, as well as individuals formerly in any of these positions;

5. Witnesses, references, and other individuals who have provided information about the subject of an investigation documented in this system;

6. Individuals who may be involved with potential, alleged, or actual

security violations, including insider threat activity.

CATEGORIES OF RECORDS IN THE SYSTEM: THE CATEGORIES OF RECORDS INCLUDE:

1. Personally identifiable information from Standard Form 85 ''Questionnaire for Non-Sensitive Positions,'' Standard Form 85P ''Questionnaire for Public Trust Positions,'' Standard Form 85P–S ''Supplemental Questionnaire for Selected Positions,'' Standard form 86 ''Questionnaire for National Security Position,'' and predecessor and successor forms of the same type; copies of investigative reports from other federal agencies; correspondence, information, and other supporting documentation related to the investigation, adjudication, and maintenance of public trust and national security information positions;

2. Information needed to investigate allegations of misconduct, including insider threats and complaints not covered by the FCC's formal or informal grievance procedures.

RECORD SOURCE CATEGORIES:

Under the authority granted to heads of agencies by 5 U.S.C. 552a(k), the FCC has determined (47 CFR 0.561) that this system of records is exempt from disclosing its record sources for this system of records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows.

1. Adjudication and Litigation—To disclose information to the Department of Justice (DOJ), or other administrative body before which the FCC is authorized to appear, when: (a) The FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where DOJ or the FCC has agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation, and the use of such records by DOJ or the FCC is deemed by the FCC to be relevant and necessary to the litigation.

2. Law Enforcement and Investigation—To disclose pertinent information to the appropriate Federal, State, local, or tribal agency, or component of an agency, such as the FCC's Enforcement Bureau, responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the FCC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

3. Congressional Inquiries—To provide information to a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the request of that individual.

4. Government-wide Program Management and Oversight—To disclose information to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

5. Non-FCC Individuals and Organizations—To individuals, including former FCC employees, and organizations in the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

6. Complainants and Victims—To individual complainants and/or victims to the extent necessary to provide such individuals with information and explanations concerning the progress and/or results of the investigation or case arising from the matter of which they complained and/or of which they were a victim.

7. Office of Personnel Management (OPM)—To OPM management, Merit Systems Protection Board, Equal Opportunity Employment Commission, Federal Labor Relations Authority, and the Office of Special Counsel for the purpose of properly administering Federal personnel systems or other agencies' systems in accordance with applicable laws, Executive Orders, and regulations.

8. Employment, Clearances, Licensing, Contract, Grant, or other Benefits Decisions by the FCC—To a Federal, State, local, foreign, tribal, or other public agency or authority maintaining civil, criminal, or other relevant enforcement records, or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to an investigation concerning the hiring or retention of an employee or other personnel action, the issuance or retention of a security clearance, the classifying of jobs, the letting of a contract, or the issuance or retention of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decisions on the matter.

9. Employment, Clearances, Licensing, Contract, Grant, or other Benefits Decisions by Other than the FCC—To a Federal, State, local, foreign, tribal, or other public agency or authority of the fact that this system of records contains information relevant to the hiring or retention of an employee, the issuance or retention of a security clearance, the conducting of a suitability or security investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance or retention of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the agency's decision on the matter.

10. Labor Relations—To officials of labor organizations recognized under 5 U.S.C. Chapter 71 consistent with provisions in an effective collective bargaining agreement or upon receipt of a formal request and in accord with the conditions of 5 U.S.C. 7114 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

11. Security Officials and Investigators—To Security Officials and investigators of Federal Government agencies or departments for liaison purposes where appropriate during meetings or conferences involving access to classified materials.

12. Breach Notification—To appropriate agencies, entities, and person when (1) the Commission suspects or has confirmed that there has been a breach of the system of records; (2) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with Commission efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

13. Assistance to Federal Agencies and Entities—To another Federal agency or Federal entity, when the Commission determines that information from this system 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, program, and operations), the

Federal Government, or national security, resulting from a suspected or confirmed breach.

14. For Non-Federal Personnel—To disclose information to non-Federal personnel, *i.e.,* contractors, performing or working on a contract in connection with the Security Operations Center and/or IT services for the Federal Government, who may require access to this system of records.

REPORTING TO A CONSUMER REPORTING AGENCIES:

In addition to the routine uses cited above, the Commission may share information from this system of records with a consumer reporting agency regarding an individual who has not paid a valid and overdue debt owed to the Commission, following the procedures set out in the Debt Collection Act, 31 U.S.C. 3711(e).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic data, records, and files are maintained in a stand-alone computer database hosted on FCC's computer network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by an individual's name or Social Security Number (SSN).

POLICIES AND PRACTIES FOR RETENTION AND DISPOSAL OF RECORDS:

The records in this information system are retained and disposed of in accordance with General Records Schedule (GRS) 5.6, items 180 and 181 (also referred to as DAA–GRS–2017–006–0024/0025), approved by the National Archives and Records Administration (NARA).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records, data, and files are stored within FCC accreditation boundaries and maintained in a database housed in the FCC computer network. Access to the electronic files is restricted to authorized SOC staff and contractors, and IT staff, contractors, and vendors who maintain the IT networks and services. As a further measure, access to these electronic records is restricted to the SOC staff and contractors who have a specific role in the system that requires their access to investigation information and related SOC functions. The SOC maintains an audit trail to monitor access. Furthermore, as part of these privacy and security requirements, SOC staff and contractors must complete training specific to their roles to ensure that they are knowledgeable about how to protect PII. Other FCC employees and contractors may be granted access on a need-to-know basis. The electronic files and records are protected by the FCC and third-party privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal IT privacy standards, including those required by the Federal Information Security Modernization Act of 2014 (FISMA), the Office of Management and Budget (OMB), and National Institute of Standard and Technology (NIST).

RECORD ACCESS PROCEDURES:

Under the authority granted to heads of agencies by 5 U.S.C. 552a(k), the FCC has determined (47 CFR 0.561) that this system of records is exempt from disclosing its record access procedures for this system of records.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedure below.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about themselves may do so by writing *Privacy@fcc.gov.* Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to records as required under 47 CFR part 0, subpart E.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

This system of records is exempt from sections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act of 1974, 5 U.S.C. 552a, and from 47 CFR 0.554–0.557 of the Commission's rules. These provisions concern the notification, record access, and contesting procedures described above, and also the publication of record sources. The system is exempt from these provisions because it contains the following types of information:

1. Properly classified information, obtained from another Federal agency during the course of a personnel investigation, which pertains to national defense and foreign policy, as stated in Section (k)(1) of the Privacy Act;

2. Investigative material compiled for law enforcement purposes as defined in Section (k)(2) of the Privacy Act;

3. Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, as described in Section (k)(5) of the Privacy Act, as amended.

HISTORY:

The FCC last gave full notice of this system of records, FCC/OMD–16, Personnel Security Files, by publication in the **Federal Register** on March 12, 2018 (83 FR 10721).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–18683 Filed 9–7–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–00261 and 3060–0270; FR ID 46263]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before November 8, 2021. If you anticipate that you will be submitting comments but find it difficult to do so within the period of

time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0261.

Title: Section 90.215, Transmitter Measurements.

Form No.: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions and state, local or tribal Government.

Number of Respondents: 150,081 respondents; 234,439 responses.

Estimated Time per Response: .033 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 303(f) of the Communications Act of 1934, as amended.

Total Annual Burden: 7,727 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collection requirements contained in Section 90.215 require station licensees to measure the carrier frequency, output power, and modulation of each transmitter authorized to operate with power in excel of two watts when the transmitter is initially installed and when any changes are made which would likely affect the modulation characteristics. Such measurements, which help ensure proper operation of transmitters, are to be made by a qualified engineering measurement service, and are required to be retained in the station records, along with the name and address of the engineering measurement service, and the name of the person making the measurements. The information is normally used by the licensee to ensure that equipment is operating within prescribed tolerances. Prior technical operation of transmitters helps limit interference to other users and provides the licensee with the maximum possible utilization of equipment.

OMB Control No.: 3060–0270.

Title: Section 90.443, Content of Station Records.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 166,658 respondents; 166,658 responses.

Estimated Time per Response: .25 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. Section 303(j), as amended.

Total Annual Burden: 61,665 hours.

Annual Cost Burden: No cost.

Needs and Uses: The information collection requirements contained under Section 90.443(b) require that each licensee of a station shall maintain records for all stations by providing the dates and pertinent details of any maintenance performed on station equipment, along with the name and address of the service technician who did the work. If all maintenance is performed by the same technician or service company, the name and address need be entered only once in the station records.

The information collection requirements under Section 90.443(c) require that at least one licensee participating in the cost arrangement must maintain cost sharing records.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–19308 Filed 9–7–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0998; FR ID 46261]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before November 8, 2021. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0998.

Title: Section 87.109, Station logs.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 17 respondents and 17 responses.

Estimated Time per Response: 100 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. 154, 303 and 307(e) unless otherwise noted.

Total Annual Burden: 1,700 hours.

Annual Cost Burden: No cost.

Needs and Uses: The information collection requirements contained in Section 87.109 of the Commission's rules require that a station at a fixed location in the international aeronautical mobile service (IAMS)

must maintain a log (written or automatic log) in accordance with the Annex 10 provisions of the International Civil Aviation Organization (ICAO) Convention. This log is necessary to document the quality of service provided by fixed stations, including the harmful interference, equipment failure, and logging of distress and safety calls where applicable. This information is used by the Commission to ensure that particular stations are licensed and operated in compliance with applicable rules, statutes, and treaties.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–19307 Filed 9–7–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Friday, September 17, 2021.

PLACE: This meeting will be conducted through a videoconference involving all Commissioners. Any person wishing to listen to the proceeding may call the number listed below.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Consol Pennsylvania Coal Co., LLC,* Docket No. PENN 2019–0094 (Issues include whether the Judge erred in concluding that the location of a lifeline violated a safety standard and constituted an S&S violation.).

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Emogene Johnson, (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Phone Number for Listening to Meeting: 1–(866) 236–7472.

Passcode: 678–100.

Authority: 5 U.S.C. 552b.

Dated: September 3, 2021.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2021–19494 Filed 9–3–21; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Financial Statements for Holding Companies (FR Y–9 reports; OMB Control Number 7100–0128).

DATES: Comments must be submitted on or before November 8, 2021.

ADDRESSES: You may submit comments, identified by FR Y–9, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement, and other documentation, will be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at *https://www.reginfo.gov/public/do/PRAMain,* if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance,

and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Report title: Financial Statements for Holding Companies.

Agency form number: FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS.

OMB control number: 7100–0128.

Frequency: Quarterly, semiannually, and annually.

Respondents: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies, and U.S. intermediate holding companies (IHCs) (collectively, holding companies).[1]

Estimated number of respondents:

Reporting

FR Y–9C (non-advanced approaches holding companies with less than $5 billion in total assets): 119; FR Y–9C (non-advanced approaches holding companies with $5 billion or more in total assets): 221; FR Y–9C (advanced approaches holding companies): 9; FR Y–9LP: 412; FR Y–9SP: 3,708; FR Y–9ES: 78; FR Y–9CS: 236.

Recordkeeping

FR Y–9C: 349; FR Y–9LP: 412; FR Y–9SP: 3,708; FR Y–9ES: 78; FR Y–9CS: 236.

Estimated average hours per response:

Reporting

FR Y–9C (non-advanced approaches holding companies with less than $5 billion in total assets): 35.74; FR Y–9C (non-advanced approaches holding companies with $5 billion or more in total assets): 44.94; FR Y–9C (advanced approaches holding companies): 50.16; FR Y–9LP: 5.27; FR Y–9SP: 5.45; FR Y–9ES: 0.50; FR Y–9CS: 0.50.

Recordkeeping

FR Y–9C: 1; FR Y–9LP: 1; FR Y–9SP: 0.50; FR Y–9ES: 0.50; FR Y–9CS: 0.50.

Estimated annual burden hours:

Reporting

FR Y–9C (non-advanced approaches holding companies with less than $5 billion in total assets): 17,012; FR Y–9C (non-advanced approaches holding companies with $5 billion or more in total assets): 39,727; FR Y–9C (advanced approaches holding companies): 1,806; FR Y–9LP: 8,685; FR Y–9SP: 40,417; FR Y–9ES: 39; FR Y–9CS: 472.

Recordkeeping

FR Y–9C: 1,396; FR Y–9LP: 1,648; FR Y–9SP: 3,708; FR Y–9ES: 39; FR Y–9CS: 472.

General description of report: The FR Y–9 family of reporting forms continues to be the primary source of financial data on holding companies that examiners rely on in the intervals between on-site inspections. The Board requires holding companies to provide standardized financial statements to fulfill the Board's statutory obligation to supervise these organizations. Financial data from these reporting forms are used to detect emerging financial problems, to review performance and conduct pre-inspection analysis, to monitor and evaluate capital adequacy, to evaluate holding company mergers and acquisitions, and to analyze a holding company's overall financial condition to ensure the safety and soundness of its operations. The FR Y–9C, FR Y–9LP, and FR Y–9SP serve as standardized financial statements for the holding companies. The FR Y–9ES is a financial statement for holding companies that are Employee Stock Ownership Plans. The Board uses the voluntary FR Y–9CS (a free-form supplement) to collect additional information deemed to be critical and needed in an expedited manner. Holding companies file the FR Y–9C on a quarterly basis, the FR Y–9LP quarterly, the FR Y–9SP semiannually, the FR Y–9ES annually, and the FR Y–9CS on a schedule that is determined when this supplement is used.

Proposed revisions:

Chief Executive Officer Contact Information

The Federal Reserve periodically needs to communicate directly with the CEOs of holding companies via email; however, the Federal Reserve currently does not have a complete list of CEO email addresses. To streamline communications to CEOs, the Board proposes to collect the name, email address, and phone number of the holding company's CEO on the FR Y–9C and FR Y–9SP reports. CEO communications would be initiated or approved by the Board's senior management and would involve topics such as new initiatives and policy notifications.

The proposed CEO contact information would be for the confidential use of the Federal Reserve and would not be released to the public. The Board intends for CEO email addresses and phone numbers to be used judiciously and only for significant matters requiring CEO-level attention. Having a comprehensive database of holding companies' CEO contact information, including email addresses and phone numbers, would allow the Federal Reserve to have current information to communicate important and time-sensitive information to CEOs. This information is proposed to be collected quarterly on the FR Y–9C report for consistency with the Call Report and semiannually on the FR Y–9SP report. The information would be collected from top tier holding companies only.

Full-Time Employees

Consistent with the Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies of Entities Regulated by the Agencies,[2] which was issued as required by section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Board's Office of Minority and Women Inclusion (OMWI) conducts an annual survey of entities the Board regulates. In this voluntary survey, the Board collects a self-assessment report on diversity policies and practices from entities with 100 or more full-time equivalent employees.

Currently, to identify those entities that should be invited to participate in the survey, the Board's OMWI relies on the FR Y–9C and Call Report, which collect data on the number of full-time equivalent employees for the consolidated entity. Because these data are not collected on the parent-only FR Y–9SP or the nonbank subsidiary reports,[3] the Board cannot accurately identify the FR Y–9SP reporters with 100 or more full-time equivalent employees on a consolidated basis that

[1] The following depository institution holding companies are exempt: (1) A unitary savings and loan holding company with primarily commercial assets that meets the requirements of section 10(c)(9)(c) of the Home Owners' Loan Act, for which thrifts make up less than 5 percent of its consolidated assets; and (2) a SLHC that primarily holds insurance-related assets and does not otherwise submit financial reports with the Securities and Exchange Commission pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934.

[2] *See* 80 FR 33016 (June 10, 2015). Agencies include the Office of the Comptroller of the Currency (OCC); Board; Federal Deposit Insurance Corporation (FDIC); National Credit Union Administration (NCUA); Consumer Financial Protection Bureau (CFPB); and Securities and Exchange Commission (SEC).

[3] The nonbank subsidiary reports include the Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations (FR 2314/2314S), Financial Statements of U.S. Nonbank Subsidiaries held by Foreign Banking Organizations (FR Y–7N/7NS/7Q), and Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies (FR Y–11/11S).

should be invited to participate in this survey.

Therefore, the Board proposes to add a new check box, Memorandum item 5, ''Does your holding company have 100 or more full-time equivalent employees on a consolidated basis?'' to Schedule SI, *Income Statement* of the FR Y–9SP report. The addition of this item on the FR Y–9SP would enable OMWI to have a comprehensive list of the institutions with full-time equivalent employees of 100 or more on a consolidated basis. The proposed data item would only be collected from top tier holding companies and would be collected only on the report for the December 31 as-of date. Given that the additional information to be reported should be easily obtainable, the Board expects a small burden increase for reporters.

Brokered Deposits Glossary Entries

The FR Y–9C instructions Glossary defines ''Brokered Deposits'' and ''Brokered Retail Deposits'' consistent with section 29(g) of the Federal Deposit Insurance Act (FDI Act) and the FDIC's brokered deposits regulation.[4] Under these definitions, the meaning of the term ''brokered deposit'' references the defined term ''deposit broker.'' On January 22, 2021, the FDIC published in the **Federal Register** a final rule to amend its brokered deposits regulation (brokered deposits final rule),[5] which established a new framework for analyzing certain provisions of the ''deposit broker'' definition in the FDI Act.[6] The brokered deposits final rule clarified the term ''deposit broker'' and the analysis of whether entities are engaged in the business of placing, or facilitating the placement of, deposits. The revised FDIC regulation describes exceptions to the definition of ''deposit broker'' including when the primary purpose of an agent's or nominee's business relationship with its customers is not the placement of funds with depository institutions (primary purpose exception). The brokered deposits final rule introduced in the FDIC's regulation a list of business relationships that are designated as meeting the primary purpose exception. In February 2021, the Federal Financial Institutions Examination Council proposed changes to the Call Reports forms and instructions consistent with the brokered deposits final rule and proposed conforming clarifications in the Call Reports Glossary.

To provide clarity for respondents, the Board is proposing to revise the FR Y–9C Glossary instructions to incorporate changes under the brokered deposits final rule consistent with the proposed Call Report revisions. Specifically, the Board proposes to reorder the content of the Glossary entries for ''Brokered Deposits'' and ''Brokered Retail Deposits,'' to incorporate the revised content of the FDIC regulation, and to update reference to the FDIC insurance limit of $250,000. The Board is not proposing otherwise to revise the FR Y–9C form or instructions in respect to brokered deposits.

SA–CCR Check Box

On January 24, 2020, the agencies issued a final rule[7] (SA–CCR final rule) that amends the regulatory capital rule to implement a new approach for calculating the exposure amount for derivatives contracts for purposes of calculating the total risk-weighted assets (RWA), which is called SA–CCR. The final rule also incorporates SA–CCR into the determination of the exposure amounts of derivatives for total leverage exposure under the supplementary leverage ratio and the cleared transaction framework under the capital rule.

Holding companies that are not advanced approaches banking organizations[8] may elect to use SA–CCR to calculate standardized total RWA by notifying the Board.[9] Advanced approaches holding companies are required to use SA–CCR to calculate standardized total RWA starting on January 1, 2022. Advanced approaches holding companies may adopt SA–CCR prior to January 1, 2022, but must notify the Board of their early adoption.[10]

The Board proposes to revise the FR Y–9C forms and instructions by adding new line item 31.b, ''Standardized Approach for Counterparty Credit Risk opt-in election.'' The Board is proposing to add this new item to identify holding companies that have chosen to early adopt or voluntarily elect SA–CCR, which would allow for enhanced comparability of the reported derivative data and for better supervision of the implementation of the framework at these holding companies. Due to the inherent complexity of adopting SA–CCR, this identification is particularly important for non-advanced approaches institutions that choose to voluntarily adopt SA–CCR.

A non-advanced approaches holding company that adopts SA–CCR would enter ''1'' for ''Yes'' in line item 31.b. All other non-advanced approaches holding companies would leave this item blank. If a non-advanced approaches holding company has elected to use SA–CCR, the holding company may change its election only with prior approval of the Board.[11] An advanced approaches holding company that elects to early adopt SA–CCR prior to the January 1, 2022, mandatory compliance date would enter ''1'' for ''Yes'' in line item 31.b. After January 1, 2022, an advanced approaches holding company would leave this item blank. This proposed reporting change would take effect starting with the December 31, 2021, FR Y–9C report. This item would no longer be applicable to advanced approaches holding companies starting with the March 31, 2022, report date. There would be no material change in burden to the FR Y–9C report related to this revision.

Legal authorization and confidentiality: The reporting and recordkeeping requirements associated with the Y–9 series of reports are authorized for BHCs pursuant to section 5 of the Bank Holding Company Act (BHC Act); [12] for SLHCs pursuant to section 10(b)(2) and (3) of the Home Owners' Loan Act; [13] for IHCs pursuant to section 5 of the BHC Act, as well as pursuant to sections 102(a)(1) and 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act); [14] and for securities holding companies pursuant to section 618 of the Dodd-Frank Act.[15]

Except for the FR Y–9CS report, which is collected on a voluntary basis, the obligation to submit the remaining reports in the FR Y–9 series of reports and to comply with the recordkeeping requirements set forth in the respective

[4] 12 CFR 337.6

[5] 86 FR 6742 (Jan. 22, 2021).

[6] 12 U.S.C. 1831f(g).

[7] See 85 FR 4362 (January 24, 2021).

[8] See 12 CFR 217.2 (defining ''Advanced approaches Board-regulated institution'').

[9] 12 CFR 217.34(a)(1)(ii).

[10] 12 CRF 217.300(h).

[11] 12 CFR 217.34(a)(1)(ii).

[12] 12 U.S.C. 1844.

[13] 12 U.S.C. 1467a(b)(2) and (3).

[14] 12 U.S.C. 5311(a)(1) and 5365. Section 165(b)(2) of Title I of the Dodd-Frank Act, 12 U.S.C. 5365(b)(2), refers to ''foreign-based bank holding company.'' Section 102(a)(1) of the Dodd-Frank Act, 12 U.S.C. 5311(a)(1), defines ''bank holding company'' for purposes of Title I of the Dodd-Frank Act to include foreign banking organizations that are treated as bank holding companies under section 8(a) of the International Banking Act, 12 U.S.C. 3106(a). The Board has required, pursuant to section 165(b)(1)(B)(iv) of the Dodd-Frank Act, 12 U.S.C. 5365(b)(1)(B)(iv), certain foreign banking organizations subject to section 165 of the Dodd-Frank Act to form U.S. intermediate holding companies. Accordingly, the parent foreign-based organization of a U.S. IHC is treated as a BHC for purposes of the BHC Act and section 165 of the Dodd-Frank Act. Because section 5(c) of the BHC Act authorizes the Board to require reports from subsidiaries of BHCs, section 5(c) provides additional authority to require U.S. IHCs to report the information contained in the FR Y–9 series of reports.

[15] 12 U.S.C. 1850a(c)(1)(A).

instructions to each of the other reports is mandatory.

Certain information collected on the FR Y–9C and FR Y–9SP Reports is kept confidential by the Board. The following items may be kept confidential under exemption 4 of the Freedom of Information Act (FOIA) because these data items reflect commercial and financial information that is both customarily and actually treated as private by the respondent: [16]

- FR Y–9C, Schedule HI, memoranda item 7(g), ''FDIC deposit insurance assessments;''
- FR Y–9C, Schedule HC–P, item 7(a) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to U.S. government agencies and government sponsored agencies;''
- FR Y–9C, Schedule HC–P, item 7(b) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to other parties;''
- FR Y–9C, Schedule HC–C, Part I, Memorandum items 16.a and 16.b, for eligible loan modifications under Section 4013 of the 2020 Coronavirus Aid, Relief, and Economic Security Act; and
- FR Y–9C, Schedule HC and FR Y–9SP, Schedule SC, Memoranda item 2.b., the name and email address of the external auditing firm's engagement partner.[17]

In some circumstances, disclosing these data items may also reveal confidential examination and supervisory information protected from disclosure under exemption 8 of the FOIA.[18] The Board has previously assured submitters that these data items will be treated as confidential.

In addition, the Chief Executive Officer Contact Information section of both the FR Y–9C and FR Y–9SP may be kept confidential pursuant to FOIA exemption 6, which applies to personnel and medical files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,[19] and exemption 8, which applies to information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.[20]

Aside from the data items described above, data collected by the FR Y–9 reports generally are not accorded confidential treatment. As provided in the Board's Rules Regarding Availability of Information,[21] however, a respondent may request confidential treatment for any data items the respondent believes should be withheld pursuant to a FOIA exemption. The Board will review any such request to determine if confidential treatment is appropriate and will inform the respondent if the request for confidential treatment has been granted or denied.

To the extent that the instructions to the FR Y–9 reports direct the financial institution to retain the workpapers and related materials used in preparation of each report, such material would only be obtained by the Board as part of the examination or supervision of the financial institution. Accordingly, such information may be considered confidential pursuant to exemption 8 of the FOIA.[22] In addition, the workpapers and related materials may also be protected by exemption 4 of the FOIA to the extent such financial information is customarily and actually treated as private by the respondent.[23]

Consultation outside the agency: The Board consulted with the FDIC and OCC regarding the proposed revisions on brokered deposits and SA–CCR check box.

Board of Governors of the Federal Reserve System, September 1, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–19298 Filed 9–7–21; 8:45 am]

BILLING CODE 6210–01–P

[16] 12 U.S.C. 552(b)(4).

[17] The Board has assured respondents that this information will be treated as confidential since the collection of this data item was proposed in 2004, under the assumption that the identity of the engagement partner is treated as private information by holding companies.

[18] 12 U.S.C. 552(b)(8).

[19] 5 U.S.C. 552(b)(6).

[20] 5 U.S.C. 552(b)(8).

[21] 12 CFR part 2.

[22] 5 U.S.C. 552(b)(8).

[23] 5 U.S.C. 552(b)(4).

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Senior Executive Service Performance Review Board

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Notice.

SUMMARY: This notice announces the appointment of the members of the Senior Executive Service Performance Review Board for the Federal Retirement Thrift Investment Board. The purpose of the Performance Review Board is to make written recommendations on each executive's annual summary ratings, performance-based pay adjustment, and performance awards to the appointing authority.

DATES: This notice is applicable on September 8, 2021.

FOR FURTHER INFORMATION CONTACT: Kelly Powell, HR Specialist, at 202–942–1681.

SUPPLEMENTARY INFORMATION: Title 5, U.S. Code, 4314(c)(4), requires that the appointment of Performance Review Board members be published in the **Federal Register** before Board service commences. The following persons will serve on the Federal Retirement Thrift Investment Board's Performance Review Board which will review initial summary ratings to ensure the ratings are consistent with established performance requirements, reflect meaningful distinctions among senior executives based on their relative performance and organizational results and provide recommendations for ratings, awards, and pay adjustments in a fair and equitable manner: Susan Crowder, Vijay Desai, Gisile Goethe, and Sean McCaffrey.

Dharmesh Vashee,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2021–19490 Filed 9–7–21; 8:45 am]

BILLING CODE 6760–01–P

FEDERAL TRADE COMMISSION

[File No. 192 3003]

Support King, LLC (SpyFone.com); Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 8, 2021.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write ''Support King, LLC (SpyFone.com); File No. 192 3003'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary,

600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Thomas B. Carter (214–979–9372), Federal Trade Commission, Southwest Regional Office, 199 Bryan Street, Suite 2150, Dallas, TX 75201.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 8, 2021. Write ''Support King, LLC (SpyFone.com); File No. 192 3003'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Due to the COVID–19 pandemic and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Support King, LLC (SpyFone.com); File No. 192 3003'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580. If possible, submit your paper comment to the Commission by overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the *https://www.regulations.gov* website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing the proposed settlement. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 8, 2021. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order from Support King, LLC, formerly d/b/a SpyFone.com (''Corporate Respondent''), and Scott Zuckerman (''Individual Respondent'') (collectively, ''Respondents'').

The Commission has placed the proposed consent order (''Proposed Order'') on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission again will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's Proposed Order.

Support King has sold various monitoring products and services, each of which allowed a purchaser to monitor surreptitiously another person's activities on that person's mobile device. Scott Zuckerman is the president, founder, resident agent, and chief executive of Support King. Individually or in concert with others, Mr. Zuckerman controlled or had the authority to control, or participated in the acts and practices alleged in the proposed complaint.

Respondents' monitoring products and services included SpyFone for Android Basic, Premium, Xtreme, and Xpress. These monitoring products and services had varying capabilities and costs. Purchasers of these products had to take steps to bypass numerous restrictions implemented by the operating system or the mobile device manufacturer on the monitored mobile device during installation. To enable certain functions of the monitoring products and services, purchasers had to gain administrative privileges, exposing mobile devices to various security vulnerabilities.

All of Respondents' monitoring products and services required that the purchaser have physical access to the device user's mobile device for installation, and then the purchaser could remotely monitor the device user's activities from an online dashboard. Once installed, the monitoring products and services ran surreptitiously, meaning that the device user was unaware that he or she was being monitored. The SpyFone software would then only be found by navigating through the device's ''Settings,'' where, according to SpyFone's website, it is labeled as ''System Service'' in order ''to be more stealthy[.]''

Device users surreptitiously monitored by Respondents' monitoring products and services could not uninstall or remove Respondents' monitoring products and services because they did not know that they were being monitored. Device users often had no way of knowing that Respondents' monitoring products and services were being used on their phones. Respondents did not take any steps to ensure that purchasers would use Respondents' monitoring products and services for legitimate purposes.

Moreover, Respondents did not take steps to secure the personal information collected from device users being monitored despite stating, ''SpyFone cares about the integrity and security of your personal information. We will take all reasonable precautions to safeguard customer information, including but not limited to contact information, personally identifiable information (PII), and payment details,'' and ''SpyFone uses its databases to store your encrypted personal information.'' Respondents engaged in a number of practices that, taken together, failed to provide reasonable data security to protect the personal information collected from device users.

As a result of these unreasonable data security practices, in August 2018, an unauthorized third party accessed Respondents' server, gaining access to the data of approximately 2,200 consumers. Respondents then disseminated a notice to purchasers following the unauthorized access, representing that Respondents had ''partner[ed] with leading data security firms to assist in our investigation'' and that they would ''coordinate with law enforcement authorities'' on the matter. In reality, Respondents did not partner with any data security firms or coordinate with law enforcement authorities.

The Commission's proposed three-count complaint alleges that Respondents violated Section 5(a) of the Federal Trade Commission Act. The first count alleges that Respondents unfairly sell or have sold monitoring products and services that operate surreptitiously on mobile devices without taking reasonable steps to ensure that the purchasers use the monitoring products and services only for legitimate and lawful purposes.

The second count alleges Respondents deceived consumers about Respondents' data security practices by falsely representing that it would take all reasonable precautions to safeguard customer information, including by using their database to store consumers' personal information encrypted. Respondents failed to implement appropriate security procedures to protect the personal information they collected from consumers, such as by: (1) Failing to encrypt personal information stored on Respondents' server; (2) failing to ensure access to Respondents' server was properly configured so that only authorized users could access consumers' personal information; (3) failing to adequately assess and address vulnerabilities of its Application Programing Interfaces (APIs); (4) transmitting purchasers' passwords for their SpyFone accounts in plain text; and (5) failing to contractually require its service provider to adopt and implement data security standards, policies, procedures or practices.

The third count alleges Respondents deceived consumers about Respondents' data breach response, when Respondents stated they were partnering with leading data security firms to investigate the data breach and coordinating with law enforcement authorities, when in fact Respondents did not.

The Proposed Order contains provisions designed to prevent Respondents from engaging in the same or similar acts or practices in the future.

Part I of the Proposed Order requires Respondents to disable immediately all access to any information collected through a monitored mobile device, and immediately to cease collection of any data through any monitoring software. Part II requires that within 30 days of the entry of the Proposed Order, Respondents must delete all consumer data collected.

Part III of the Proposed Order requires Respondents to provide notice on all of Support King's websites, and to provide notice through emails to purchasers and trial users, stating that the FTC alleged Support King sold illegal monitoring products and services, that Support King agreed to disable the software, and that Respondents' previous notice of June 2020 was inaccurate. Respondents must also provide notice to each user of a monitored device, through an on-screen notification, informing the user that Support King collected information from his or her phone, and that the phone may not be secure.

Part IV of the Proposed Order bans Respondents from licensing, advertising, marketing, promoting, distributing, selling, or assisting in any of the former, any monitoring product or service to consumers. Part V of the Proposed Order prohibits Respondents from making any misrepresentations about the extent to which Respondents work with privacy or security firms, or the extent to which Respondents maintain and protect the privacy, security, confidentiality, and integrity of personal information. Part VI of the Proposed Order prohibits Corporate Respondent, and any Covered Business (any business controlled, directly or indirectly, by either Corporate Respondent or Individual Respondent) from transferring, selling, sharing, collecting, maintaining, or storing personal information unless it establishes and implements, and thereafter maintains, a comprehensive information security program that protects the security, confidentiality, and integrity of such personal information.

Part VII requires Respondents to obtain initial and biennial data security assessments for twenty years for any Covered Business that collects personal information online. Part VIII of the Proposed Order requires Respondents to disclose all material facts to the assessor and prohibits Respondents from misrepresenting any fact material to the assessments required by Part VII.

Part IX requires Respondents to submit an annual certification from a senior corporate manager (or senior officer responsible for its information security program), that Respondents have implemented the requirements of the Proposed Order, are not aware of any material noncompliance that has not been corrected or disclosed to the Commission, and includes a brief description of any covered incident involving unauthorized access to or acquisition of personal information. Part X requires Respondents to submit a report to the Commission following their discovery of any covered incident.

Parts XI through XIV of the Proposed Order are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Respondents to provide information or documents necessary for the Commission to monitor compliance. Part XV states that the Proposed Order will remain in effect for twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the Proposed Order. It is not intended to constitute an official interpretation of the complaint or Proposed Order, or to modify in any way the Proposed Order's terms.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2021–19388 Filed 9–7–21; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10765]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by October 8, 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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

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. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Review Choice Demonstration for Inpatient Rehabilitation Facility (IRF) Services; *Use:* Section 402(a)(1)(J) of the Social Security Amendments of 1967 (42 U.S.C. 1395b–1(a)(1)(J)) authorizes the Secretary to ''develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services under the health programs established by the Social Security Act (the Act).'' Pursuant to this authority, the CMS seeks to develop and implement a Medicare demonstration project, which CMS believes will help assist in developing improved procedures for the identification, investigation, and prosecution of Medicare fraud occurring among IRFs providing services to Medicare beneficiaries.

This demonstration will assist in developing improved procedures for the identification, investigation, and prosecution of potential Medicare fraud. The demonstration will ensure that payments for IRF services are appropriate through either pre-claim or postpayment review, thereby working towards the prevention and identification of potential fraud, waste, and abuse, as well as protecting the Medicare Trust Funds from improper payments while reducing Medicare appeals. CMS proposes implementing the demonstration in Alabama, then expand to Pennsylvania, Texas, and California. After the initial four states, CMS will expand the demonstration to include the IRFs in any state that bill to Medicare Administrative Contractor (MAC) jurisdictions JJ, JL, JH, and JE. Under this demonstration, CMS proposes to offer choices for providers to demonstrate their compliance with CMS' IRF policies. Providers in the demonstration states may participate in either 100 percent pre-claim review, or 100 percent postpayment review. These providers will continue to be subject to the selected review method until the IRF reaches the target affirmation or claim approval rate (90 percent, based on a minimum of 10 pre-claim requests or claims submitted). Once an IRF reaches the target pre-claim review affirmation or postpayment review claim approval rate, it may choose to be relieved from claim reviews under the demonstration, except for a spot check of five percent of their claims to ensure continued compliance.

The information required under this collection is required by Medicare contractors to determine proper payment or if there is a suspicion of fraud. Under the pre-claim review choice, IRFs will send the pre-claim review request along with all required documentation to the Medicare contractor for review prior to submitting the final claim for payment. If a claim is submitted without a pre-claim review decision on file, the Medicare contractor will request the information from the IRF to determine if payment is appropriate. For the postpayment review option, the Medicare contractor will also request the information from the IRF provider who submitted the claim for payment from the Medicare program to determine if payment was appropriate. *Form Number:* CMS–10765 (OMB Control Number: 0938–NEW); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profits and Not-for-profits); *Number of Respondents:* 526; *Number of Responses:* 179,910; *Total Annual Hours:* 89,955. (For questions regarding this collection contact Jaclyn Gray (410) 786–3744.)

Dated: September 3, 2021.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021–19476 Filed 9–7–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Child Care Improper Payments Data Collection Instructions; (OMB #0970–0323)

AGENCY: Office of Child Care, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families is proposing revisions to an approved information collection Child Care Improper Payments Data Collection Instructions (OMB #0970–0323, expiration 10/31/2021). There are minor changes requested to the form.

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: Section 2 of the Payment Integrity Information Act of 2019 (PIIA) provides for estimates and reports of improper payments by federal agencies. Subpart K of 45 CFR, Part 98 of the Child Care and Development Fund (CCDF) requires states to prepare and submit a report of errors occurring in the administration of CCDF grant funds once every 3 years.

The Office of Child Care (OCC) is completing the fifth 3-year cycle of case record reviews to meet the requirements for reporting under PIIA. The current data collection forms and instructions expire October 31, 2021. As part of the renewal process, OCC has revised the document with minor changes that do not change the methodology, but provide respondents with additional guidance, clarification, and support to facilitate completeness and accuracy of the required data submissions.

Clarifying language and a question have been added to the revised document to support Lead Agencies that administer all or part of the CCDF program through other governmental or non-governmental agencies to include the following:

- In Section 1 *Introduction* on page 2, a subsection ''Considerations for Administering CCDF Through Other Agencies'' was added to describe how Lead Agency responsibilities in administering the CCDF program through other entities apply to the error rate review process.
- In Section III *Creating the Sampling Decisions, Assurances, and Fieldwork Preparation Plan* on page 11, and the *Sampling Decisions, Assurances, and Fieldwork Preparation Plan Report template* (Attachment 1), a new item was added at Item 3g Case Review Logistics to request information about how a Lead Agency accesses documents stored by other entities if part of eligibility is determined by the other entity.

OCC is particularly interested in feedback about the clarity of these instructions and the ease and accuracy with which respondents can provide information on accessing documents stored by other entities.

Respondents: State grantees, the District of Columbia, and Puerto Rico.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Sampling Decisions, Assurances, and Fieldwork Preparation Plan	52	1	106	5,512	1,837
Record Review Worksheet	52	276	6.33	90,848	30,283
State Improper Payments Report	52	1	639	33,228	11,076
Corrective Action Plan	5	[a] 2	156	1,560	520
Estimated Total Annual Burden Hours					43,716

[a] The total number of responses per respondent ranges from one to three, depending on how long it takes respondents to reduce the Improper Payment Rate to below the threshold. Respondents submit a *Corrective Action Plan* that covers a 1-year period; at the end of each year, if respondents have not reduced the Improper Payment Rate to below the threshold, they submit a new *Corrective Action Plan* for the following year. An average of two responses per respondent is used to calculate annual burden estimates.

(Authority: 45 CFR part 98, subpart K)

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–19299 Filed 9–7–21; 8:45 am]

BILLING CODE 4184–43–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; ACF–196P, TANF Pandemic Emergency Assistance Fund (PEAF) Financial Report for States, Territories and Tribes (0970–0510)

AGENCY: Office of Family Assistance, Administration for Children and Families, Health and Human Services (HHS).

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families' (ACF) Office of Family Assistance plans to submit a generic information collection (GenIC) request under the umbrella generic: Generic Clearance for Financial Reports used for ACF Mandatory Grant Programs (0970–0510). This request includes a reporting form and associated instructions for financial information to be completed by grant recipients of Temporary Assistance for Needy Families (TANF) Pandemic Emergency

Assistance Funding authorized by the American Rescue Plan Act of 2021.

DATES: *Comments due within 14 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above and below.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be submitted by emailing *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: ACF programs require detailed financial information from their grantees that allows ACF to monitor various specialized cost categories within each program, to closely manage program activities, and to have sufficient financial information to enable periodic thorough and detailed audits. The Generic Clearance for Financial Reports used for ACF Mandatory Grant Programs allows ACF programs to efficiently develop and receive approval for financial reports that are tailored to specific funding recipients and the associated needs of the program. For more information about the umbrella generic, see: *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202108-0970-002.*

This specific GenIC applies to all state, territory, and tribal grantees awarded TANF Pandemic Emergency Assistance Funding as authorized by the American Rescue Plan Act of 2021 (Pub. L. 117–2). Section 403(c)(6)(A) of the Social Security Act was augmented by the passage of Public Law 117–2 with this opportunity for funding to provide non-recurrent, short term benefits and associated administrative costs to supplement, but not supplant, other federal, state, tribal, territorial, or local funds in meeting the emergency needs of recipients. These federal funds will serve as payment for expenditures incurred from April 1, 2021, to September 30, 2022, and if available, any unspent funds will be reallotted and available for expenditure for another 12 months.

All grantees must complete reporting once a year in accordance with Office of Family Assistance program policy governing the administration of PEAF Statute. The accompanying instructions and terms and conditions of the grant will provide guidance and assist grantees with this requirement.

Respondents: States, Territories, Tribes, and Tribal Consortia awarded TANF Pandemic Emergency Assistance Funding funds authorized by the American Rescue Plan Act of 2021.

ANNUAL BURDEN ESTIMATES

Title of information collection	Number of respondents	Annual frequency of responses	Hourly burden per response	Annual hourly burden
ACF–196P	137	1	6	822

Estimated Total Annual Burden Hours: 822.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 14 days of this publication.

Authority: Pub. L. 117–2; Section 403(c)(6)(A) of the American Rescue Plan Act of 2021.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–19459 Filed 9–7–21; 8:45 am]

BILLING CODE 4184–56–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3263]

Request for Nominations for Voting Members on a Public Advisory Committee; the Tobacco Products Scientific Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for members to serve on the Tobacco Products Scientific Advisory Committee, in the Center for Tobacco Products. FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore encourages nominations of appropriately qualified candidates from these groups.

DATES: Nominations received on or before November 8, 2021 will be given first consideration for membership on the Tobacco Products Scientific Advisory Committee. Nominations received after November 8, 2021 will be considered for nomination to the committee as later vacancies occur.

ADDRESSES: All nominations for membership should be sent electronically by logging into the FDA Advisory Nomination Portal: *https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm.* Information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's website by using the following link: *https://www.fda.gov/AdvisoryCommittees/default.htm.*

FOR FURTHER INFORMATION CONTACT: *Regarding all nomination questions for membership, the primary contact is:* Serina Hunter-Thomas, Office of Science, Center for Tobacco Products, Food and Drug Administration, Center for Tobacco Products, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 1–877–287–1373 (choose Option 5), email: *TPSAC@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is requesting nomination for voting members on the Tobacco Products Scientific Advisory Committee.

I. General Description of the Committee Duties

The Tobacco Products Scientific Advisory Committee (the Committee) advises the Commissioner of FDA (the Commissioner) or designee in discharging responsibilities related to the regulation of tobacco products. The Committee reviews and evaluates behavior, dependence, and health issues, among others, relating to tobacco products and provides appropriate advice, information, and recommendations to the Commissioner.

II. Criteria for Voting Members

The Committee shall consist of 12 members, including the Chair. Members and the Chair are selected by the Commissioner or designee from among individuals knowledgeable in the fields of science, medicine, medical ethics, or technology involving the manufacture, evaluation, or use of tobacco products. Almost all non-Federal members of this committee serve as Special Government Employees. The Committee shall include nine technically qualified voting members, selected by the Commissioner or designee. The nine voting members shall be scientists, physicians, dentists, or healthcare professionals practicing in the areas of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, epidemiology, behavioral health, or any other relevant specialty. One member shall be an officer or employee of a state or local government or of the Federal Government. The final voting member shall be a representative of the general public. Members will be invited to serve for terms of up to 4 years.

III. Nomination Procedures

Any interested person may nominate one or more qualified individuals for membership on the advisory committee. Self-nominations are also accepted. Nominations must include a current, complete résumé or curriculum vitae for each nominee, including current business address and/or home address, telephone number, and email address if available and a signed copy of the Acknowledgement and Consent form available at the FDA Advisory Nomination Portal (see **ADDRESSES**). Nominations must also specify the advisory committee for which the nominee is recommended. Nominations must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters related to financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: September 2, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–19444 Filed 9–7–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–5464]

Center for Drug Evaluation and Research Office of New Drugs Novel Excipient Review Pilot Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA) Center for Drug Evaluation and Research (CDER) is announcing a Novel Excipient Review Pilot Program (Pilot Program). The Pilot Program is voluntary and intended to allow excipient manufacturers to obtain FDA review of certain novel excipients prior to their use in drug formulations. The Pilot Program seeks to foster development of excipients that may be useful in scenarios in which excipient manufacturers and drug developers have cited difficulty in using existing excipients.

DATES: FDA is seeking initial proposals for the voluntary Novel Excipient Review Pilot Program through December 7, 2021.

FOR FURTHER INFORMATION CONTACT: Felecia Wilson, Center for Drug Evaluation and Research, Food and Drug Administration, *Novel-Excipient-Program@fda.hhs.gov,* 301–796–9590.

SUPPLEMENTARY INFORMATION:

I. Background

Excipient manufacturers and drug developers have cited product development challenges related to the use of certain excipients (also known as inactive ingredients), including issues related to formulation and stability. Novel excipients might be able to address some of these issues and provide additional public health benefits, such as enhanced drug bioavailability, more comfortable drug administration, new abuse-deterrent opioid formulations, new routes of drug delivery, and facilitation of new technologies. However, drug developers report that they have been hesitant to use novel excipients in drug development programs due to the uncertainty surrounding their acceptability.

To address these issues, FDA issued a request for information in the **Federal Register** on December 5, 2019 (84 FR 66669), seeking comment on a potential pilot program for FDA review of novel excipients. FDA received several comments to the public docket on these issues. After considering these comments, CDER has decided to establish this Pilot Program.

A. Scope

For purposes of the Pilot Program, an *excipient* is any ingredient intentionally added to a drug product (including a biological drug product) that is not intended to exert therapeutic effects at the intended dosage, although it may improve product delivery (see FDA guidance for industry entitled ''Nonclinical Studies for the Safety Evaluation of Pharmaceutical Excipients'' (Ref.1)). Examples of excipients may include fillers, extenders, diluents, surfactants, solvents, emulsifiers, preservatives, flavors, absorption enhancers, modified release matrices, and coloring agents. Also, for purposes of this Pilot Program, a *novel excipient* is any excipient that is not fully supported by existing safety data with respect to the currently proposed level of exposure, duration of exposure, or route of administration (Ref. 1). This parallels the definition of ''new excipients'' defined in Ref. 1.

CDER proposes a more limited scope for this Pilot Program. The Pilot Program will initially be available for novel excipients that (1) have not been previously used in FDA-approved drug products, and (2) do not have an established use in food. CDER recognizes that there may be novel excipients not meeting this scope that may also address product development challenges or provide public health benefits. However, because of the limited scope of the initial phase of the Pilot Program (described further below), CDER will not be able to consider submissions for all kinds of novel excipients. CDER may expand the scope of the Pilot Program in the future depending on its success and as resources allow.

The Pilot Program is voluntary. Existing processes for developing excipients for use in drug and biological products continue to be available.

B. Participation

The Pilot Program will consist of two stages. The first stage is an initial proposal stage for excipient manufacturers to provide a high-level overview of their novel excipient. CDER intends to accept approximately four initial proposals (two for the first year of the Pilot Program, and two for the second year) but will consider accepting more proposals as resources allow. Excipient manufacturers whose initial proposals are accepted would then enter the second stage, during which they would provide a full data package consisting of toxicology and quality data. Both stages are described in further detail below.

As mentioned above, CDER intends to consider for the Pilot Program novel excipients that (1) have not been previously used in FDA-approved drug products, and (2) do not have an established use in food.

C. Procedures

1. Initial Proposal Stage

At the initial proposal stage, excipient manufacturers will submit brief summaries describing the novel excipient, its proposed use, and the public health or drug development need addressed by the excipient. The initial proposal is anticipated to include a summary of the supportive data generated or collected so far and some indication of the timing of any subsequent data needed for submission of the Full Package. FDA has posted an initial proposal model content outline on the Pilot Program web page (*https://www.fda.gov/drugs/development-approval-process-drugs/novel-excipient-review-pilot-program*).

Interested excipient manufacturers should submit initial proposals to FDA via email at *Novel-Excipient-Program@fda.hhs.gov.* FDA will accept proposals for the pilot through December 7, 2021. FDA will notify all submitters whether their proposal is accepted into the Pilot Program.

FDA will review the initial proposals and select approximately four proposals (two for the first year and two for the second year) to proceed to stage two of the program. FDA will consider the following factors, among other considerations, in determining which proposals to select:

- Potential public health benefit of the novel excipient (for example, excipients that may facilitate opioid abuse-deterrent formulations or excipients that may promote development of new therapies for serious and life-threatening diseases).
- Likelihood of the novel excipient manufacturer's ability to submit a complete package within the timeframe established in this Notice.
- Overall potential of the novel excipient to meaningfully improve pharmacokinetic characteristics that may lead to novel drug development.

2. Procedures for Full Packages

For novel excipients selected into the program, the developer should submit a full package consisting of toxicology and quality data as described below. See CDER Guidance for industry entitled ''Nonclinical Studies for the Safety Evaluation of Pharmaceutical Excipients'' (Ref. 1).

a. Toxicology data package. The toxicology data package should include adequate, supportive safety information for the novel excipient to verify that the proposed excipient is safe in the amounts and type of product(s) in which it may be administered as well as the proposed use (*e.g.,* level, route, duration, patient population). Depending on the proposed use, the toxicology data package may include the information described below. Additional safety data may be requested if the proposed use is not fully supported by the available data. Reference is made to the relevant guidance for the proposed toxicology data package below.

- Safety pharmacology: Novel excipients should be evaluated for pharmacological activity using a battery of standard tests (see FDA guidance for industry entitled ''S7A Safety Pharmacology Studies for Human Pharmaceuticals'' (Ref. 2)).
- Pharmacokinetic testing (absorption, distribution, metabolism, and excretion): To determine the extent of exposure. A pharmacokinetic profile for an excipient that is extensively absorbed, undergoes extensive biotransformation, or both will be useful.
- General toxicology: Chronic, 6-month repeat dose toxicology studies in a relevant species by appropriate route with complete clinical pathology, histopathology, and toxicokinetic analysis are recommended. Because excipients generally have low toxicity, the limit dose is recommended as the highest dose for testing (see FDA guidance for industry entitled ''M3(R2) Nonclinical Safety Studies for the Conduct of Human Clinical Trials and Marketing Authorization for Pharmaceuticals'' (Ref. 3)).
- Genetic toxicology (see FDA guidance for industry entitled ''S2B Genotoxicity: A Standard Battery for Genotoxicity Testing of Pharmaceuticals'' (Ref. 4)).
- Reproductive toxicology: Fertility, embryo-fetal, and pre- and post-natal development (see International Council for Harmonization harmonized guidance for industry entitled ''Detection of Reproductive and Developmental Toxicity for Human Pharmaceuticals S5(R3)'' (Ref. 5)).
- Carcinogenicity: One of the following approaches may be used to evaluate carcinogenic potential (see FDA guidance for industry entitled ''The Need for Long-term Rodent Carcinogenicity Studies of Pharmaceuticals'' (Ref. 6)):
  - Two-year carcinogenicity bioassays in two appropriate species by the relevant route;
  - A 2-year carcinogenicity study in rat plus a transgenic mouse model; or
  - Submission of documentation providing scientific justification that carcinogenicity data are not necessary based on the weight of evidence approach in an assessment to address the carcinogenic potential.
- Special studies (*e.g.,* local tolerance, Juvenile Animal Studies).

b. Quality data package. The novel excipient chemistry, manufacturing, and controls data submitted to CDER should be similar to that provided in an investigational new drug application (IND).

For evaluation of all novel excipients with a proposed use in formulations for small molecule and biological drug products reviewed by CDER/Office of New Drugs (OND), submitters should provide:

- Excipient specifications.
- A description of the source, synthetic pathway/fermentation or extraction for non-synthetic excipients, raw materials, in-process controls, manufacturing process description, characterization and analytical methods, or a letter of authorization (right of reference) for the excipient Type IV drug master file (DMF) or other master file if a master file has been submitted for the excipient.
- If the excipient contains a novel moiety with immunogenic potential, an immunogenicity risk assessment that may include in vitro data. Additional information on immunogenicity risk assessment may be found in FDA guidance for industry entitled ''S8 Immunotoxicity Studies for Human Pharmaceuticals'' for types of supporting in vitro studies (Ref. 7).
- If the excipient is sourced from cells, clearance of host cell protein (absence in final excipient) and evidence of absence of adventitious agents such as viruses.

In addition, for evaluation of novel excipients with a proposed use in formulations for biological drug products reviewed by CDER/OND, submitters should provide:

- Stability studies of the excipient under storage and potential in-use conditions (*e.g.,* over infusion time). Novel excipients should be evaluated for their potential to prevent denaturation and degradation of proteins during storage.
- For some excipients, studies should address their potential protein-excipient interaction and impact on drug product immunogenicity as well as their potential for masking process related impurities.

Full packages should be submitted through a Type V DMF or other master file no later than 3 months after notification that FDA has selected the proposal. For more information on submitting Type V DMFs, see the FDA draft guidance for industry entitled ''Drug Master Files'' (Ref. 8).

FDA will evaluate the full package and determine whether the excipient is appropriate for the proposed use for use in clinical trials. FDA will issue a letter to the novel excipient submitter announcing its decision.

For each novel excipient evaluated under the second stage of the program, FDA will publish on the Pilot Program web page the initial proposal and the determination letter. Information that cannot be publicly disclosed will be redacted. This web page will also include a content outline identifying information that should be included in an Initial Proposal and other relevant information regarding the pilot.

3. Effect of Determination

A determination that the excipient is appropriate for use in clinical trials means that FDA has determined it is appropriate to use the novel excipient in an IND within the defined use without additional justification. However, the drug sponsor would still need to demonstrate that the excipient is safe in the proposed formulation. The information submitted under the full package would remain in the Type V DMF or other master file, and the master file holder may grant authorization to reference the information in the master file at the holder's discretion. Moreover, we do not anticipate that a novel excipient may be used in an abbreviated new drug application because data and information currently required to support use of a novel excipient may not be submitted in an abbreviated new drug application. After it has been used in approved drug products, the novel excipient would be added to the Inactive Ingredient Database in accordance with Agency practice.

If FDA determines that the excipient is not appropriate for the proposed use, an IND sponsor would be expected to provide additional information to demonstrate that the use of the novel excipient is appropriate within the context of the IND.

II. Paperwork Reduction Act of 1995

The information collection activities associated with the Pilot Program refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this Pilot Program. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 314 pertaining to the submission of abbreviated new drug applications, new drug applications, and DMFs have been approved under OMB control number 0910–0001. The collections of information in 21 CFR part 312 pertaining to the submission of IND content and format; chemistry, control, and manufacturing data; pharmacology and toxicology data; and pharmacokinetics and biological data have been approved under OMB control number 0910–0014. The collections of information in 21 CFR part 58 pertaining to good laboratory practice regulations for nonclinical laboratory studies have been approved under OMB control number 0910–0119. The collections of information in 21 CFR part 601 pertaining to biologics license applications have been approved under OMB control number 0910–0338.

III. References

The following references are on display at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.* FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. FDA, Guidance for Industry, ''Nonclinical Studies for the Safety Evaluation of Pharmaceutical Excipients,'' May 2005 (available at *https://www.fda.gov/media/72260/download*). For the most recent version of a guidance, check the FDA guidance web page at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents.*
2. FDA Guidance for Industry, ''S7A Safety Pharmacology Studies for Human Pharmaceuticals,'' July 2001 (available at *https://www.fda.gov/media/72033/download*).
3. FDA, Guidance for Industry, ''M3(R2) Nonclinical Safety Studies for the Conduct of Human Clinical Trials and Marketing Authorization for Pharmaceuticals,'' January 2010 (available at *https://www.fda.gov/media/71542/download*).
4. FDA, Guidance for Industry, ''S2B Genotoxicity: A Standard Battery for Genotoxicity Testing of Pharmaceuticals,'' July 1997 (available at *https://www.fda.gov/media/71971/download*).
5. International Council for Harmonization (ICH), Guidance for Industry, ''Detection of Reproductive and Developmental Toxicity for Human Pharmaceuticals S5(R3),'' February 2020 (available at *https://database.ich.org/sites/default/files/S5-R3_Step4_Guideline_2020_0218_1.pdf*).
6. FDA, Guidance for Industry, ''The Need for Long-term Rodent Carcinogenicity Studies of Pharmaceuticals,'' March 1996 (available at *https://www.fda.gov/media/71921/download*).
7. FDA, Guidance for Industry, ''S8 Immunotoxicity Studies for Human Pharmaceuticals,'' April 2006 (available at *https://www.fda.gov/media/72047/download*).
8. FDA, Draft Guidance for Industry ''Drug Master Files,'' October 2019 (available at *https://www.fda.gov/media/131861/download*).

Dated: September 1, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–19335 Filed 9–7–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: MCH Jurisdictional Survey Instrument for the Title V MCH Block Grant Program, OMB No. 0906–0042, Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, HRSA announces

plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, or any other aspect of the ICR related to the Maternal and Child Health (MCH) Jurisdictional Survey that is to be administered in the U.S. territories and jurisdictions (excluding the District of Columbia) for purposes of collecting information related to the well-being of all mothers, children, and their families.

DATES: Comments on this Information Collection Request must be received no later than November 8, 2021.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or by mail to the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: MCH Jurisdictional Survey Instrument for the Title V MCH Block Grant Program, OMB No. 0906–0042, Extension.

Abstract: The purpose of the Title V MCH Block Grant is to improve the health of the nation's mothers, infants, children, including children with special health care needs, and their families by creating federal/state partnerships that provide each state/jurisdiction with needed flexibility to respond to its individual MCH population needs. Unique to the MCH Block Grant is a commitment to performance accountability, while assuring state flexibility. Utilizing a three-tiered national performance measure framework, which includes National Outcome Measures, National Performance Measures, and Evidence-Based and Informed Strategy Measures, State Title V programs report annually on their performance relative to the selected national performance and outcome measures. Such reporting enables the state and federal program offices to assess the progress achieved in key MCH priority areas and to document Title V program accomplishments.

By legislation (Sections 505(a) and 506(a) of Title V of the Social Security Act), the MCH Block Grant Application/Annual Report must be developed by, or in consultation with, the State MCH Health agency. In establishing state reporting requirements, HRSA's Maternal and Child Health Bureau considers the availability of national data from other federal agencies. Data for the national performance and outcome measures are pre-populated for states in the Title V Information System. National data sources identified for the National Performance Measures and National Outcome Measures in the MCH Block Grant program seldom include data from the Title V jurisdictions, with the exception of the District of Columbia. The eight remaining jurisdictions (*i.e.,* American Samoa, Federated States of Micronesia, Guam, Marshall Islands, Northern Mariana Islands, Palau, Puerto Rico and U.S. Virgin Islands) have limited access to significant data and MCH indicators, with limited capacity for collecting these data.

Sponsored by HRSA's Maternal and Child Health Bureau, the MCH Jurisdictional Survey is designed to produce data on the physical and emotional health of mothers and children under 18 years of age in the following eight jurisdictions—American Samoa, Federated States of Micronesia, Guam, Marshall Islands, Northern Mariana Islands, Palau, Puerto Rico, and Virgin Islands. More specifically, the MCH Jurisdictional Survey collects information on factors related to the well-being of children, including health status, visits to health care providers, health care costs, and health insurance coverage. In addition, the MCH Jurisdictional Survey collects information on factors related to the well-being of mothers, including health risk behaviors, health conditions, and preventive health practices. This data collection enables the jurisdictions to meet federal performance reporting requirements and to demonstrate the impact of Title V funding relative to MCH outcomes for the U.S. jurisdictions in reporting on their unique MCH priority needs.

The MCH Jurisdictional Survey was designed based on information-gathering activities with Title V leadership and program staff in the jurisdictions, experts at the Centers for Disease Control and Prevention and other organizations with relevant data collection experience. Survey items are based on the National Survey of Children's Health; the Behavioral Risk Factor Surveillance System; the Youth Behavior Surveillance System; and selected other federal studies. The Survey is designed as a core questionnaire to be administered across all jurisdictions with a supplemental set of survey questions customized to the needs of each jurisdiction.

Need and Proposed Use of the Information: Data from the MCH Jurisdictional Survey is used to measure progress on national performance and outcome measures under the Title V MCH Block Grant Program. This survey instrument is critical to collect information on factors related to the well-being of all mothers, children, and their families in the jurisdictional Title V programs, which address their unique MCH needs.

Likely Respondents: The respondent universe is women age 18 or older who live in one of the eight targeted U.S. jurisdictions (Puerto Rico, U.S. Virgin Islands, Guam, Northern Mariana Islands, American Samoa, Palau, Marshall Islands, or Federated States of Micronesia) and who are mothers or guardians of at least one child aged 0–17 years living in the same household.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. Included is the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Burden hours per form	Total burden hours
Adult Parents—Puerto Rico ..	Screener	2,480	1	2,480	0.03	74.40	299.40
	Core	250	1	250	0.83	207.50	
	Jurisdiction Module	250	1	250	0.07	17.50	
Adult Parents—U.S. Virgin Islands.	Screener	2,153	1	2,153	0.03	64.59	289.59
	Core	250	1	250	0.83	207.50	
	Jurisdiction Module	250	1	250	0.07	17.50	
Adult Parents—Guam	Screener	684	1	684	0.03	20.52	245.52
	Core	250	1	250	0.83	207.50	
	Jurisdiction Module	250	1	250	0.07	17.50	
Adult Parents—American Samoa.	Screener	426	1	426	0.03	12.78	232.78
	Core	250	1	250	0.83	207.50	
	Jurisdiction Module	250	1	250	0.05	12.50	
Adult Parents—Federated States of Micronesia.	Screener	339	1	339	0.03	10.17	230.17
	Core	250	1	250	0.83	207.50	
	Jurisdiction Module	250	1	250	0.05	12.50	
Adult Parents—Marshall Islands.	Screener	284	1	284	0.03	8.52	236.02
	Core	250	1	250	0.83	207.50	
	Jurisdiction Module	250	1	250	0.08	20.00	
Adult Parents—Northern Mariana Islands.	Screener	470	1	470	0.03	14.10	241.60
	Core	250	1	250	0.83	207.50	
	Jurisdiction Module	250	1	250	0.08	20.00	
Adult Parents—Palau	Screener	467	1	467	0.03	14.01	226.51
	Core	250	1	250	0.83	207.50	
	Jurisdiction Module	250	1	250	0.02	5.00	
Total		7,303		7,303			2,001.59

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2021–19447 Filed 9–7–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Evaluation of Office of Acquisitions System (OASYS) and FFRDC Contract Administration System (FCAS) Vendor Portals National Cancer Institute (NCI); Correction

AGENCY: National Institutes of Health, HHS.

ACTION: Notice; correction.

SUMMARY: The Department of Health and Human Services, National Institutes of Health published a Notice in the **Federal Register** on August 31, 2021. That Notice requires a correction in the **SUPPLEMENTARY INFORMATION** section.

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: Marla Jacobson, 9609 Medical Center Drive, MSC 9742, Rockville, MD 20850 or call non-toll-free number 240–276–5267 or email your request, including your address to: *marla.jacobson@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of August 31, 2021, in FR Doc. 2021–18767, on page 48747, as found within the **SUPPLEMENTARY INFORMATION** section, within the Estimated Annualized Burden Hours table for the Total Annual Burden Hours for the form name column Survey—FCAS total currently reads ''1'' and is corrected to read: ''0'', the form name column Registration—FCAS total currently reads ''1'' and is corrected to read: ''0''. These corrections revise the Total Annual Burden Hours total currently reads ''232'' and is corrected to read: ''230''.

Dated: September 1, 2021.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2021–19281 Filed 9–7–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and

the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; NIMHD Mentored Career and Research Development Awards (Ks).

Date: October 28–29, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 7201 Wisconsin Avenue, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Deborah Ismond, Ph.D., Scientific Review Officer, Office of Extramural Research Administration, National Institute on Minority Health and Health Disparities, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–1366, *ismonddr@mail.nih.gov*.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; Building Population Health Research Capacity in the U.S. Affiliated Pacific Islands (U24).

Date: November 12, 2021.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 7201 Wisconsin Avenue, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Ivan K. Navarro, Ph.D., Scientific Review Officer, Office of Extramural Research Administration, National Institute on Minority Health and Health Disparities, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–827–2061, *ivan.navarro@nih.gov*.

Dated: September 3, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–19466 Filed 9–7–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0068]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Registration for Classification as a Refugee

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until November 8, 2021.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0068 in the body of the letter, the agency name and Docket ID USCIS–2007–0036. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2007–0036.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2007–0036 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Registration for Classification as a Refugee.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–590; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The Form I–590 is the primary document in all refugee case files and becomes part of the applicant's A-file. It is the application form by which a person seeks refugee classification and resettlement in the United States. It documents an applicant's legal testimony (under oath) as to his or her identity and claim to refugee status, as well as other pertinent information including marital status, number of children, military service, organizational memberships, and violations of law. In addition to being the application form submitted by a person seeking refugee classification, Form I–590 is used to document that an applicant was interviewed by United States Citizenship and Immigration

Services (USCIS) and record the decision by the USCIS Officer to approve or deny the applicant for classification as a refugee. Regardless of age, each person included in the case must have his or her own Form I–590. Refugees applying to CBP for admission must have a stamped I–590 in their travel packet in order to gain admission as a refugee. They do not have refugee status until they are admitted by CBP.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–590 is 50,000 and the estimated hour burden per response is 3.25 hours. The estimated total number of respondents for the information collection I–590 Review is 3,000 and the estimated hour burden per response is 1 hour. The estimated total number of respondents for the information collection of DNA Evidence is 100 and the estimated hour burden per response is 2 hours. The estimated total number of respondents for the information collection of Biometrics is 53,100 and the estimated hour burden per response is 0.33 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 183,223 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $12,000.

Dated: September 2, 2021.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2021–19391 Filed 9–7–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6270–N–02]

Notice of a Federal Advisory Committee Meeting: Manufactured Housing Consensus Committee

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of Federal advisory committee meetings: Manufactured Housing Consensus Committee.

SUMMARY: This notice sets forth the schedule and proposed agenda for three Manufactured Housing Consensus Committee (MHCC) teleconference meetings. The meetings are open to the public. The agenda for each meeting provides an opportunity for citizens to comment on the business before the MHCC.

DATES:

- The first MHCC meeting will be held on Thursday, September 23, 2021, 10:00 a.m. to 4:00 p.m. Eastern Standard Time (EST).
- The second MHCC meeting will be held on Friday, October 8, 2021, 10:00 a.m. to 4:00 p.m. Eastern Standard Time (EST).
- The third MHCC meeting will be held on Wednesday, October 20, 2021, 10:00 a.m. to 4:00 p.m. Eastern Standard Time (EST).

The teleconference number is: 301–715–8592 or 646–558–8656 and the Meeting ID is: 81468510702. To access the webinar, use the following link: *https://us06web.zoom.us/j/81468510702*.

FOR FURTHER INFORMATION CONTACT: Teresa B. Payne, Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 7th Street SW, Room 9166, Washington, DC 20410, telephone 202–402–2698 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: Notice of these meetings is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. app. 10(a)(2) through implementing regulations at 41 CFR 102–3.150. The MHCC was established by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5403(a)(3), as amended by the Manufactured Housing Improvement Act of 2000, (Pub. L. 106–569, sec. 601, *et seq.*). According to 42 U.S.C. 5403, as amended, the MHCC's purposes are to:

- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the Federal manufactured housing construction and safety standards in accordance with this subsection;
- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement regulations, including regulations specifying the permissible scope and conduct of monitoring in accordance with subsection (b); and
- Be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation.

The MHCC is deemed an advisory committee not composed of Federal employees.

Public Comment: Citizens wishing to make comments on the MHCC's business must register in advance by contacting the Administering Organization (AO), Home Innovation Research Labs; Attention: Kevin Kauffman, 400 Prince Georges Blvd., Upper Marlboro, MD 20774; by emailing *mhcc@homeinnovation.com*; or calling 888–602–4663. With advance registration, members of the public will have an opportunity to provide written comments relative to agenda topics for the Committee's consideration. All written comments must be provided to *mhcc@homeinnovation.com.*

- For the September 23, 2021 MHCC teleconference, the written comments must be provided no later than September 16, 2021.
- For the October 8, 2021 MHCC teleconference, the written comments must be provided no later than October 1, 2021.
- For the October 20, 2021 MHCC teleconference, the written comments must be provided no later than October 13, 2021.

Please note, written comments submitted will not be read during the meeting, but will be provided to the MHCC members prior to the meeting. The MHCC will also provide an opportunity for oral public comments on specific matters before the MHCC at each meeting. The total amount of time for oral comments will be 30 minutes, in two 15-minute periods, with each commenter limited to two minutes to ensure pertinent Committee business is completed and all public comments can be expressed. The Committee will not respond to individual written or oral statements; however, it will take all public comments into account in its deliberations. The MHCC strives to accommodate citizen comments to the extent possible within the time constraints of the meeting agenda.

Tentative Agenda for MHCC Teleconferences

Thursday, September 23, 2021—10 a.m. to 4 p.m. ET

I. Call to Order and Roll Call
II. Opening Remarks—MHCC Chair & Designated Federal Officer (DFO)
III. Approval of draft minutes from June 10, 2021, MHCC teleconference
IV. Public Comment Period—15 minutes
V. Discussion of Department of Energy's Supplemental Notice of Proposed Rulemaking and Request for

Comment—Energy Conservation Standards for Manufactured Housing
VI. Lunch from 12:30 p.m. to 1:30 p.m.
VII. Continued Discussion of Supplemental Notice of Proposed Rulemaking and Request for Comments—Energy Conservation Standards for Manufactured Housing and Prepare Comments/Answers about DOE's Questions in Rulemaking for HUD's review
VIII. Public Comment Period—15 minutes
IX. Wrap Up—DFO & AO
X. Adjourn

Friday, October 8, 2021—10 a.m. to 4 p.m. ET

I. Call to Order and Roll Call
II. Opening Remarks—MHCC Chair & Designated Federal Officer (DFO)
III. Public Comment Period—15 minutes
IV. Discussion of Department of Energy's Supplemental Notice of Proposed Rulemaking and Request for Comment—Energy Conservation Standards for Manufactured Housing and Prepare Comments/Answers about DOE's Questions in Rulemaking for HUD's review
V. Lunch from 12:30 p.m. to 1:30 p.m.
VI. Continued Discussion of Supplemental Notice of Proposed Rulemaking and Request for Comment—Energy Conservation Standards for Manufactured Housing and Prepare Comments/Answers about DOE's Questions in Rulemaking for HUD's review
VII. Public Comment Period—15 minutes
VIII. Wrap Up—DFO & AO
IX. Adjourn

Wednesday, October 20, 2021—10 a.m. to 4 p.m. ET

I. Call to Order and Roll Call
II. Opening Remarks—MHCC Chair & Designated Federal Officer (DFO)
III. Public Comment Period—15 minutes
IV. Discussion of Department of Energy's Supplemental Notice of Proposed Rulemaking and Request for Comment—Energy Conservation Standards for Manufactured Housing and Continue to Prepare Comments/Answers about DOE's Questions in Rulemaking for HUD's review
V. Lunch from 12:30 p.m. to 1:30 p.m.
VI. Continued Discussion of Supplemental Notice of Proposed Rulemaking and Request for Comments—Energy Conservation Standards for Manufactured Housing Answers about DOE's Questions in Rulemaking for HUD's review
VII. Public Comment Period—15 minutes
VIII. Wrap Up—DFO & AO
IX. Adjourn

Lopa Kolluri,

Principal Deputy Assistant, Secretary for Housing.

[FR Doc. 2021–19495 Filed 9–7–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6245–N–02]

Mortgage and Loan Insurance Programs Under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: This Notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Administration under the provisions of the National Housing Act (the Act). The interest rate for debentures issued under Section 221(g)(4) of the Act during the 6-month period beginning July 1, 2021, is 1½ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the 6-month period beginning July 1, 2021, is 2¼ percent.

FOR FURTHER INFORMATION CONTACT: Elizabeth Olazabal, Department of Housing and Urban Development, 451 Seventh Street SW, Room 5146, Washington, DC 20410–8000; telephone (202) 402–4608 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (12 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6), and 220.830. These regulatory provisions state that the applicable rates of interest will be published twice each year as a notice in the **Federal Register**.

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the annual interest rate determined by the Secretary of the Treasury pursuant to a statutory formula based on the average yield of all outstanding marketable Treasury obligations of maturities of 15 or more years.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of Section 224, that the statutory maximum interest rate for the period beginning July 1, 2021, is 2¼ percent; and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 2¼ percent for the 6-month period beginning July 1, 2021. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4)) with insurance commitment or endorsement date (as applicable) within the last 6 months of 2021).

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since January 1, 1980:

Effective interest rate	on or after	prior to
9½	Jan. 1, 1980	July 1, 1980.
9⅞	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12⅞	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	Jan. 1, 1983.
10¼	Jan. 1, 1983	July 1, 1983.
10⅜	July 1, 1983	Jan. 1, 1984.
11½	Jan. 1, 1984	July 1, 1984.
13⅜	July 1, 1984	Jan. 1, 1985.
11⅝	Jan. 1, 1985	July 1, 1985.
11⅛	July 1, 1985	Jan. 1, 1986.
10¼	Jan. 1, 1986	July 1, 1986.
8¼	July 1, 1986	Jan. 1. 1987.
8	Jan. 1, 1987	July 1, 1987.
9	July 1, 1987	Jan. 1, 1988.
9⅛	Jan. 1, 1988	July 1, 1988.
9⅜	July 1, 1988	Jan. 1, 1989.
9¼	Jan. 1, 1989	July 1, 1989.
9	July 1, 1989	Jan. 1, 1990.
8⅛	Jan. 1, 1990	July 1, 1990.
9	July 1, 1990	Jan. 1, 1991.
8¾	Jan. 1, 1991	July 1, 1991.
8½	July 1, 1991	Jan. 1, 1992.

Effective interest rate	on or after	prior to
8	Jan. 1, 1992	July 1, 1992.
8	July 1, 1992	Jan. 1, 1993.
7¾	Jan. 1, 1993	July 1, 1993.
7	July 1, 1993	Jan. 1, 1994.
6⅝	Jan. 1, 1994	July 1, 1994.
7¾	July 1, 1994	Jan. 1, 1995.
8⅜	Jan. 1, 1995	July 1, 1995.
7¼	July 1, 1995	Jan. 1, 1996.
6½	Jan. 1, 1996	July 1, 1996.
7¼	July 1, 1996	Jan. 1, 1997.
6¾	Jan. 1, 1997	July 1, 1997.
7⅛	July 1, 1997	Jan. 1, 1998.
6⅜	Jan. 1, 1998	July 1, 1998.
6⅛	July 1, 1998	Jan. 1, 1999.
5½	Jan. 1, 1999	July 1, 1999.
6⅛	July 1, 1999	Jan. 1, 2000.
6½	Jan. 1, 2000	July 1, 2000.
6½	July 1, 2000	Jan. 1, 2001.
6	Jan. 1, 2001	July 1, 2001.
5⅞	July 1, 2001	Jan. 1, 2002.
5¼	Jan. 1, 2002	July 1, 2002.
5¾	July 1, 2002	Jan. 1, 2003.
5	Jan. 1, 2003	July 1, 2003.
4½	July 1, 2003	Jan. 1, 2004.
5⅛	Jan. 1, 2004	July 1, 2004.
5½	July 1, 2004	Jan. 1, 2005.
4⅞	Jan. 1, 2005	July 1, 2005.
4½	July 1, 2005	Jan. 1, 2006.
4⅞	Jan. 1, 2006	July 1, 2006.
5⅜	July 1, 2006	Jan. 1, 2007.
4¾	Jan. 1, 2007	July 1, 2007.
5	July 1, 2007	Jan. 1, 2008.
4½	Jan. 1, 2008	July 1, 2008.
4⅝	July 1, 2008	Jan. 1, 2009.
4⅛	Jan. 1, 2009	July 1, 2009.
4⅛	July 1, 2009	Jan. 1, 2010.
4¼	Jan. 1, 2010	July 1, 2010.
4⅛	July 1, 2010	Jan. 1, 2011.
3⅞	Jan. 1, 2011	July 1, 2011.
4⅛	July 1, 2011	Jan. 1, 2012.
2⅞	Jan. 1, 2012	July 1, 2012.
2¾	July 1, 2012	Jan. 1, 2013.
2½	Jan. 1, 2013	July 1, 2013.
2⅞	July 1, 2013	Jan. 1, 2014.
3⅝	Jan. 1, 2014	July 1, 2014.
3¼	July 1, 2014	Jan. 1, 2015.
3	Jan. 1, 2015	July 1, 2015.
2⅞	July 1, 2015	Jan. 1, 2016.
2⅞	Jan. 1, 2016	July 1, 2016.
2½	July 1, 2016	Jan. 1, 2017.
2¾	Jan. 1, 2017	July 1, 2017.
2⅞	July 1, 2017	Jan. 1, 2018.
2¾	Jan. 1, 2018	July 1, 2018.
3⅛	July 1, 2018	Jan. 1, 2019.
3⅜	Jan 1, 2019	July 1, 2019.
2¾	July 1, 2019	Jan 1, 2020.
2¼	Jan 1, 2020	July 1, 2020.
1¼	July 1, 2020	Jan. 1, 2021.
1⅜	Jan 1, 2021	July 1, 2021.
2¼	July, 1 2021	Jan 1, 2022.

Section 215 of Division G, Title II of Public Law 108–199, enacted January 23, 2004 (HUD's 2004 Appropriations Act) amended Section 224 of the Act, to change the debenture interest rate for purposes of calculating certain insurance claim payments made in cash. Therefore, for all claims paid in cash on mortgages insured under Section 203 or 234 of the National Housing Act and endorsed for insurance after January 23, 2004, the debenture interest rate will be the monthly average yield, for the month in which the default on the mortgage occurred, on United States Treasury Securities adjusted to a constant maturity of 10 years, as found in Federal Reserve Statistical Release H–15. The Federal Housing Administration has codified this provision in HUD regulations at 24 CFR 203.405(b) and 24 CFR 203.479(b).

Similarly, Section 520(a) of the National Housing Act (12 U.S.C. 1735d) provides for the payment of an insurance claim in cash on a mortgage or loan insured under any section of the National Housing Act before or after the enactment of the Housing and Urban Development Act of 1965. The amount of such payment shall be equivalent to the face amount of the debentures that would otherwise be issued, plus an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary. The implementing HUD regulations for multifamily insured mortgages at 24 CFR 207.259(e)(1) and (e)(6), when read together, provide that debenture interest on a multifamily insurance claim that is paid in cash is paid from the date of the loan default at the debenture rate in effect at the time of commitment or endorsement (or initial endorsement if there are two or more endorsements) of the loan, whichever is higher.

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the ''going Federal rate'' in effect at the time the debentures are issued. The term ''going Federal rate'' is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a statutory formula based on the average yield on all outstanding marketable Treasury obligations of 8- to 12-year maturities, for the 6-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.255 and 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to Section 221(g)(4) during the 6-month period beginning July 1, 2021, is 1½ percent. The subject matter of this notice falls within the categorical exemption from HUD's environmental clearance procedures set forth in 24 CFR 50.19(c)(6). For that reason, no environmental finding has been prepared for this notice.

(Authority: Sections 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 1715l, 1715o; Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

Lopa P. Kolluri,

Principal Deputy Assistant, Secretary Office of Housing-Federal Housing Administration.

[FR Doc. 2021–19492 Filed 9–7–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX21GL00DT7ST00; OMB Control Number 1028–0087]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; National Geological and Geophysical Data Preservation Program (NGGDPP)

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we the U.S. Geological Survey (USGS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 8, 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. Please provide a copy of your comments to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0087 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Michaela Johnson by email at *mrjohns@usgs.gov,* or by telephone at (720) 250–8763. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR

1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on May 11, 2021, 86, 25882. No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

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

Abstract: This notice concerns the collection of information that is sufficient and relevant to evaluate and select proposals for funding under the NGGDPP. We will accept proposals from state geological surveys requesting funds to inventory and assess the condition of current collections and data preservation needs. Financial assistance will be awarded annually on a competitive basis following the evaluation and ranking of state proposals by a review panel composed of representatives from the U.S. Department of the Interior, state geological surveys, and academic institutions. To submit a proposal, respondents must complete a project narrative and submit the application via *www.grants.gov.* Grant recipients must complete a final technical report at the end of the project period. Narrative and report guidance is available at *https://datapreservation.usgs.gov, https://www.grants.gov,* and *https://home.grantsolutions.gov.*

Annual data preservation priorities are provided in the Program Announcement as guidance for applicants to consider when submitting proposals. Since its inception in 2007, NGGDPP has awarded 46 states with $12 million, which, when matched or exceeded by the states, amounts to over $24 million invested in the rescue and preservation efforts. This notice concerns the collection of information that is sufficient and relevant to evaluate and select proposals for funding. We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and implementing regulations (43 CFR part 2), and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited inspection.'' Responses are voluntary. No questions of a ''sensitive'' nature are asked. We intend to release the project abstracts and identify states for awarded/funded projects only.

Title of Collection: National Geological and Geophysical Data Preservation Program (NGGDPP).

OMB Control Number: 1028–0087.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: All state geological surveys may apply for NGGDPP grants.

Total Estimated Number of Annual Respondents: 35.

Total Estimated Number of Annual Responses: 70 (35 applications, 35 final technical report submissions).

Estimated Completion Time per Response: Grant application time estimate is 80 hours; final technical report completion time estimate is 10 hours.

Total Estimated Number of Annual Burden Hours: 3,150.

Respondent's Obligation: Required to obtain a benefit.

Frequency of Collection: Annually.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Michaela Johnson,

NGGDPP Associate Program Coordinator.

[FR Doc. 2021–19356 Filed 9–7–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[DOI–2020–0005; 20XD4523WC DS68647000 DWCHF0000.000000 DQ.FPPJB.20000000]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, Interior.

ACTION: Rescindment of a system of records notice.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of the Interior (DOI) is giving notice of its intent to rescind the Privacy Act system of records, ''Interior, National Business Center Datamart, DOI–84,'' from its existing inventory. During a review of DOI system of records notices, it was determined that this system of records notice is no longer necessary as the records in the system are covered under the INTERIOR/DOI–85, Payroll, Attendance, Retirement, and Leave Records, system of records notice. This rescindment will promote the overall streamlining and management of DOI Privacy Act systems of records.

DATES: These changes take effect on September 8, 2021.

ADDRESSES: You may submit comments identified by docket number [DOI–2020–0005] by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for sending comments.
- *Email: DOI_Privacy@ios.doi.gov.* Include docket number [DOI–2020–0005] in the subject line of the message.
- *U.S. mail or hand-delivery:* Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.

Instructions: All submissions received must include the agency name and docket number [DOI–2020–0005]. All comments received will be posted

without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

You should be aware that your entire comment including your personally identifiable information, such as your address, phone number, email address, or any other personal information in your comment, may be made publicly available at any time. While you may request to withhold your personally identifiable information from public review, we cannot guarantee we will be able to do so.

FOR FURTHER INFORMATION CONTACT: Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240, *DOI_Privacy@ios.doi.gov* or (202) 208–1605.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, DOI is rescinding the DOI–84, National Business Center Datamart, system of records notice from its inventory because it is no longer needed as the records are covered under INTERIOR/DOI–85, Payroll, Attendance, Retirement, and Leave Records, 83 FR 34156 (July 19, 2018). The National Business Center Datamart system provided a data repository with capability to query data and produce reports in support of fiscal and payroll processing from two Privacy Act systems, INTERIOR/DOI–85, Payroll, Attendance, Retirement, and Leave Records, and INTERIOR/DOI–90, Federal Financial System, 64 FR 46930 (August 27, 1999).

The Federal Financial System has been retired and is no longer used to process or maintain financial information. DOI is publishing a rescindment notice for the INTERIOR/DOI–90, Federal Financial System, system notice elsewhere in the **Federal Register**. Since the Federal Financial System is retired and Datamart no longer processes financial data from that system, DOI has determined that the DOI–84, National Business Center Datamart, system of records notice is no longer necessary as it does not identify any additional categories of individuals, categories of records, or routine uses for personnel payroll processing records beyond those included in the current INTERIOR/DOI–85, Payroll, Attendance, Retirement, and Leave Records, system of records notice. This rescindment will eliminate an unnecessary duplicate notice and is in accordance with the Privacy Act of 1974 and the Office of Management and Budget Circular A–108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act.*

Rescinding the DOI–84, National Business Center Datamart, system of records notice will have no adverse impacts on individuals as the personnel payroll records are covered under the current INTERIOR/DOI–85, Payroll, Attendance, Retirement, and Leave Records, system of records notice. This rescindment will also promote the overall streamlining and management of DOI Privacy Act systems of records.

SYSTEM NAME AND NUMBER:

Interior, National Business Center Datamart, DOI–84.

HISTORY:

73 FR 74506 (December 8, 2008).

Teri Barnett,

Departmental Privacy Officer, Department of the Interior.

[FR Doc. 2021–19285 Filed 9–7–21; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2021–0004; EEEE500000 21XE1700DX EX1SF0000.EAQ000; OMB Control Number 1014–0003]

Agency Information Collection Activities; Oil and Gas Production Safety Systems

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before November 8, 2021.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to *http://www.regulations.gov.* In the Search box, enter BSEE–2021–0004 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *kye.mason@bsee.gov,* fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0003 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at *kye.mason@bsee.gov* or by telephone at (703) 787–1607.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that

your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Regulations governing production safety systems are primarily covered in 30 CFR 250, subpart H and are the subject of this collection. In addition, BSEE also issues various Notices to Lessees (NTLs) and Operators to clarify and provide additional guidance on some aspects of the regulations, as well as forms to capture the data and information. Additional guidance pertaining to Oil-Spill Response Requirements is provided by NTLs when needed.

BSEE uses the information collected under subpart H to:

- Review safety system designs prior to installation to ensure that minimum safety standards will be met;
- evaluate equipment and/or procedures used during production operations;
- review records of erosion control to ensure that erosion control programs are effective;
- review plans to ensure safety of operations when more than one activity is being conducted simultaneously on a production facility;
- review records of safety devices to ensure proper maintenance during the useful life of that equipment; and
- verify proper performance of safety and pollution prevention equipment (SPPE).

Title of Collection: 30 CFR 250, subpart H, Oil and Gas Production Safety Systems.

OMB Control Number: 1014–0003.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 60 Oil and Gas Drilling and Production Operators in the OCS. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 7,097.

Estimated Completion Time per Response: Varies from 30 minutes to 48 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 93,385.

Respondent's Obligation: Mandatory.

Frequency of Collection: Generally on occasion.

Total Estimated Annual Nonhour Burden Cost: $10,912,696.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2021–19333 Filed 9–7–21; 8:45 am]

BILLING CODE 4310–VH–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–469 and 731–TA–1168 (Second Review)]

Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From China

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the countervailing and antidumping duty orders on certain seamless carbon and alloy steel standard, line, and pressure pipe from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on February 1, 2021 (86 FR 7740) and determined on May 7, 2021 that it would conduct expedited reviews (86 FR 36771, July 13, 2021).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on September 1, 2021. The views of the Commission are contained in USITC Publication 5229 (September 2021), entitled *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from China: Investigation Nos. 701–TA–469 and 731–TA–1168 (Second Review).*

By order of the Commission.

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Issued: September 1, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–19310 Filed 9–7–21; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Proposed Settlement Agreement Under the Comprehensive Environmental Response, Compensation and Liability Act and the Pennsylvania Hazardous Sites Cleanup Act

Notice is hereby given that the United States of America, on behalf of the National Oceanic and Atmospheric Administration (''NOAA''), and the Department of the Interior (''DOI''), acting through the Fish and Wildlife Service, and the Commonwealth of Pennsylvania, acting through the Department of Environmental Protection, the Department of Conservation and Natural Resources, and the Fish and Boat Commission (collectively ''Trustees''), are providing an opportunity for public comment on a proposed Settlement Agreement (''Settlement Agreement'') between the Trustees and a dozen public utility companies: Consolidated Edison Company of New York, Inc., Public Service Electric and Gas Company, Baltimore Gas and Electric Company, Jersey Central Power and Light Company, Long Island Lighting Company d/b/a LIPA, Metropolitan Edison Company, Orange and Rockland Utilities, Inc., PECO Energy Company, Potomac Electric Power Company, PPL Electric Utilities Corporation, Virginia Electric and Power Company, and Delmarva Power & Light Company (collectively, ''Settling Defendants'').

The settlement resolves the civil claims of the Trustees against the Settling Defendants arising under their natural resource trustee authority set forth at Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9607, and at section 507 of the Pennsylvania Hazardous Sites Cleanup Act, Act of October 18, 1988, Public Law 756, No. 108, as amended (''HSCA''), 35 P.S. 6020.507. The claims are for injury to, impairment of, destruction of, loss of, diminution of value of, and/or loss of use of natural resources, including the reasonable costs of assessing the injuries, resulting from the Settling Defendants' alleged contribution to the release of hazardous substances at the Metal Bank Superfund

Site in Philadelphia, Pennsylvania (the ''Site'').

Under the proposed Settlement Agreement, the Settling Defendants agree to pay $950,000 to resolve their liability at the Site. Of this amount, $414,807 will compensate NOAA and DOI for their costs of assessing natural resource damages at the Site. The remaining $535,193 will paid into the DOI Natural Resource Damage Assessment and Restoration Fund and earmarked for future natural resource restoration projects selected by the Trustees and implemented in the vicinity of the Site to compensate the public for the injury to natural resources. A restoration plan will be developed for public comment by the Trustees.

Notice of the Settlement Agreement was previously published in the **Federal Register** on March 17, 2021 (86 FR 14646). Due to an administrative oversight, that notice provided a link to an incorrect version of the Settlement Agreement. The correct version of the Settlement Agreement contains slightly different language in Paragraphs 2 (in the definition of ''Natural Resource Restoration Projects''), 3.b, and 4 clarifying that funds paid under the Settlement Agreement may be spent on any Natural Resource Restoration Projects to restore, replace, or acquire the equivalent of the Natural Resources that have been injured as a result of releases of hazardous substances at the site.

The publication of this notice opens a period for public comment limited to addressing the different language of Paragraphs 2, 3.b, and 4 of 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 Metal Bank Natural Resource Damages Settlement Agreement, D.J. Ref. No. 90–11–2–1183/2. 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.* The Department of Justice 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 $4.00 (25 cents per page reproduction cost) payable to the United States Treasury.

All public comments must be submitted no later than thirty (30) days after the publication date of this notice.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2021–19451 Filed 9–7–21; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0365]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Death in Custody Reporting Act Collection

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Justice Assistance will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until October 8, 2021.

FOR FURTHER INFORMATION CONTACT: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of currently approved collection.

2. *The Title of the Form/Collection:* Death in Custody Reporting Act Collection.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number (if applicable): DCR–1.

Quarterly Summary. This summary form requires States to either (1) identify all reportable deaths that occurred in their jurisdiction during the corresponding quarter and provide basic information about the circumstances of the death, or (2) affirm that no reportable death occurred in the State during the reporting period.

For each quarter in a fiscal year, a State must complete the Quarterly Summary (Form DCR–1) and submit it by the reporting deadline. The Quarterly Summary is a list of all reportable deaths that occurred in the State during the corresponding quarter with basic information about the circumstances of each death. If a State did not have a reportable death during the quarter, the State must so indicate on the Quarterly Summary. The reporting deadline to submit the Quarterly Summary is the last day of the month following the close of the quarter. For each quarter, BJA will send two reminders prior to the reporting deadline.

Example. The second quarter of a fiscal year is January 1–March 31. The deadline to submit the second quarter Quarterly Summary is April 30. BJA will send a reminder to States on March 31 and April 15.

Component: Bureau Justice Assistance, U.S. Department of Justice.

Form number (if applicable): DCR–1A.

Incident Report. This incident report form requires States to provide additional information for each reportable death identified in the Quarterly Summary that occurred during interactions with law enforcement personnel or while in their custody.

For each reportable death identified in the Quarterly Summary, a State must complete and submit by the same reporting deadline an Incident Report (Form DCR–1A), which contains specific information on the circumstances of the death and additional characteristics of the decedent. These include:

- The decedent's name, year of birth, gender, race, and ethnicity.
- The date, time, and location of the death.
- The law enforcement or correctional agency involved.
- Description of the manner of death.

States must answer all questions on the Incident Report before they can submit the form. If the State does not have sufficient information to complete one of the questions, then the State may select the ''unknown'' answer, if available, and then identify when the information is anticipated to be obtained.

Component: Bureau Justice Assistance, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, Local, or Tribal Government.

Abstract: To comply with the mandate of the DCRA, the Department of Justice, Bureau of Justice Assistance, is proposing a new data collection for State Administering Agencies to collect and submit information regarding the death of any person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, State-run boot camp prison, boot camp prison that is contracted out by the State, any State or local contract facility, or other local or State correctional facility (including any juvenile facility).

DOJ proposes the following plan to collect DCRA information at the end of fiscal year 2019 and beyond. The plan, which constitutes ''guidelines established by the Attorney General'' pursuant to section 2(a) of the DCRA, encompasses provisions specifically required by the statute.

For purposes of this notice, the term ''reportable death'' means any death that the DCRA or the Department's guidelines require States to report. Generally, these are deaths that occurred during interactions with law enforcement personnel or while the decedent was in their custody or in the custody, under the supervision, or under the jurisdiction of a State or local law enforcement or correctional agency, such as a jail or prison. Specifically, the DCRA requires States to report ''information regarding the death of any person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, State-run boot camp prison, boot camp prison that is contracted out by the State, any State or local contract facility, or other local or State correctional facility (including any juvenile facility).'' 34 U.S.C. 60105(a).

Please note that the DCRA information that States submit to the Department must originate from official government records, documents, or personnel.

The DCRA requires quarterly reporting. Beginning with the first quarter of FY 2020 (October 2019), quarterly DCRA reporting to BJA will include all reportable deaths—deaths occurring during interactions with law enforcement personnel or while in their custody and deaths in jail, prison, or detention settings. (*i.e.,* deaths reportable on Form DCR–1).

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* For purposes of this collection, the term ''State'' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands. Thus, the affected public that will be asked to respond on a quarterly basis each federal fiscal year includes 56 State and Territorial actors. These States will be requesting information from approximately 19,450 State and local law enforcement agencies (LEAs), 56 State and Territorial departments of corrections, and 2,800 local adult jail jurisdictions.

6. *An estimate of the total public burden (in hours) associated with the collection:* For purposes of this burden calculation, it is estimated that for each fiscal year there will be a total of 1,900 reportable deaths by 1,060 LEAs, 1,053 reportable deaths by 600 jails, and 3,483 reportable deaths by prisons.

For FY 2020 and beyond, the total projected respondent burden is 13,756.49 hours. States will need an estimated 4.00 hours to complete each Quarterly Summary for a total of 4,480.00 hours, 0.25 hours to complete each corresponding Incident Reports (DCR–1A) for a total of 1,713.49 hours. For LEAs, the estimated burden to assist States in completing the Quarterly Summaries is 0.40 hours per Report for a total of 1,696.00 hours, and a total of 1,425.00 hours, at 0.75 hours for each corresponding Incident Report. The estimated burden for jails is a total of 960.00 hours to assist States in completing the Quarterly Summaries and 789.75 hours in completing Incident Reports. Finally, the estimated burden for prisons to assist States in completing the Quarterly Summaries is a total of 80.00 hours, and a total of 2,612.25 hours to assist States in completing Incident Reports.

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: September 2, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–19400 Filed 9–7–21; 8:45 am]

BILLING CODE 4410–18–P

OFFICE OF MANAGEMENT AND BUDGET

Request for Comments on Zero Trust Strategy Document

AGENCY: Office of Management and Budget, (OMB).

ACTION: Notice of public comment period.

SUMMARY: The Office of Management and Budget (OMB) is seeking public comment on a draft strategy document titled ''Moving the U.S. Government Towards Zero Trust Cybersecurity Principles.''

DATES: The public comment period begins on September 8, 2021 and will last for 14 days. The public comment period will end on September 22, 2021.

ADDRESSES: Interested parties should provide comments at the following link: *https://zerotrust.cyber.gov/.* The Office of Management and Budget is located at 725 17th Street NW, Washington, DC 20503.

Instructions: Comments that are sent by means other than submission using the instructions on *https://zerotrust.cyber.gov,* or that are received after the end of the comment period, may not be considered. Comments submitted in response to this notice may be made publicly available and are

subject to disclosure under the Freedom of Information Act. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information, or any information that you would not want publicly disclosed.

FOR FURTHER INFORMATION CONTACT: Eric Mill at *zerotrust@omb.eop.gov* or 202–456–3484.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) seeks comment on a draft of a Federal Government strategy to move Departments and Agencies to a zero trust architecture. Executive Order 14028, ''Improving the Nation's Cybersecurity,'' requires the Federal Government to adopt a zero trust architecture. OMB is publishing strategic guidance for Departments and Agencies containing baseline expectations for their migrations to a zero trust architecture. OMB welcomes public input on this strategy in advance of finalization. This strategy document will be available for review and public comment at *https://zerotrust.cyber.gov/*.

Clare Martorana,

U.S. Federal Chief Information Officer.

[FR Doc. 2021–19303 Filed 9–7–21; 8:45 am]

BILLING CODE 3110–05–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: 21–057]

Name of Information Collection: NASA Assurance of Civil Rights Compliance

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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 proposed and/or continuing information collections.

DATES: Comments are due by October 8, 2021.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 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: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 202–358–2375 or email *claire.a.little@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Aeronautics and Space Administration (NASA) Office of Diversity and Equal Opportunity and the Office of Procurement, in accordance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, requires grant awardees to submit an assurance of non-discrimination (NASA Form 1206) as part of their initial grant application package. The requirement for assurance of nondiscrimination compliance associated with federally assisted programs is long standing, derives from civil rights implementing regulations, and extends to the grant recipient's sub-grantees, contractors, successors, transferees, and assignees. Grant selectees are required to submit compliance information triennially when their award period exceeds 36 consecutive months. This information collection will also be used to enable NASA to conduct post-award civil rights compliance reviews.

II. Methods of Collection

Electronic.

III. Data

Title: NASA Assurance of Civil Rights Compliance.

OMB Number: 2700–0148.

Type of Review: Extension of a previously approved information collection.

Affected Public: Business, other for-profit, or not-for-profit.

Estimated Annual Number of Activities: 50.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 50.

Estimated Time per Response: 4 hours.

Estimated Total Annual Burden Hours: 200.

Estimated Total Annual Cost: $6,000.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2021–19446 Filed 9–7–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: 21–056]

Name of Information Collection: Remote Psychoacoustic Test, Phase 1, for Urban Air Mobility Vehicle Noise Human Response

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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 proposed and/or continuing information collections.

DATES: Comments are due by November 8, 2021.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 60-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 202–358–2375 or email *claire.a.little@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Aeronautics and Space Administration (NASA) is leading an Urban Air Mobility (UAM) vehicle noise cooperative human response study involving multiple testing locations, other US government agencies, academia, and industry. Overarching study goals are:

1. Obtain a wide range of UAM vehicle sounds for use in human response studies.
2. Provide insights into human response of UAM vehicle noise that will collectively be challenging for any single agency or organization to acquire.
3. Create an open database of human response to UAM vehicle noise to support follow-on studies.

The UAM vehicle noise cooperative human response study is currently divided into two phases: A Feasibility Phase (Phase 1) and Phase 2. Each phase executes one or more psychoacoustic tests. Phase 1 seeks to demonstrate and refine the test methodology that will be used in Phase 2. Since UAM vehicle noise may be challenging to acquire as stimuli, the Phase 1 psychoacoustic test will use other types of aircraft noise as stimuli. Phase 2 will focus on capturing human response to UAM vehicle noise stimuli.

This information collection is for the Phase 1 psychoacoustic test. A remote psychoacoustic testing platform will allow recruited test subjects to listen to NASA-provided test sound stimuli over the internet using their own computers and headphones and register their annoyance rating for each.

The outcome of the Phase 1 psychoacoustic test is a demonstrated capability for ranking of sound stimuli by annoyance ratings from remote test subjects.

II. Methods of Collection

Test subjects will electronically indicate their annoyance rating to test stimuli into an interface displayed on their own computers.

III. Data

Title: Remote Psychoacoustic Test for Urban Air Mobility Vehicle Noise Human Response.

OMB Number:

Type of review: New.

Affected Public: Individuals.

Estimated Annual Number of Activities: 1.

Estimated Number of Respondents per Activity: 60.

Annual Responses: 60.

Estimated Time per Response: 80 minutes.

Estimated Total Annual Burden Hours: 80 hours.

Estimated Total Annual Cost: $3,200.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2021–19445 Filed 9–7–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit issued.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8030; email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On August 27, 2021, the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on August 30, 2021, to:

Permit No. 2022–004

1. Dale Andersen

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2021–19467 Filed 9–7–21; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8030; email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On July 23, 2021, the National Science Foundation published a notice in the **Federal Register** of permit applications received. The permits were issued on August 2, 2021, to:

Permit No. 2022–002

1. George Watters

Permit No. 2022–003

2. George Watters

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2021–19469 Filed 9–7–21; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Establish an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request approval for the collection of research and development data through the Directorate for Computer and Information Science and Engineering Research Experiences for Undergraduates Sites and Supplements Evaluation. In accordance with the requirement of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by November 8, 2021 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Computer and Information Science and Engineering Research Experiences for Undergraduates Sites and Supplements Evaluation.

OMB Approval Number: 3145–NEW.

Expiration Date of Current Approval: Not applicable.

Type of Request: Intent to establish an information collection.

Abstract: Every year the National Science Foundation (NSF) funds hundreds of Research Experience for Undergraduates (REU) activities through its REU program. The Directorate of Computer and Information Science and Engineering (CISE) is seeking to evaluate the effectiveness of the CISE REU program.

The REU program provides undergraduate students at US higher education institutions with opportunities to work with faculty on a research project. They can take the form of REU Sites or REU Supplements. REU Sites are based on independent proposals to initiate and conduct projects that engage a number of students in research. REU Supplements are included as a component of proposals for new or renewal NSF grants or cooperative agreements or may be requested for ongoing NSF-funded research projects.

By offering this opportunity to undergraduate students, the REU program seeks to expand student participation in all kinds of research—both disciplinary and interdisciplinary—encompassing efforts by individual investigators, groups, centers, national facilities, and others. The REU experience integrates research and education to attract a diverse pool of talented students into careers in science and engineering, including teaching and education research related to science and engineering.

The current data collection project intends to measure the impact of the undergraduate REU Sites and REU Supplements programs sponsored by NSF CISE. The project will conduct online surveys to track NSF CISE REU participants over time—including pre-program, post-program and one-year post-program measurement—alongside two comparison groups: (1) Students participating in other undergraduate research, and (2) students who do not participate in research. The researchers will supplement REU participants' survey data with demographic and background information collected via the NSF Education and Training Application (ETAP). The evaluation and research questions guiding this project include the following:

1. Who are the students reached through the NSF REU Program, and how do they compare to students participating in other types of research experiences and to students in the broader CISE community?

2. How do CISE REU Sites and REU Supplements differ from other research experiences (*e.g.,* other REUs, internships, and independent research projects)?

3. To what extent are the goals of the NSF REU Program being met by the individual projects within the program, including recruitment and retention of students in science and engineering fields and increasing diversity in these fields?

4. In what ways does participation in REU Sites, REU Supplements, internships, and/or other independent research experiences impact student attitudes and pathways to CISE careers and other research experiences?

5. In what ways does participation in the REU Sites and REU Supplements impact recruitment and retention of students who are underrepresented in computing?

Ultimately, the findings from this data collection will be used to understand and improve the impact of the CISE REU program, including increasing recruitment and retention in science and engineering and promoting a diverse group of computing/STEM careers.

Use of the information: The information collected through this survey will be used to evaluate the NSF CISE REU Program.

Respondents: There will be three types of survey respondents: NSF CISE REU Site and Supplement participants, a comparison group of undergraduate students who participate in other, non-NSF REU research experiences, and a comparison group of undergraduate students who do not participate in research.

NSF CISE REU participants will include undergraduate students who participate in REU projects in which the project's Principal Investigator chooses to use NSF-sponsored program evaluation services. Participants from the two comparison groups will be identified and recruited from a pool of undergraduates in computing fields who have participated in a prior survey of the Computing Research Association and have agreed to be contacted for future data collection.

Estimated number of respondents: The study's data collection activities will occur over a span of 2⅓ years. It is estimated that during this time, there will be approximately 3,500 NSF CISE REU survey respondents and 6,000 comparison group survey respondents, for a total of 9,500 respondents.

Average time per reporting: Each online survey is designed to be completed in 20 minutes or less.

Frequency: Each NSF CISE REU participant will be asked to complete three surveys: (1) A pre-test before they begin their REU project; (2) a post-test, after their REU ends; and (3) a one-year follow-up survey. Within the data collection timeline for this project, this will allow for two full data collection cycles, plus a third subset of Year 3 summer REU participants who will only complete a pre-test and a post-test, but no follow-up survey. Each comparison group participant, including both those with a different research experience and those with no research experience, will be asked to complete a pre-test survey and a follow-up survey occurring approximately one year later. There will be two full data collection cycles for comparison group participants.

Estimate burden on the public: For REU participants, there will be two full cycles of data collection (pre-test, post-test, and follow-up) and one partial cycle. It is expected that a total of 3,500 REU respondents will complete a 20-minute pre-survey in the project. Of these 3,500 REU participant respondents, we expect that approximately 70%, or 2,450, will complete a 20-minute post-survey. For the follow-up survey, only the REU participants from the first two years of the data collection would be able to complete the survey within the time range of the study (N=3,000). It is expected that approximately 50% of these respondents, or 1,500, will complete a 20-minute one-year follow-up survey. This would result in a total of 7,450 20-minute surveys completed by REU respondents, for a total of 2,483 burden hours for this subset of respondents.

For comparison group participations, there will be two full cycles of data collection. It is expected that a total of 6,000 respondents will complete a 20-minute pre-survey in the project. Of these 6,000 comparison group respondents, approximately 50%, or

3,000, are expected to complete a 20-minute one-year follow-up survey.

The total estimate for this collection is 9,000 surveys completed by comparison group respondents, for a total of 3,000 burden hours. Together, the total estimated survey burden for the project is 5,483 hours. The calculations are shown in Table 1.

TABLE 1—ESTIMATED SURVEY BURDEN

Category of respondent	Number of year 1 responses	Number of year 2 responses	Number of year 3 responses (partial year)	Participation time (mins each)	Burden (hours)
REU participant Pre-survey	1,500	1,500	500	20	1,166.67
REU participant Post-survey (70% of original)	1,050	1,050	350	20	816.67
REU participant Follow-up survey (50% of original).	750	750	Not conducted	20	500
Comparison participant Pre-survey	3,000	3,000	Not conducted	20	2,000
Comparison participant Post-survey (50% of original).	1,500	1,500	Not conducted	20	1,000
Total surveys completed	7,800	7,800	850	20	5,483

Comments: Comments are invited on:

1. Whether the proposed collection of information is necessary for the evaluation of the CISE REU Sites and Supplements Program.

2. The accuracy of the NSF's estimate of the burden of the proposed collection of information.

3. Ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: September 1, 2021.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2021–19286 Filed 9–7–21; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit issued.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8030; email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On July 27, 2021, the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on September 2, 2021, to:

Permit No. 2022–05

1. Leidos Innovations Group: Antarctic Support Contract

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2021–19468 Filed 9–7–21; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Seeks Qualified Candidates for the Advisory Committee on Reactor Safeguards

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for resumes.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) seeks qualified candidates for the Advisory Committee on Reactor Safeguards (ACRS). Submit resumes to Ms. Makeeka Compton and Ms. Jamila Perry, ACRS, Mail Stop: T2B50, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or email *Makeeka.Compton@nrc.gov and Jamila.Perry@nrc.gov.*

SUPPLEMENTARY INFORMATION: The ACRS is a part-time advisory group, which is statutorily mandated by the Atomic Energy Act of 1954, as amended. The ACRS provides independent expert advice on matters related to the safety of existing and proposed nuclear reactor facilities and on the adequacy of proposed reactor safety standards. Of primary importance are the safety issues associated with the operation of commercial nuclear power plants in the United States and regulatory initiatives, including risk-informed and performance-based regulation, license renewal, power uprates, and the use of mixed oxide and high burnup fuels. An increased emphasis is being given to safety issues associated with new reactor designs and technologies, including passive system reliability and thermal hydraulic phenomena, use of digital instrumentation and control, international codes and standards used in multinational design certifications, materials, and structural engineering, nuclear analysis and reactor core performance, and nuclear materials and radiation protection.

In addition, the ACRS may be requested to provide advice on radiation protection, radioactive waste management, and earth sciences in the agency's licensing reviews for fuel fabrication and enrichment facilities, and for waste disposal facilities. The ACRS also has some involvement in security matters related to the integration of safety and security of commercial reactors. See the NRC website at *https://www.nrc.gov/about-nrc/regulatory/advisory/acrs.html* for additional information about the ACRS.

Criteria used to evaluate candidates include education and experience, demonstrated skills in nuclear reactor safety matters, the ability to solve complex technical problems, and the ability to work collegially on a board, panel, or committee. The Commission, in selecting its Committee members, also considers the need for specific expertise to accomplish the work expected to be before the ACRS. ACRS Committee members are appointed for four-year terms with no term limits. The Commission looks to fill one vacancy as a result of this request. Candidates for this position must have extensive experience in nuclear fuel cycle chemistry, structural integrity, and/or metallurgy applicable to nuclear facilities and/or nuclear power plant systems or components. It would be useful if candidates also have

experience in seismic analysis. The candidates must also have at least 20 years of education and experience and a distinguished record of achievement in one or more areas of nuclear science and technology or related engineering disciplines. Candidates with pertinent graduate level experience will be given additional consideration.

Consistent with the requirements of the Federal Advisory Committee Act, the Commission seeks candidates with diverse backgrounds, so that the membership on the Committee is fairly balanced in terms of the points of view represented and functions to be performed by the Committee. Candidates will undergo a thorough security background check to obtain the security clearance that is mandatory for all ACRS members. The security background check will involve the completion and submission of paperwork to the NRC.

Candidates for ACRS appointment may be involved in or have financial interests related to NRC-regulated aspects of the nuclear industry. However, because conflict-of-interest considerations may restrict the participation of a candidate in ACRS activities, the degree and nature of any such restriction on an individual's activities as a member will be considered in the selection process. Each qualified candidate's financial interests must be reconciled with applicable Federal and NRC rules and regulations prior to final appointment. This might require divestiture of securities or discontinuance of certain contracts or grants. Information regarding these restrictions will be provided upon request. As a part of the Stop Trading on Congressional Knowledge Act of 2012, which bans insider trading by members of Congress, their staff, and other high-level federal employees, candidates for appointments will be required to disclose additional financial transactions.

A resume describing the educational and professional background of each candidate, including any special accomplishments, publications, and professional references should be provided. Candidates should provide their current address, telephone number, and email address. All candidates will receive careful consideration. Appointment will be made without regard to factors such as race, color, religion, national origin, sex, age, or disabilities. Candidates must be citizens of the United States and be able to devote approximately 100 days per year to Committee business, but may not be compensated for more than 130 calendar days. As a part of ACRS' transformative practice, appointees may be able to virtually devote some of the 130 days to Committee business. Resumes will be accepted until December 7, 2021.

Dated: September 1, 2021.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2021–19179 Filed 9–7–21; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company, Inc; Vogtle Electric Generating Plant, Units 3 and 4; Inspections, Tests, Analyses, and Acceptance Criteria

AGENCY: Nuclear Regulatory Commission.

ACTION: Determination of the successful completion of inspections, tests, and analyses.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff has determined that specified inspections, tests, and analyses have been successfully completed, and that specified acceptance criteria are met for the Vogtle Electric Generating Plant (VEGP), Units 3 and 4. The NRC staff is also rescinding a prior determination of the successful completion of particular inspections, tests, analyses, and acceptance criteria (ITAAC) for VEGP Units 3 and 4.

DATES: Determinations of the successful completion of inspections, tests, and analyses for VEGP Units 3 and 4 are effective on the dates indicated in the NRC staff's verification evaluation forms for the ITAAC. The NRC staff's rescission of its prior determination of the successful completion of particular ITAAC for VEGP Units 3 and 4 was effective on August 12, 2021.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2008–0252. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Cayetano Santos, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7270, email: *Cayetano.Santos@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Licensee Notification of Completion of ITAAC

Southern Nuclear Operating Company, Inc. (SNC) (hereafter called the licensee) has submitted ITAAC closure notifications (ICNs) under section 52.99(c)(1) of title 10 of the *Code of Federal Regulations* (10 CFR), informing the NRC that the licensee has successfully performed the required inspections, tests, and analyses, and that the acceptance criteria are met for:

VEGP Unit 3 ITAAC

2.1.02.09c (44), 2.1.02.12a.iii (55), 2.1.02.13a (63), 2.1.02.13b (64), 2.1.02.14 (66), 2.2.01.01 (90), 2.2.04.09a.ii (241), 2.2.05.02a (253), 2.3.02.08a.i (301), 2.3.02.14 (317), 2.3.04.05 (332), 2.3.06.11a (382), 2.3.07.05.i (396), 2.3.13.08 (470), 2.3.29.02 (489), 2.4.01.02 (493), 2.5.01.03a (511), 2.5.01.04 (519), C.2.5.04.04a (561), 2.5.06.02 (574), 2.6.03.05d.i (613), C.2.6.09.05a (664), C.2.6.09.06 (666), 2.7.03.03 (710), 2.7.07.02 (732), 3.2.00.04 (751), 3.3.00.02a.i.a (760), and 2.3.10.12 (879).

VEGP Unit 4 ITAAC

2.2.03.08c.iv.01 (183), 2.2.03.08c.iv.02 (184), 2.2.03.08c.iv.03 (185),

2.3.07.07b.ii (403), and 3.3.00.02a.ii.f (769).

The ITAAC for VEGP Unit 3 are in Appendix C of the VEGP Unit 3 combined license (ADAMS Accession No. ML14100A106). The ITAAC for VEGP Unit 4 are in Appendix C of VEGP Unit 4 combined license (ADAMS Accession No. ML14100A135).

II. Licensee ITAAC Post-Closure Notifications (IPCNs)

Since the last **Federal Register** notice of the NRC staff's determinations of successful completion of inspections, tests, and analyses for VEGP Units 3 and 4 (86 FR 23756; May 4, 2021), the NRC staff has not made additional determinations of the successful completion of inspections, tests, and analyses based on licensee IPCNs submitted under 10 CFR 52.99(c)(2).

III. NRC Staff Determination of Completion of ITAAC

The NRC staff has determined that the specified inspections, tests, and analyses have been successfully completed, and that the specified acceptance criteria are met. The documentation of the NRC staff's determination is in the ITAAC Closure Verification Evaluation Form (VEF) for each ITAAC. The VEF is a form that represents the NRC staff's structured process for reviewing ICNs and IPCNs.

Each ICN presents a narrative description of how the ITAAC was completed. The NRC's ICN review process involves a determination on whether, among other things: (1) Each ICN provides sufficient information, including a summary of the methodology used to perform the ITAAC, to demonstrate that the inspections, tests, and analyses have been successfully completed; (2) each ICN provides sufficient information to demonstrate that the acceptance criteria of the ITAAC are met; and (3) any NRC inspections for the ITAAC have been completed and any ITAAC findings associated with that ITAAC have been closed. The NRC's review process for IPCNs is similar to that for ICNs but focuses on how the licensee addressed the new, material information giving rise to the IPCN.

The NRC staff's determination of the successful completion of these ITAAC is based on information available at this time and is subject to the licensee's ability to maintain the condition that the acceptance criteria are met. If the NRC staff receives new information that suggests the NRC staff's determination on any of these ITAAC is incorrect, then the NRC staff will determine whether to reopen that ITAAC (including withdrawing the NRC staff's determination on that ITAAC). The NRC staff's determination will be used to support a subsequent finding, pursuant to 10 CFR 52.103(g), at the end of construction that all acceptance criteria in the combined license are met. The ITAAC closure process is not finalized for these ITAAC until the NRC makes an affirmative finding under 10 CFR 52.103(g). Any future updates to the status of these ITAAC can be found by selecting the link ''ITAAC Status Report'' on the NRC's websites: *https://www.nrc.gov/reactors/new-reactors/col-holder/vog3.html* and *https://www.nrc.gov/reactors/new-reactors/col-holder/vog4.html.*

This notice fulfills the NRC staff's obligations under 10 CFR 52.99(e)(1) to publish a notice in the **Federal Register** of the NRC staff's determination of the successful completion of inspections, tests, and analyses.

Note: As of August 12, 2021, NRC staff rescinds its previous determination of the successful completion of ITAAC 2.5.05.03b (570) for both VEGP Units 3 and 4 due to the subsequent determination by NRC staff that this ITAAC is not met for both units. The NRC's prior determination of the successful completion of ITAAC 2.5.05.03b (570) was originally published in the **Federal Register** (85 FR 67017) on October 21, 2020. The licensee will resubmit the ICNs related to ITAAC 2.5.05.03b (570) for both Units.

Vogtle Electric Generating Plant Unit 3, Docket No. 5200025

A complete list of the review status for VEGP Unit 3 ITAAC, including the submission date and ADAMS accession number for each ICN received, the ADAMS accession number for each VEF, and the ADAMS accession numbers for the inspection reports associated with these specific ITAAC can be found by selecting the link ''ITAAC Status Report'' at the NRC's website *https://www.nrc.gov/reactors/new-reactors/col-holder/vog3.html.*

Vogtle Electric Generating Plant Unit 4, Docket No. 5200026

A complete list of the review status for VEGP Unit 4 ITAAC, including the submission date and ADAMS accession number for each ICN and IPCN received, the ADAMS accession number for each VEF, and the ADAMS accession numbers for the inspection reports associated with these specific ITAAC, can be found by selecting the link ''ITAAC Status Report'' at the NRC's website *https://www.nrc.gov/reactors/new-reactors/col-holder/vog4.html.*

Dated: September 1, 2021.

For the Nuclear Regulatory Commission.

Philip J. McKenna,

Acting Chief, Vogtle Project Office, Office of Nuclear Reactor Regulation.

[FR Doc. 2021–19306 Filed 9–7–21; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees' Group Life Insurance Program; Premium

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is announcing changes in premium rates for certain Federal Employees' Group Life Insurance (FEGLI) categories. These include changes to premium rates for Employee Basic Insurance, Option A (most age bands), Option B (most age bands), Option C (most age bands), and Post-Retirement Basic Insurance. These rates will be effective the first pay period beginning on or after October 1, 2021.

DATES: These rates will be effective the first pay period beginning on or after October 1, 2021.

FOR FURTHER INFORMATION CONTACT: Marthine Mason-Martin, *FEGLI@opm.gov,* (202) 606–1413.

SUPPLEMENTARY INFORMATION: This notice announces changes to FEGLI Employee Basic, Option A (most age bands), Option B (most age bands), Option C (most age bands), and Post-Retirement Basic Insurance.

FEGLI premium rates are assessed based on Program experience in accordance with FEGLI statutes at 8711(b), 8714a(e), 8714b(e), and 8714c(e), and OPM's Annual FEGLI Rate Review Process. The premium rates in the FEGLI program represent estimates of premium income necessary to pay future expected benefits costs. The rates for all coverage categories are specific to the experience of the FEGLI group and are not based on mortality rates within the general population. Actuarial analysis of changing mortality rates makes periodic premium adjustments necessary.

OPM has completed a study of funding and claims experience within the FEGLI Program. Based on this updated actuarial analysis of actual claims experience, OPM has determined that changes are required to Employee Basic, Option A, Option B, Option C and Post-Retirement Basic Insurance premiums. These changes reflect

updated mortality and claims rates from actual program experience within each FEGLI category. The legislative structure of the FEGLI Program assumes that we set premium rates for each age band independently of the other bands so that each age band is financially self-supporting.

We will issue guidance to all agencies for the purpose of counseling employees and we will notify affected annuitants directly via OPM's Office of Retirement Services. The FEGLI premium rates will be maintained on the FEGLI website *https://www.opm.gov/healthcare-insurance/life-insurance/*.

The new FEGLI premium rates for Basic, Option A, Option B, Option C and the Post-Retirement Basic Option are as follows:

EMPLOYEE BASIC INSURANCE (PER $1,000 OF INSURANCE)

[The premiums for compensationers who are paid every four weeks are two times the biweekly premium.]

	Bi-weekly	Monthly
Employee	$0.1600	$0.3467
Government	0.0800	0.1733
Total	0.2400	0.5200

OPTION A (FOR $10,000 OF INSURANCE)

[The premiums for compensationers who are paid every four weeks are two times the biweekly premium.]

Age band	Bi-weekly	Monthly
<35	$0.20	$0.43
35–39	0.20	0.43
40–44	0.30	0.65
45–49	0.60	1.30
50–54	1.00	2.17
55–59	1.80	3.90
60+	6.00	13.00

OPTION B (PER $1,000 OF INSURANCE)

[The premiums for compensationers who are paid every four weeks are two times the biweekly premium.]

Age band	Bi-weekly	Monthly
<35	$0.02	$0.043
35–39	0.02	0.043
40–44	0.03	0.065
45–49	0.06	0.130
50–54	0.10	0.217
55–59	0.18	0.390
60–64	0.40	0.867
65–69	0.48	1.040
70–74	0.86	1.863
75–79	1.80	3.900
80+	2.88	6.240

OPTION C (PER MULTIPLE OF INSURANCE)

[The premiums for compensationers who are paid every four weeks are two times the biweekly premium.]

Age band	Bi-weekly	Monthly
<35	$0.20	$0.43
35–39	0.24	0.52
40–44	0.37	0.80
45–49	0.53	1.15
50–54	0.83	1.80
55–59	1.33	2.88
60–64	2.43	5.27
65–69	2.83	6.13
70–74	3.83	8.30
75–79	5.76	12.48
80+	7.80	16.90

POST-RETIREMENT BASIC INSURANCE FOR ANNUITANTS

[Monthly rate per $1,000 of insurance]

	Before age 65	After age 65
75% Reduction	$0.3467	No cost
50% Reduction	1.0967	$0.75
No Reduction	2.5967	2.25

POST-RETIREMENT BASIC INSURANCE FOR COMPENSATIONERS

[Withholding every four weeks per $1,000 of insurance.]

	Before age 65	After age 65
75% Reduction	$0.32	No cost
50% Reduction	1.01	$0.69
No Reduction	2.39	2.07

These rates will be effective the first pay period beginning on or after October 1, 2021. U.S. Office of Personnel Management.

Stephen Hickman,

Deputy Executive Secretary.

[FR Doc. 2021–19475 Filed 9–7–21; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket No. PI2021–3; Order No. 5975]

Public Inquiry on Service Performance Measurement Systems

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is recognizing a recently filed Postal Service request proposing modifications to its market dominant service performance measurement systems. This document informs the public of this proceeding and the technical conference, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 17, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION: On August 31, 2021, the Postal Service filed a notice, pursuant to 39 CFR 3055.5, proposing modifications to its market dominant service performance measurement systems.[1] The systems that are the subject of this proceeding were approved for implementation on July 5, 2018, in Docket No. PI2015–1.[2] The most recent version of the Postal Service's Service Performance Measurement (SPM) Plan was filed in May 2019.[3] Accompanying the Notice is a library reference, which contains a copy of the United States Postal Service, Service Performance Measurement plan, revised August 31, 2021 (both redline and clean versions).[4]

The Postal Service's proposed modifications add reporting for 3-day, 4-day, and 5-day service standards for First-Class Mail, in place of the current 3–5-day service standard. Notice at 1. The Postal Service asserts that the purpose of this change is to align service performance reporting with upcoming service standard changes which are to take effect on October 1, 2021. *Id.* The Postal Service also proposes replacing certain references to external SPM with internal SPM, consistent with Order No. 5576.[5]

Interested persons are invited to comment on the Postal Service's proposed modifications concerning the service performance measurement systems. However, commenters are reminded that the scope of this docket is limited to the Postal Service's proposed revisions to the SPM Plan, not the propriety of the underlying service standard changes, which the Commission addressed in Docket No. N2021–1.[6] Comments are due September 17, 2021. The Commission does not anticipate the need for reply comments at this time. The Commission intends to evaluate the comments received and use those suggestions to help carry out its service performance measurement responsibilities under the Postal Accountability and Enhancement Act. Material filed in this docket will be available for review on the Commission's website, *http://www.prc.gov.*

It is ordered:

1. Docket No. PI2021–3 is established for the purpose of considering the Postal Service's proposed modifications to its market dominant service performance measurement systems.

2. Interested persons may submit written comments on any or all aspects of the Postal Service's proposals no later than September 17, 2021.

3. Christopher Mohr is designated to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this Notice in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2021–19450 Filed 9–7–21; 8:45 am]

BILLING CODE 7710–FW–P

[1] United States Postal Service Notice of Filing Changes to Service Performance Measurement Plan Document, August 31, 2021 (Notice).

[2] Docket No. PI2015–1, Order Approving Use of Internal Measurement Systems, July 5, 2018 (Order No. 4697); Docket No. PI2015–1, Errata to Order No. 4697, August 21, 2018 (Order No. 4771).

[3] *See* Docket No. PI2019–1, Library Reference USPS–LR–PI2019–1/1, May 21, 2019.

[4] Library Reference USPS–LR–PI2021–3/1, August 31, 2021.

[5] *See* Docket No. PI2019–1, Order Granting Request and Approving Use of Internal Service Performance Measurement System, July 1, 2020 (Order No. 5576).

[6] *See* Docket No. N2021–1, Advisory Opinion on Service Changes Associated with First-Class Mail and Periodicals, July 20, 2021.

POSTAL SERVICE

Sunshine Act Meetings

TIME AND DATE: September 9 and 10, 2021, at 9:00 a.m.

PLACE: Potomac, MD.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Thursday, September 9, 2021, and Friday, September 10, 2021, at 9:00 a.m.

1. Strategic Items.
2. Financial and Operational Matters.
3. Administrative Items.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Michael J. Elston, Secretary of the Board of Governors, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Michael J. Elston,

Secretary.

[FR Doc. 2021–18938 Filed 9–3–21; 11:15 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, & First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service ™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* September 8, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 24, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 76 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–129, CP2021–134.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–19401 Filed 9–7–21; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34372; 812–15242]

MainStay CBRE Global Infrastructure Megatrends Fund, et al.

September 3, 2021.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 19(b) of the Act and rule 19b–1 under the Act to permit registered closed-end investment companies to make periodic distributions of long-term capital gains more frequently than permitted by section 19(b) or rule 19b–1.

Summary of Application: Applicants request an order to permit certain registered closed-end management investment companies to pay as frequently as twelve times in any one taxable year in respect of its common stock and as often as specified by, or determined in accordance with the terms of, any preferred stock issued by the investment company subject to the terms and conditions stated in the application.

Applicants: MainStay CBRE Global Infrastructure Megatrends Fund, MainStay MacKay Defined Term Municipal Opportunities Fund, New York Life Investment Management LLC.

Filing Dates: The application was filed on June 28, 2021 and amended on July 30, 2021.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 28, 2021, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants, 390 Park Avenue, 15th Floor, NY, NY 10022.

FOR FURTHER INFORMATION CONTACT: Lisa Reid Ragen, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and condition, please refer to Applicants' application, dated July 30, 2021, which may be obtained via the Commission's website by searching for the file number, using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19489 Filed 9–7–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92840; File No. SR–NYSEArca–2021–73]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the Franklin Responsibly Sourced Gold ETF Under NYSE Arca Rule 8.201–E

September 1, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on August 23, 2021, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the Franklin Responsibly Sourced Gold ETF under NYSE Arca Rule 8.201–E. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 Exchange proposes to list and trade shares (''Shares'') of the Franklin Responsibly Sourced Gold ETF (the ''Fund''), under NYSE Arca Rule 8.201–E.[4] The Fund is a series of the Franklin Templeton Holdings Trust, a Delaware statutory trust (the ''Trust''). Under NYSE Arca Rule 8.201–E, the Exchange may propose to list and/or trade Commodity-Based Trust Shares pursuant to unlisted trading privileges (''UTP'').[5]

The Fund will not be registered as an investment company under the Investment Company Act of 1940, as amended,[6] and is not required to register under such act. The Fund is not a commodity pool for purposes of the Commodity Exchange Act, as amended.[7]

The Sponsor of the Fund is Franklin Holdings, LLC, a Delaware limited liability company. BNY Mellon Asset Servicing, a division of The Bank of New York Mellon (''BNYM''), serves as the Fund's administrator (the ''Administrator'') and transfer agent (the ''Transfer Agent''). Delaware Trust Company, a subsidiary of the Corporation Service Company serves as trustee of the Trust (the ''Trustee''). J.P. Morgan Chase Bank, N.A., London branch is the custodian of the Fund's Gold Bullion (as defined in the Registration Statement) (the ''Gold Custodian'').[8] BNYM will serve as the custodian of the Fund's cash, if any (the ''Cash Custodian'').

The Commission has previously approved listing on the Exchange under NYSE Arca Rules 5.2–E(j)(5) and 8.201–E of other precious metals and gold-based commodity trusts, including the GraniteShares Gold MiniBAR Trust; [9] GraniteShares Gold Trust; [10] Merk Gold Trust; [11] ETFS Gold Trust; [12] ETFS Platinum Trust [13] and ETFS Palladium Trust (collectively, the ''ETFS Trusts''); [14] APMEX Physical-1 oz. Gold Redeemable Trust; [15] Sprott Gold Trust; [16] SPDR Gold Trust (formerly the streetTRACKS Gold Trust); [17] iShares Silver Trust; [18] iShares COMEX Gold Trust; [19] and Long Dollar Gold Trust.[20] Prior to their listing on the Exchange, the Commission approved listing of the streetTRACKS Gold Trust on the New York Stock Exchange (''NYSE'') [21] and listing of iShares COMEX Gold Trust and iShares Silver Trust on the American Stock Exchange LLC.[22] In addition, the Commission has approved trading of the streetTRACKS Gold Trust and iShares Silver Trust on the Exchange pursuant to UTP.[23]

The Exchange represents that the Shares satisfy the requirements of NYSE Arca Rule 8.201–E and thereby qualify for listing on the Exchange.[24]

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[4] On April 22, 2021, the Trust submitted to the Commission its confidential draft registration statement on Form S–1 (the ''Registration Statement'') under the Securities Act of 1933 (15 U.S.C. 77a) (the ''Securities Act''). The Jumpstart Our Business Startups Act, enacted on April 5, 2012, added Section 6(e) to the Securities Act. Section 6(e) of the Securities Act provides that an ''emerging growth company'' may confidentially submit to the Commission a draft registration statement for confidential, non-public review by the Commission staff prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed not later than 21 days before the date on which the issuer conducts a road show, as such term is defined in Securities Act Rule 433(h)(4), or 15 days prior to anticipated effectiveness in the case of an issuer who will not conduct a road show. An emerging growth company is defined in Section 2(a)(19) of the Securities Act as an issuer with less than $1,070,000,000 total annual gross revenues during its most recently completed fiscal year. The Fund meets the definition of an emerging growth company and consequently has submitted its Form S–1 Registration Statement on a confidential basis with the Commission. The Registration Statement in not yet effective and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

[5] Commodity-Based Trust Shares are securities issued by a trust that represent investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the trust.

[6] 15 U.S.C. 80a–1.

[7] 17 U.S.C. 1.

[8] The Gold Custodian is responsible for safekeeping the Fund's gold pursuant to the Allocated Gold Account Agreement and the Unallocated Gold Account Agreement. The Gold Custodian will facilitate the transfer of gold in and out of the Fund through (i) the unallocated gold accounts it may maintain for each Authorized Participant (as defined below) or unallocated gold accounts that may be maintained for an Authorized Participant by another London Precious Metals Clearing Limited clearing bank, and (ii) the unallocated and allocated gold accounts it will maintain for the Fund. The Gold Custodian is responsible for allocating specific bars of gold to the Fund Allocated Account. As used herein, ''Fund Allocated Account'' means the allocated gold account of the Trust established with the Gold Custodian on behalf of the Fund by the Allocated Gold Account Agreement, to be used to hold gold that is transferred from the Fund Unallocated Account to be held by the Fund in allocated form; the ''Fund Unallocated Account'' means the unallocated gold account of the Trust established with the Gold Custodian on behalf of the Fund by the Unallocated Gold Account Agreement, to be used to facilitate the transfer of gold in and out of the Fund. The Gold Custodian will provide the Fund with regular reports detailing the gold transfers into and out of the Fund Unallocated Account and the Fund Allocated Account and identifying the gold bars held in the Fund Allocated Account.

[9] Securities Exchange Act Release No. 84257 (September 21, 2018), 83 FR 48877 (September 27, 2018) (SR–NYSEArca–2018–55).

[10] Securities Exchange Act Release No. 81077 (July 5, 2017), 82 FR 32024 (July 11, 2017) (SR–NYSEArca–2017–55).

[11] Securities Exchange Act Release No. 71378 (January 23, 2014), 79 FR 4786 (January 29, 2014) (SR–NYSEArca–2013–137).

[12] Securities Exchange Act Release No. 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR–NYSEArca–2009–40).

[13] Securities Exchange Act Release No. 61219 (December 22, 2009), 74 FR 68886 (December 29, 2009) (SR–NYSEArca–2009–95).

[14] Securities Exchange Act Release No. 61220 (December 22, 2009), 74 FR 68895 (December 29, 2009) (SR–NYSEArca–2009–94).

[15] Securities Exchange Act Release No 66930 (May 7, 2012), 77 FR 27817 (May 11, 2012) (SR–NYSEArca–2012–18).

[16] Securities Exchange Act Release No. 61496 (February 4, 2010), 75 FR 6758 (February 10, 2010) (SR–NYSEArca–2009–113).

[17] *See* Securities Exchange Act Release No. 56224 (August 8, 2007), 72 FR 45850 (August 15, 2007) (SR–NYSEArca–2007–76).

[18] *See* Securities Exchange Act Release No. 58956 (November 14, 2008), 73 FR 71074 (November 24, 2008) (SR–NYSEArca–2008–124) (approving listing on the Exchange of the iShares Silver Trust).

[19] *See* Securities Exchange Act Release No. 56224 (August 8, 2007), 72 FR 45850 (August 15, 2007) (SR–NYSEArca–2007–76) (approving listing on the Exchange of the streetTRACKS Gold Trust); Securities Exchange Act Release No. 56041 (July 11, 2007), 72 FR 39114 (July 17, 2007) (SR–NYSEArca–2007–43) (order approving listing on the Exchange of iShares COMEX Gold Trust).

[20] *See* Securities Exchange Act Release No. 79518 (December 9, 2016), 81 FR 90876 (December 15, 2016) (SR–NYSEArca–2016–84) (order approving listing and trading of shares of the Long Dollar Gold Trust).

[21] *See* Securities Exchange Act Release No. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (SR–NYSE–2004–22) (order approving listing of streetTRACKS Gold Trust on the NYSE).

[22] *See* Securities Exchange Act Release Nos. 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005) (SR–Amex–2004–38) (order approving listing of iShares COMEX Gold Trust on the American Stock Exchange LLC); 53521 (March 20, 2006), 71 FR 14967 (March 24, 2006) (SR–Amex–2005–72) (approving listing on the American Stock Exchange LLC of the iShares Silver Trust).

[23] *See* Securities Exchange Act Release Nos. 53520 (March 20, 2006), 71 FR 14977 (March 24, 2006) (SR–PCX–2005–117) (approving trading on the Exchange pursuant to UTP of the iShares Silver Trust); 51245 (February 23, 2005), 70 FR 10731 (March 4, 2005) (SR–PCX–2004–117) (approving trading on the Exchange of the streetTRACKS Gold Trust pursuant to UTP).

[24] With respect to the application of Rule 10A–3 (17 CFR 240.10A–3) under the Act, the Fund relies on the exemption contained in Rule 10A–3(c)(7).

Operation of the Trust and Fund [25]

The investment objective of the Fund will be for the Shares to reflect the performance of the price of gold bullion, less the expenses of the Fund's operations. Shares of the Fund will represent units of fractional undivided beneficial interest in and ownership of the net assets of the Fund.

The Fund seeks to predominantly hold responsibly sourced gold bullion, defined as London Good Delivery gold bullion bars produced after January 2012 in accordance with London Bullion Market Association's (''LBMA'') Responsible Gold Guidance (the ''Guidance''). From time to time, in certain circumstances a portion of the Fund's assets may include pre-2012 LBMA gold bullion (*i.e.,* London Good Delivery gold bars produced prior to January 2012 which was not subject to the Guidance), including, for example, due to availability constraints. In those circumstances, the Gold Custodian will seek to replace any pre-2012 LBMA gold bullion in the Fund Allocated Account with LBMA good delivery bars produced after January 2012 as soon as is practicable.

The Guidance is a mandatory governance framework for the responsible sourcing of gold applicable to LBMA approved good delivery refiners that is designed to promote the integrity of the global supply chain for the wholesale gold markets. Among other things, the Guidance includes measures to address environmental issues, avoid materials from conflict-afflicted areas, and combat money laundering, financing of terrorism, and human rights abuses, including child labor. The Guidance requires each LBMA good delivery refinery to undergo a comprehensive audit, at least annually, in order to confirm compliance with the LBMA's minimum requirements related to the responsible sourcing of gold and to publicly report results (audits are made available on the LBMA website). The audits, among other aspects, focus on the refiner's management systems and controls, and whether they are robust and appropriate to addressing the refiner's risk profile. Additional information regarding the LBMA's efforts to promote ethical sourcing of gold and a copy of the current version of the Guidance is available at *https://www.lbma.org.uk/responsible-sourcing.*

The Fund will not trade in gold futures, options, or swap contracts on any futures exchange or over-the-counter (''OTC''). The Fund will not hold or trade in commodity futures contracts, ''commodity interests,'' or any other instruments regulated by the Commodity Exchange Act. The Fund's Cash Custodian may hold cash proceeds from gold sales and other cash received by the Fund.

The Shares are intended to constitute a simple and cost-efficient means of gaining investment benefits similar to those of holding gold bullion directly, by providing investors an opportunity to participate in the responsibly sourced gold market through an investment in the Shares, instead of the traditional means of purchasing, storing and insuring gold.

Operation of the Gold Market

The global gold trading market consists of OTC transactions in spot, forwards, and options and other derivatives, together with exchange-traded futures and options.

The OTC gold market includes spot, forward, and option and other derivative transactions conducted on a principal-to-principal basis. While this is a global, nearly 24-hour per day market, its main centers are London, New York, and Zurich.

According to the Registration Statement, most OTC market trades are cleared through London. The LBMA plays an important role in setting OTC gold trading industry standards. A London Good Delivery Bar (as described below), which is acceptable for delivery in settlement of any OTC transaction, will be acceptable for delivery to the Fund, as discussed below.

The most significant gold futures exchange is COMEX, operated by Commodities Exchange, Inc., a subsidiary of New York Mercantile Exchange, Inc., and a subsidiary of the Chicago Mercantile Exchange Group (the ''CME Group''). Other commodity exchanges include the Tokyo Commodity Exchange (''TOCOM''), the Multi Commodity Exchange of India (''MCX''), the Shanghai Futures Exchange, the Shanghai Gold Exchange, ICE Futures US (the ''ICE''), and the Dubai Gold & Commodities Exchange. The CME Group and ICE are members of the Intermarket Surveillance Group (''ISG'').

The London Gold Bullion Market

According to the Registration Statement, most trading in physical gold is conducted on the OTC market and is predominantly cleared through London. In addition to coordinating market activities, the LBMA acts as the principal point of contact between the market and its regulators. A primary function of the LBMA is its involvement in the promotion of refining standards by maintenance of the ''London Good Delivery Lists,'' which are the lists of LBMA accredited melters and assayers of gold. The LBMA also coordinates market clearing and vaulting, promotes good trading practices and develops standard documentation.

The term ''loco London'' refers to gold bars physically held in London that meet the specifications for weight, dimensions, fineness (or purity), identifying marks (including the assay stamp of an LBMA acceptable refiner), and appearance set forth in the good delivery rules promulgated by the LBMA from time to time. Gold bars meeting these requirements are known as ''London Good Delivery Bars.''

The unit of trade in London is the troy ounce, whose conversion between grams is: 1,000 grams = 32.1507465 troy ounces and 1 troy ounce = 31.1034768 grams. A London Good Delivery Bar is acceptable for delivery in settlement of a transaction on the OTC market. Typically referred to as 400-ounce bars, a London Good Delivery Bar must contain between 350 and 430 fine troy ounces of gold, with a minimum fineness (or purity) of 995 parts per 1,000 (99.5%), be of good appearance and be easy to handle and stack. The fine gold content of a gold bar is calculated by multiplying the gross weight of the bar (expressed in units of 0.025 troy ounces) by the fineness of the bar.

Creation and Redemption of Shares

According to the Registration Statement, the Fund will create and redeem Shares on a continuous basis in one or more Creation Units. A Creation Unit equals a block of 50,000 Shares. The Fund will issue Shares in Creation Units to certain authorized participants (''Authorized Participants'') on an ongoing basis. Each Authorized Participant must be a registered broker-dealer or other securities market participant such as a bank or other financial institution which is not required to register as a broker-dealer to engage in securities transactions, a participant in The Depository Trust Company (''DTC''), and have entered into an agreement with the Administrator (the ''Participant Agreement''), and has established an unallocated gold account with the Gold Custodian or another London Precious Metals Clearing Limited clearing bank.

Creation Units may be created or redeemed only by Authorized Participants. The creation and redemption of Creation Units is only

[25] The description of the operation of the Trust, the Fund, the Shares, and the gold market contained herein are based, in part, on the Registration Statement. *See* note 4, *supra.*

made in exchange for the delivery to the Fund or the distribution by the Fund of the amount of gold represented by the Creation Units being created or redeemed. The amount of gold required to be delivered to the Fund in connection with any creation, or paid out upon redemption, is based on the combined NAV of the number of Shares included in the Creation Units being created or redeemed as determined on the day the order to create or redeem Creation Units is properly received and accepted. Orders must be placed by 3:59:59 p.m. New York time. The day on which the Administrator receives a valid purchase or redemption order is the order date. Creation Units may only be issued or redeemed on a day that the Exchange is open for regular trading.

According to the Registration Statement, the total deposit required to create each Creation Unit, or a Creation Unit Gold Delivery Amount, is an amount of gold and cash, if any, that is in the same proportion to the total assets of the Fund (net of estimated accrued expenses and other liabilities) on the date the order to purchase is properly received as the number of Shares to be created under the purchase order is in proportion to the total number of Shares outstanding on the date the order is received. An Authorized Participant who places a purchase order is responsible for transferring the Creation Unit Gold Delivery Amount to the Fund Unallocated Account. Upon receipt, the Administrator will direct DTC to credit the number of Creation Units ordered to the Authorized Participant's DTC account. The Gold Custodian will transfer the Creation Unit Gold Delivery Amount from the Fund Unallocated Account to the Fund Allocated Account by allocating to the Fund Allocated Account specific bars of gold which the Gold Custodian holds, or instructing a sub-custodian to allocate specific bars of gold held by or for the sub-custodian.

The redemption distribution from the Fund consists of a credit to the redeeming Authorized Participant's unallocated account in the amount of the Creation Unit Gold Delivery Amount. The Creation Unit Gold Delivery Amount for redemptions is the number of ounces of gold held by the Fund to be paid out upon redemption of a Creation Unit. The Gold Custodian will transfer the redemption amount from the Fund Allocated Account to the Fund Unallocated Account and, thereafter, to the redeeming Authorized Participant's unallocated account.

Net Asset Value

To determine the Fund's NAV, the Administrator will value the gold held by the Fund on the basis of the LBMA Gold Price PM, as published by the ICE Benchmark Administration Limited (the ''IBA''). IBA operates electronic auctions for spot, unallocated loco London gold, providing a market-based platform for buyers and sellers to trade. The auctions are run at 10:30 a.m. and 3:00 p.m. London time for gold. The final auction prices are published to the market as the LBMA Gold Price AM and the LBMA Gold Price PM, respectively.

The Administrator will calculate the NAV on each day the Exchange is open for regular trading, at the earlier LBMA Gold Price PM for the day or 12:00 p.m. New York time. If no LBMA Gold Price (AM or PM) is made on a particular evaluation day or if the LBMA Gold Price PM has not been announced by 12:00 p.m. New York time on a particular evaluation day, the next most recent LBMA Gold Price AM or PM will be used in the determination of the NAV, unless the Sponsor determines that such price is inappropriate to use as the basis for such determination.

Once the value of the gold has been determined, the Administrator will subtract all estimated accrued expenses and other liabilities of the Fund from the total value of the gold and all other assets of the Fund. The resulting figure is the NAV. The Administrator will determine the NAV per Share by dividing the NAV of the Fund by the number of Shares outstanding as of the close of trading on the Exchange.

Availability of Information Regarding Gold

Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity such as gold over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the last sale price for the Shares, as is the case for all equity securities traded on the Exchange (including exchange-traded funds). In addition, there is a considerable amount of information about gold and gold markets available on public websites and through professional and subscription services.

Investors may obtain gold pricing information on a 24-hour basis based on the spot price for an ounce of gold from various financial information service providers, such as Reuters and Bloomberg.

Reuters and Bloomberg, for example, provide at no charge on their websites delayed information regarding the spot price of gold and last sale prices of gold futures, as well as information about news and developments in the gold market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on gold prices directly from market participants. Complete real-time data for gold futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. There are a variety of other public websites providing information on gold, ranging from those specializing in precious metals to sites maintained by major newspapers. In addition, the LBMA Gold Price is publicly available at no charge at *www.lbma.org.uk.*

Availability of Information

The intraday indicative value (''IIV'') per Share for the Shares will be disseminated by one or more major market data vendors. The IIV will be calculated based on the amount of gold held by the Fund and a price of gold derived from updated bids and offers indicative of the spot price of gold.[26]

The Fund's website will contain the following information, on a per Share basis: (a) The Official Closing Price [27] and a calculation of the premium or discount of such Official Closing Price against the Fund's NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Official Closing Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The website for the Fund will also provide its prospectus. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Criteria for Initial and Continued Listing

The Fund will be subject to the criteria in NYSE Arca Rule 8.201–E(e) for initial and continued listing of the Shares.

A minimum of 100,000 Shares will be required to be outstanding at the start of trading, which is equivalent to 1,384 fine ounces of gold or approximately $2,500,000 as of July 22, 2021. The Exchange believes that the anticipated minimum number of Shares outstanding

[26] The IIV on a per Share basis disseminated during the Exchange's Core Trading Session, as defined in NYSE Arca Rule 7.34–E, should not be viewed as a real-time update of the NAV, which is calculated once a day.

[27] The term ''Official Closing Price'' is defined in NYSE Arca Rule 1.1(ll) as the reference price to determine the closing price in a security for purposes of Rule 7–E Equities Trading, and the procedures for determining the Official Closing Price are set forth in that rule.

at the start of trading is sufficient to provide adequate market liquidity.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Fund subject to the Exchange's existing rules governing the trading of equity securities. Trading in the Shares on the Exchange will occur in accordance with NYSE Arca Rule 7.34–E(a). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00, for which the MPV for order entry is $0.0001.

Further, NYSE Arca Rule 8.201–E sets forth certain restrictions on ETP Holders acting as registered Market Makers in the Shares to facilitate surveillance. Under NYSE Arca Rule 8.201–E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in the underlying gold, any related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 11.3–E requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).

As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. To the extent the Exchange may be found to lack jurisdiction over a subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts, the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which conditions in the underlying gold market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule.[28] The Exchange will halt trading in the Shares if the NAV of the Fund is not calculated or disseminated daily. The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV, as described above. If the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority Inc. (''FINRA''), on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[29] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[30]

Also, pursuant to NYSE Arca Rule 8.201–E(g), the Exchange is able to obtain information regarding trading in the Shares and the underlying gold through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.

In addition, the Exchange also has a general policy prohibiting the improper distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Fund on the Exchange.

The Trust has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (including noting that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV is disseminated; (4) the

[28] *See* NYSE Arca Rule 7.12–E.

[29] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[30] For a list of the current members of ISG, *see www.isgportal.org.*

requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the premium or discount on the Shares may widen as a result of reduced liquidity of gold trading during the Core and Late Trading Sessions after the close of the major world gold markets; and (6) trading information. For example, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. The Exchange notes that investors purchasing Shares directly from the Fund will receive a prospectus. ETP Holders purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors.

In addition, the Information Bulletin will reference that the Fund is subject to various fees and expenses as will be described in the Registration Statement. The Information Bulletin will also reference the fact that there is no regulated source of last sale information regarding physical gold, that the Commission has no jurisdiction over the trading of gold as a physical commodity, and that the CFTC has regulatory jurisdiction over the trading of gold futures contracts and options on gold futures contracts.

The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [31] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201–E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that there is a considerable amount of gold price and gold market information available on public websites and through professional and subscription services. Investors may obtain on a 24-hour basis gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Current spot prices also are generally available with bid/ask spreads from gold bullion dealers. In addition, the Fund's website will provide pricing information for gold spot prices and the Shares. Market prices for the Shares will be available from a variety of sources including brokerage firms, information websites and other information service providers. The NAV of the Fund will be published on each day that the NYSE Arca is open for regular trading and will be posted on the Fund's website. The IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. In addition, the LBMA Gold Price is publicly available at no charge at *www.lbma.org.uk.* The Fund's website will also provide its prospectus, as well as the two most recent reports to stockholders. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding gold pricing.

[31] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change will enhance competition by accommodating Exchange trading of an additional exchange-traded product relating to physical gold.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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–NYSEArca–2021–73 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–NYSEArca–2021–73. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's

internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2021–73 and should be submitted on or before September 29, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19293 Filed 9–7–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92837; File No. SR–FINRA–2021–021]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Expiration Dates of FINRA Rules 0180 (Application of Rules to Security-Based Swaps) and 4240 (Margin Requirements for Credit Default Swaps) and Amend FINRA Rule 4240 To Add Supplementary Material .02

September 1, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 20, 2021, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. 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

FINRA is proposing to (i) extend the expiration date of FINRA Rule 0180 (Application of Rules to Security-Based Swaps) to February 6, 2022 and (ii) extend to April 6, 2022 the implementation of FINRA Rule 4240 (Margin Requirements for Credit Default Swaps) and clarify that the rule does not apply if a member is registered with the SEC as a security-based swap (''SBS'') dealer (''SBSD'').

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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

On July 8, 2011, FINRA filed for immediate effectiveness FINRA Rule 0180, which, with certain exceptions, temporarily limits the application of FINRA rules with respect to SBS, thereby avoiding undue market disruptions resulting from the change to the definition of ''security'' under the Act to expressly encompass SBS.[4] Pending the SEC's final implementation of its rulemakings under Title VII of the Dodd-Frank Act,[5] FINRA extended the expiration date of FINRA Rule 0180 a number of times, most recently in January 2020, when FINRA extended the expiration date to September 1, 2021.[6] In addition, on May 22, 2009, the Commission approved FINRA Rule 4240,[7] which implements an interim pilot program (the ''Interim Pilot Program'') with respect to margin requirements for certain transactions in credit default swaps (''CDS'').[8] On June 2, 2020, FINRA filed a proposed rule change for immediate effectiveness extending the implementation of FINRA Rule 4240 to September 1, 2021.[9] Therefore, both FINRA Rule 0180 and the Interim Pilot Program under FINRA Rule 4240 are currently scheduled to expire on September 1, 2021.

On April 26, 2021, FINRA filed a proposed rule change to amend FINRA Rules 0180, 4120, 4210, 4220, 4240 and 9610 to clarify the application of its rules to SBS following the SEC's completion of its rulemaking under Title VII of the Dodd-Frank Act regarding SBSDs and major SBS participants (collectively, ''SBS Entities'').[10] Among other things, the Proposal would adopt a new FINRA Rule 0180, to replace expiring current FINRA Rule 0180, that would generally apply FINRA rules to members' activities and positions with respect to SBS, while providing limited exceptions for SBS in circumstances where FINRA believes such exceptions are appropriate. The Proposal would also adopt a new margin rule specifically applicable to SBS, which would replace the expiring Interim Pilot Program

[32] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 64884 (July 14, 2011), 76 FR 42755 (July 19, 2011) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2011–033).

[5] *See* Public Law 111–203, 124 Stat. 1376 (2010), Section 701.

[6] *See* Securities Exchange Act Release No. 88023 (January 23, 2020), 85 FR 5261 (January 29, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2020–001).

[7] *See* Securities Exchange Act Release No. 59955 (May 22, 2009), 74 FR 25586 (May 28, 2009) (Order Approving File No. SR–FINRA–2009–012).

[8] In March 2012, the SEC approved amendments to FINRA Rule 4240 that, among other things, limit the rule's application to CDS that are SBS. *See* Securities Exchange Act Release No. 66527 (March 7, 2012), 77 FR 14850 (March 13, 2012) (Order Approving File No. SR–FINRA–2012–015).

[9] *See* Securities Exchange Act Release No. 89036 (June 10, 2020), 85 FR 36458 (June 16, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2020–016).

[10] *See* Securities Exchange Act Release No. 91789 (May 7, 2021), 86 FR 26084 (May 12, 2021) (Notice of Filing of File No. SR–FINRA–2021–008) (''Proposal'').

establishing margin requirements for CDS. FINRA originally proposed that the effective date of the Proposal would be October 6, 2021, to align with the SEC's compliance date for registration of SBS Entities (the ''Registration Compliance Date''). FINRA noted in the Proposal that it intended to extend the expiration dates of existing FINRA Rules 0180 and 4240 to October 6, 2021 to align with the Registration Compliance Date and implementation of the Proposal.[11]

After consideration of comments on the Proposal, as well as further feedback from member firms, on August 9, 2021 FINRA filed Partial [sic] Amendment No. 1 to the Proposal.[12] The Amendment (1) extends the effective date of the proposed amendments to FINRA Rules 0180, 4120 and 9610 from October 6, 2021 to February 6, 2022; (2) extends the effective date of the proposed amendments to FINRA Rules 4210, 4220 and 4240 from October 6, 2021 to April 6, 2022; and (3) conforms the proposed definition of ''Legacy Swap'' in proposed FINRA Rule 4240(d)(12) to reflect the new effective date of April 6, 2022. FINRA noted in the Amendment that it intended to extend the expiration date of existing FINRA Rule 0180 until February 6, 2022, and the expiration date of existing FINRA Rule 4240 until April 6, 2022, so as to align with the new effective dates of the Proposal described above.[13] Accordingly, the proposed rule change (i) amends existing FINRA Rule 0180 to extend the expiration date of the rule from September 1, 2021 to February 6, 2022 and (ii) amends existing FINRA Rule 4240 to extend the expiration date of the Interim Pilot Program from September 1, 2021 to April 6, 2022. FINRA believes it is appropriate to extend the expiring rules so as to align with the effective dates of the new rules that will replace them, thereby avoiding undue burdens on market participants and undue market disruption.

FINRA also noted in the Amendment that, beginning on the Registration Compliance Date, members may register with the SEC as SBSDs, and thereby become subject to the margin requirements applicable to SBSDs under Exchange Act Rule 18a–3.[14] Therefore, if a member were to register as an SBSD on the Registration Compliance Date or during the period between the Registration Compliance Date and April 6, 2022, the member would be subject to both the new margin requirements for SBS under Exchange Act Rule 18a–3 and the expiring Interim Pilot Program for CDS. In order to avoid unnecessary regulatory duplication or any potential conflicting obligations as between Exchange Act Rule 18a–3 and the Interim Pilot Program, FINRA is also amending existing, expiring FINRA Rule 4240 to add Supplementary Material .02 to clarify that the rule does not apply to a member that is registered with the SEC as an SBSD.[15]

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change on September 1, 2021.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[16] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change would further the purposes of the Act because the proposed rule change will help to avoid undue burdens on market participants and undue market disruption that could result if existing FINRA Rule 0180 expires before the effective date of new FINRA Rule 0180. Similarly, FINRA believes that the proposed rule change is consistent with the Act because extending the implementation of FINRA Rule 4240 will ensure that the Interim Pilot Program establishing margin requirements for CDS will continue to apply until the new SBS margin rule under new FINRA Rule 4240 becomes effective, thereby helping to promote stability in the financial markets and regulatory certainty for members. FINRA further believes that clarifying that the Interim Pilot Program does not apply to a registered SBSD will promote legal certainty and avoid unnecessary regulatory duplication.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA believes that the proposed rule change would prevent undue burdens on market participants and undue market disruption that would otherwise result if FINRA Rule 0180 expires before the effective date of new FINRA Rule 0180. FINRA believes that, by extending the expiration of FINRA Rule 0180, the proposed rule change will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. Similarly, FINRA believes that extending the implementation of the Interim Pilot Program under FINRA Rule 4240 will ensure that the Interim Pilot Program establishing margin requirements for CDS will continue to apply until the new SBS margin rule under new FINRA Rule 4240 becomes effective, thereby helping to promote stability in the financial markets and regulatory certainty for members. FINRA further believes that clarifying that the Interim Pilot Program does not apply to a registered SBSD will promote legal certainty and avoid unnecessary regulatory duplication.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant

[11] *See* Proposal, *supra* note 10, at 26086 n.18.

[12] *See* Securities Exchange Act Release No. 92617 (August 9, 2021), 86 FR 44761 (August 13, 2021) (Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change, as Modified by Amendment No. 1, Relating to Security-Based Swaps) (''Amendment'').

[13] *See supra* note 12.

[14] *See supra* note 12.

[15] FINRA notes that this provision is consistent with the new SBS margin rule under the Proposal, which provides that a member that is registered as an SBSD shall instead comply with Exchange Act Rule 18a–3. As discussed in the Proposal, FINRA believes it should defer to the SEC's margin framework for registered SBSDs rather than impose additional or different requirements on such entities. *See* Proposal, *supra* note 10, at 26098.

[16] 15 U.S.C. 78*o*–3(b)(6).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6).

to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has requested that the Commission waive the 30-day operative delay requirement so that the proposed rule change may become operative on September 1, 2021. The Commission hereby grants the request. The proposed rule change is consistent with the goals set forth by the Commission when it issued the original temporary exemptive relief,[20] as well as the subsequent extensions of the temporary exemptive relief,[21] and will help avoid undue market interruption resulting from the change of the definition of ''security'' under the Exchange Act and the expiration of FINRA Rules 0180 and 4240. Furthermore, the Commission finds that adding Supplemental Material .02 would help avoid unnecessary regulatory duplication or any potential conflicting obligations as between Exchange Act Rule 18a–3 and the Interim Pilot Program. Therefore, the Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay requirement.[22] Therefore, the Commission designates the proposal as operative on September 1, 2021.

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 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–FINRA–2021–021 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–FINRA–2021–021. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] *See* Exchange Act Release No. 64795 (Jul. 1, 2011), 76 FR 39927 (Jul. 7, 2011) (Order Granting Temporary Exemptions Under the Securities Exchange Act of 1934 in Connection With the Pending Revision of the Definition of ''Security'' To Encompass Security-Based Swaps, and Request for Comment); *see also supra* note 7.

[21] *See supra* note 9 (extending the implementation of FINRA Rule 4240 to September 1, 2021); *supra* note 6 (extending the expiration date of FINRA Rule 0180 to September 1, 2021); Exchange Act Release No. 85981 (May 31, 2019), 84 FR 26486 (Jun. 6, 2019) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2019–016) (extending the implementation of FINRA Rule 4240 to July 20, 2020); Exchange Act Release No. 85062 (Feb. 6, 2019), 84 FR 3524 (Feb. 12, 2019) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2019–001) (extending the expiration date of FINRA Rule 0180 to February 12, 2020); Exchange Act Release No. 83474 (Jun. 20, 2018), 83 FR 29840 (Jun. 26, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2018–025) (extending the implementation of FINRA Rule 4240 to July 18, 2019); Exchange Act Release No. 82480 (Jan. 10, 2018), 83 FR 2480 (Jan. 17, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2018–001) (extending the expiration date of FINRA Rule 0180 to February 12, 2019); Exchange Act Release No. 81035 (Jun. 27, 2017), 82 FR 30914 (Jul. 3, 2017) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2017–019) (extending the implementation of FINRA Rule 4240 to July 18, 2018); Exchange Act Release No. 79752 (Jan. 6, 2017), 82 FR 3824 (Jan. 12, 2017) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2017–001) (extending the expiration date of FINRA Rule 0180 to February 12, 2018); Exchange Act Release No. 78182 (Jun. 28, 2016), 81 FR 43690 (Jul. 5, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2016–020) (extending the implementation of FINRA Rule 4240 to July 18, 2017); Exchange Act Release No. 76850 (Jan. 7, 2016), 81 FR 1666 (Jan. 13, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2016–001) (extending the expiration date of FINRA Rule 0180 to February 11, 2017); Exchange Act Release No. 75069 (May 29, 2015), 80 FR 31931 (Jun. 4, 2015) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2015–013) (extending the implementation of FINRA Rule 4240 to July 18, 2016); Exchange Act Release No. 74049 (Jan. 14, 2015), 80 FR 2983 (Jan. 21, 2015) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2015–001) (extending the expiration date of FINRA Rule 0180 to February 11, 2016); Exchange Act Release No. 72522 (Jul. 2, 2014), 79 FR 39031 (Jul. 9, 2014) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2014–029) (extending the implementation of FINRA Rule 4240 to July 17, 2015); Exchange Act Release No. 71485 (Feb. 5, 2014), 79 FR 7731 (Feb. 10, 2014) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2014–001) (extending the expiration date of FINRA Rule 0180 to February 11, 2015); Exchange Act Release No. 69993 (Jul. 16, 2013), 78 FR 43945 (Jul. 22, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2013–030) (extending the implementation of FINRA Rule 4240 to July 17, 2014); Exchange Act Release No. 69262 (Apr. 1, 2013), 78 FR 20708 (Apr. 5, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2013–019) (extending the expiration date of FINRA Rule 0180 to February 11, 2014); Exchange Act Release No. 68471 (Dec. 19, 2012), 77 FR 76113 (Dec. 26, 2012) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2012–056) (extending the expiration date of FINRA Rule 0180 to July 17, 2013); Exchange Act Release No. 67449 (Jul. 17, 2012), 77 FR 43128 (Jul. 23, 2012) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2012–035) (extending the implementation of FINRA Rule 4240 to July 17, 2013); Exchange Act Release No. 66528 (Mar. 7, 2012), 77 FR 14848 (Mar. 13, 2012) (Notice of Filing and Order Granting Accelerated Approval of File No. SR–FINRA–2012–014) (extending the implementation of Rule 4240 to July 17, 2012); Exchange Act Release No. 66156 (Jan. 13, 2012), 77 FR 3027 (Jan. 20, 2012) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2012–004) (extending the expiration date of FINRA Rule 0180 to January 17, 2013); Exchange Act Release No. 64892 (Jul. 14, 2011), 76 FR 43360 (Jul. 20, 2011) (Notice of Filing and Order Granting Accelerated Approval of File No. SR–FINRA–2011–034) (extending the implementation of Rule 4240 to January 17, 2012); Exchange Act Release No. 64884 (Jul. 14, 2011), 76 FR 42755 (Jul. 19, 2011) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2011–033) (extending the expiration date of FINRA Rule 0180 to January 17, 2012); Exchange Act Release No. 63391 (Nov. 30, 2010), 75 FR 75718 (Dec. 6, 2010) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2010–063) (extending the implementation of Rule 4240 to July 16, 2011); Exchange Act Release No. 60722 (Sep. 25, 2009), 74 FR 50856 (Oct. 1, 2010) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2009–063) (extending the implementation of Rule 4240 to November 30, 2010).

[22] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

2021–021 and should be submitted on or before September 29, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19291 Filed 9–7–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92845; File No. SR–NYSE–2021–48]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delete the Order Audit Trail System Rules in the Rule 7400 Series

September 1, 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 August 30, 2021, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete the Order Audit Trail System (''OATS'') rules in the Rule 7400 Series as these Rules provide for the collection of information that is duplicative of the data collection requirements of the CAT. Further, the Financial Industry Regulatory Authority (''FINRA'') has determined to eliminate its OATS rules. The proposed rule 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

Rule 613 of Regulation NMS requires national securities exchanges and FINRA to create, implement, and maintain a consolidated audit trail to capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[3] and approved by the Commission, as modified, on November 15, 2016.[4]

On August 14, 2020, FINRA filed with the Commission a proposed rule change to delete the OATS rules once Industry Members are effectively reporting to the CAT (the ''OATS Retirement Filing'').[5] On October 29, 2020, FINRA filed Amendment No. 1 to the proposed rule change (''Amendment No. 1'') and a response to the comments that were submitted on the original filing (''Response to Comments'').[6] On November 30, 2020, the Commission approved the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.[7] On June 17, 2021, FINRA filed a proposed rule change setting forth the basis for its determination that the accuracy and reliability of the CAT meet the standards approved by the Commission in the OATS Retirement Filing for purposes of eliminating the OATS rules.[8] The FINRA proposal stated that FINRA would retire OATS effective September 1, 2021.

After conducting an analysis of its rules in accordance with the CAT NMS Plan, the Exchange has determined that the information collected pursuant to the OATS rules is intended to be collected by CAT. Further, the Exchange believes that the Rule 7400 Series will no longer be necessary and proposes to delete such rules from the Exchange's rulebook unless FINRA decides not to retire OATS as scheduled in which case member organizations will still be required to report to OATS. Discussed below is a description of the duplicative rule requirements as well as the timeline for eliminating the duplicative rules followed by a discussion on the OATS Retirement Filing that formed the basis for retiring OATS.

Duplicative OATS Requirements

The Rule 7400 Series consists of Rules 7410 through 7470 and sets forth the recording and reporting requirements of the OATS Rules. The OATS Rules require all Exchange member organizations and associated persons to record in electronic form and report to FINRA, on a daily basis, certain information with respect to orders originated, received, transmitted, modified, canceled, or executed by members in all NMS stocks, as that term is defined in Rule 600(b)(47) of Regulation NMS,[9] traded on the Exchange, including NYSE-listed securities. The Exchange relies on the information reported to OATS either to conduct surveillance or to facilitate surveillance conducted by FINRA pursuant to a regulatory services agreement (''RSA''). This information is used by Exchange and FINRA staff to conduct surveillance and investigations of member firms for violations of Exchange and FINRA rules and federal securities laws. The Exchange believes it is appropriate to retire OATS because the requirements of the Rule 7400 Series are duplicative of information available in the CAT and thus will no longer be necessary now that the CAT is operational.

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[4] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Order Approving the National Market System Plan Governing the Consolidated Audit Trail) (''Approval Order'').

[5] *See* Securities Exchange Act Release No. 89679 (August 26, 2020), 85 FR 54461 (September 1, 2020) (Notice of Filing of File No. SR–FINRA–2020–024).

[6] *See* Letter from Lisa C. Horrigan, Associate General Counsel, FINRA, to Vanessa Countryman, Secretary, Commission, dated October 29, 2020.

[7] *See* Securities Exchange Act Release No. 90535 (November 30, 2020), 85 FR 78395 (December 4, 2020) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of SR–FINRA–2020–024).

[8] *See* Securities Exchange Act Release No. 92239 (June 23, 2021), 86 FR 34293 (June 29, 2021) (SR–FINRA–2021–017) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Retirement of FINRA's Order Audit Trail System).

[9] 17 CFR 242.600(B)(47).

Timeline for Elimination of Duplicative Rules

The CAT NMS Plan states that the elimination of rules that are duplicative of the requirements of the CAT and the retirement of the related systems should be effective at such time as CAT Data meets minimum standards of accuracy and reliability.[10] As discussed in more detail in the OATS Retirement Filing, FINRA believes that OATS may be retired effective September 1, 2021 given the error rate thresholds have been met, and FINRA has determined that its usage of the CAT Data has not revealed material issues that have not been corrected and further confirmed that the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations.

OATS Retirement Filing

In the OATS Retirement Filing, FINRA proposed to eliminate the OATS rules once Industry Members are effectively reporting to the CAT and the CAT's accuracy and reliability meet certain standards. Specifically, FINRA proposed that before OATS could be retired, the CAT generally must achieve a sustained error rate for Industry Member reporting in five categories for a period of at least 180 days of 5% or lower on a pre-correction basis, and 2% or lower on a post-correction basis (measured at T+5). In addition to the maximum error rates and matching thresholds, FINRA's use of CAT Data must confirm that (i) there are no material issues that have not been corrected, (ii) the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting its obligations under the CAT NMS Plan relating to the reporting and linkage of Phase 2a Industry Member Data.

In the OATS Retirement Filing, FINRA explained that its review of CAT Data and error rates would be based on data and linkages in the initial phase of reporting (or ''Phase 2a''), which replicate the data in OATS today and thus are most relevant for OATS retirement purposes. Phase 2a Data includes all events and scenarios covered by OATS and applies only to equities. FINRA did not consider options order events or Phase 2c data and validations, which are not in OATS today, for purposes of OATS retirement.

As described below, FINRA has determined that the CAT meets the accuracy and reliability standards approved by the Commission in the OATS Retirement Filing.

(1) Maximum Error Rates

As discussed in the OATS Retirement Filing, FINRA believes that relevant error rates are the primary, but not the sole, metric by which to determine the CAT's accuracy and reliability and will serve as the baseline requirement needed before OATS can be retired. FINRA proposed that, before OATS could be retired, the CAT would generally need to achieve a sustained error rate for Industry Member reporting in five categories for a period of at least 180 days of 5% or lower, measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).[11] FINRA proposed to average the error rates across the period, rather than require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. FINRA also proposed to measure the error rates in the aggregate, rather than on a firm-by-firm basis. Finally, FINRA proposed to measure the error rates separately for each of the five categories, rather than evaluate all categories in the aggregate. As noted above, FINRA's assessment of the error rates for Industry Member reporting is based solely on Phase 2a CAT reporting for equity events since options orders are not included in OATS today.

As discussed in the OATS Retirement Filing, FINRA measured the error rates in each of the five categories discussed below during the period from October 26, 2020 through April 26, 2021 (the ''applicable period''). FINRA commenced this period on October 26, 2020, which was the date that Industry Members were required to begin correcting all errors for inter-firm linkages and exchange/TRF/ORF match validations. As discussed in the Response to Comments, although the production environment for inter-firm linkage and exchange/TRF/ORF match validations was open for testing as of September 28, 2020, FINRA did not believe it would be appropriate for the 180-day period to commence prior to the October 26, 2020 compliance date.[12]

Rejection Rates and Data Validations. As described in the OATS Retirement Filing, the Plan Processor must perform certain basic data validations,[13] and if a record does not pass these basic data validations, it must be rejected and returned to the CAT Reporter to be corrected and resubmitted. FINRA proposed that over the 180-day period, aggregate rejection rates must be no more than 5% pre-correction or 2% post-correction across all Industry Member Reporters. FINRA has determined that, over the applicable period, aggregate rejection rates across all Industry Member Reporters were 0.03% pre-correction and 0.01% post-correction.

Intra-Firm Linkages. As described in the OATS Retirement Filing, the Plan Processor must be able to link all related order events from all CAT Reporters involved in the lifecycle of an order. At a minimum, this requirement includes the creation of an order lifecycle between all order events handled within an individual CAT Reporter, including orders routed to internal desks or departments with different functions (*e.g.,* an internal ATS). FINRA proposed that aggregate intra-firm linkage rates across all Industry Member Reporters must be at least 95% pre-correction and 98% post-correction. FINRA has determined that, over the applicable period, aggregate intra-firm linkage rates across all Industry Member Reporters were 99.97% pre-correction and 99.99% post-correction.

Inter-Firm Linkages. As described in the OATS Retirement Filing, the Plan Processor must be able to create the lifecycle between orders routed between broker-dealers. FINRA proposed that at least a 95% pre-correction and 98% post-correction aggregate match rate be achieved for orders routed between two Industry Member Reporters. FINRA has determined that during the applicable period there was a 99.08% pre-correction and 99.84% post-correction aggregate match rate for orders routed between two Industry Member Reporters.

Order Linkage Rates. As described in the OATS Retirement Filing, in addition to creating linkages within and between broker-dealers, the Plan Processor must be able to create lifecycles to link various pieces of related orders. For example, the Plan requires linkages of

[10] Appendix C of CAT NMS Plan, Approval Order at 85010.

[11] As clarified in the OATS Retirement Filing, although FINRA does not believe that post-correction errors need to be de minimis before OATS can be retired, FINRA was not suggesting, with the proposal, that 2% would meet the ultimate objective of de minimis error rates for CAT. *See* CAT NMS Plan, Appendix C, note 102 (error rates after reprocessing of error corrections are ultimately expected to be de minimis for the CAT). *See also* Approval Order.

[12] *See* FINRA's Response to Comments, *supra* note 7.

[13] Appendix D of the CAT NMS Plan, Section 7.2, for example, requires that certain file validations (*e.g.,* file transmission and receipt are in the correct formats, confirmation of a valid SRO-Assigned Market Participant Identifier, etc.), and syntax and context checks (*e.g.,* format checks, data type checks, consistency checks, etc.) be performed on all submitted records.

order information to create an order lifecycle from origination or receipt to cancellation or execution. This category essentially combines all of the order-related linkages to capture an overall snapshot of order linkages in the CAT.[14] FINRA proposed that there be at least a 95% pre-correction and 98% post-correction rate for order linkages that are required in Phase 2a. FINRA has determined that during the applicable period there was a 99.66% pre-correction and 99.93% post-correction rate for order linkages required in Phase 2a.[15]

Exchange and TRF/ORF Match Rates. As described in the OATS Retirement Filing, an order lifecycle must be created to link orders routed from broker-dealers to exchanges and executed orders and trade reports. FINRA proposed at least a 95% precorrection and 98% post-correction aggregate match rate across all equity exchanges [16] for orders routed from Industry Members to an exchange and, for over-the-counter executions, the same match rate for orders linked to trade reports. FINRA determined that, during the applicable period, there was a 99.51% pre-correction and 99.87% post-correction aggregate match rate across all equity exchanges for orders routed from Industry Members to an exchange and, for over-the-counter executions, there was a 99.34% pre-correction and 99.53% post-correction rate for orders linked to trade reports submitted to the FINRA Trade Reporting Facilities and OTC Reporting Facility.

As set forth above, the error rates for Industry Member reporting over the applicable period were well below the maximum rates established in the OATS Retirement Filing. FINRA also noted that the overall post-correction error rate for Phase 2a Industry Member reporting of 1.01% is comparable to the current overall OATS post-correction error rate, which generally is at or slightly below 1%. Therefore, FINRA has determined that, based on the error rates for Industry Member reporting, the CAT Data meets the accuracy and reliability baseline standards required for OATS retirement.

(2) FINRA's Use of CAT Data

In the OATS Retirement Filing, FINRA stated that while error rates are a key standardized measure in determining whether OATS retirement is appropriate, FINRA's use of the data in the CAT also must confirm that (i) there are no material issues that have not been corrected (*e.g.,* delays in the processing of data, issues with query functions, etc.), (ii) the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting its obligations under the CAT NMS Plan relating to the reporting and linkage of Phase 2a Data.

In the OATS Retirement Filing, FINRA stated that it has been planning for OATS retirement for several years and the necessary development work has been underway for some time. FINRA also has been analyzing and testing production CAT Data for purposes of transitioning its automated equity surveillance patterns since the commencement of Phase 2a Industry Member reporting in June 2020 and through subsequent CAT milestone releases. For example, in addition to quantitative reviews, such as the error rate statistics discussed above, FINRA has conducted a series of qualitative reviews of Industry Member CAT Data. Such reviews include, among other things, comparing the count and distribution of Industry Member event reporting through CAT versus OATS (*e.g.,* new order and execution events, and data elements such as buy/sell/sell short codes), and reviewing results of examinations, alert reviews, and investigations relating to the timeliness and accuracy of Industry Member reporting. Based on such qualitative data reviews, FINRA has concluded that Industry Member CAT Data, in the aggregate, is a sufficient replacement for OATS for purposes of FINRA's surveillance program.

As discussed in the OATS Retirement Filing, today, FINRA's surveillance patterns rely on the cross-market data model (''CMDM''), which comprises linked OATS data, equity exchange data feeds from each of the exchanges with which FINRA has entered into a RSA, and transactions reported to FINRA's equity trade reporting facilities. The CMDM will be retired and replaced by a newly created surveillance data mart, the Pattern Optimized Datamart (''POD''), which incorporates both equities and options data. At that point, FINRA's patterns will rely on CAT Data in POD, *i.e.,* Plan Participant and Industry Member data reported in CAT format and linked by CAT.[17] FINRA notes that the Plan Participants transitioned to reporting via the CAT technical specification as of April 26, 2021, and full Plan Participant equities reporting and linkage validations in accordance with the CAT specification commenced on June 1, 2021.[18] Successful completion of the transition to the CAT specification for Plan Participants is a prerequisite for FINRA to retire the CMDM and leverage CAT Data and linkages in POD for its surveillance patterns. As of the date of this filing, FINRA has completed all planned activities on schedule, including substantially completing the process of integrating CAT Data into POD and successfully running large amounts of production CAT Data for the month of May through POD.[19] FINRA anticipates completing additional activities before the proposed OATS retirement date, including, *e.g.,* planned user acceptance testing.[20]

[14] *See* FINRA's Response to Comments, *supra* note 7.

[15] FINRA noted that in Phase 2a, linkage is required between the representative street side order and the order being represented when the representative order was originated specifically to represent a single order (received either from a customer or another broker-dealer) and there is: (1) An existing direct electronic link in the firm's system between the order being represented and the representative order, and (2) any resulting executions are immediately and automatically applied to the represented order in the firm's system. As set forth in the OATS Retirement Filing, while such linkages are not required in OATS, FINRA believes that it is appropriate to evaluate them for purposes of retiring OATS because they represent a significant enhancement to the data currently available in OATS and will enhance the quality of the equity audit trail. However, FINRA also explained in the Response to Comments that if all other proposed criteria have been met, FINRA would not anticipate delaying OATS retirement based on Phase 2a representative order linkage error rates alone. In evaluating whether the standards for OATS retirement have been met, FINRA determined that the error rates for the Phase 2a representative order linkages did not have a significant negative impact on the overall error rates for order linkages. Accordingly, FINRA did not need to separately evaluate or exclude Phase 2a representative order linkage rates in measuring the error rates over the applicable period. For example, if the intra-firm linkage error rate had been above 5% over the applicable period, FINRA would have evaluated whether the error rate was the result of unlinked representative orders to create an apples-to-apples comparison to OATS.

[16] *See* Amendment No. 1.

[17] FINRA's Response to Comments noted this dependency, stating that the process of transitioning FINRA's surveillance patterns to CAT Data necessarily includes, among other things, ingestion of all Industry Member and Plan Participant data and linkages in CAT format. *See* Response to Comments, supra note 7, at 4. The Response to Comments further noted that the Plan Participants would be reporting to CAT via another mechanism until April 2021.

[18] For example, according to the CAT Reporting Technical Specification for Plan Participants (version 4.0.0–r4 dated April 20, 2021), additional linkage error feedback for off-exchange trade reports was effective as of June 1, 2021. The Technical Specifications can be found on the CAT NMS Plan website at *www.catnmsplan.com/sites/default/files/2021-04/04.20.2021-CAT-ReportingTechnical-Specifications-for-Participants-4.0.0-r4.pdf.*

[19] FINRA notes that additional POD releases are scheduled; however, these releases introduce minor enhancements to POD, as opposed to significant changes that would impact the way data is ingested or processed in POD.

[20] FINRA notes that user acceptance testing is the final stage of any software development life cycle and enables actual users to test the system to confirm that it is able to carry out the required tasks it was designed to address in real-world situations.

As discussed in the OATS Retirement Filing, FINRA has performed broad analysis of its equity surveillance patterns and has determined that all of the data required to support the transition is available in CAT. By mapping OATS data to Industry Member CAT Data in POD, FINRA has confirmed that CAT Data has equivalent analogs to all data elements in OATS. In that regard, FINRA notes that, as a Plan Participant, FINRA has been involved in CAT development efforts to ensure that the scope and features of Industry Member data and processed output are sufficient for FINRA's surveillance program. These efforts include, for example, developing and updating the Industry Member Technical Specifications and Reporting Scenarios, conducting OATS–CAT gap analyses and validating that all such gaps have been properly addressed, and performing OATS-to-CAT field-level mappings.

With respect to Plan Participant data, FINRA notes in the OATS Retirement Filing that the test environment for Plan Participant reporting in accordance with the CAT specification opened on February 15, 2021.[21] Plan Participant equity reporting in accordance with the CAT specification in the test environment had a very high compliance rate for data ingestion and validation, and compliance in the production environment is comparable. In addition, starting on April 26, 2021, CAT began linking copies of Industry Member and Plan Participant data reported via the CAT specification in a test environment, and at that point, FINRA began its evaluation of the quality of these linkages. Based on this review and evaluation, in the OATS Retirement Filing, FINRA stated that it believes that the linkages between Plan Participant data and Industry Member data in CAT are comparable to the linkages between RSA exchange data and OATS data in the CMDM today.[22] FINRA CAT and the Plan Participants have now met the necessary criteria for a full cutover from the RSA specification to the CAT specification, including, *e.g.,* achieving comparable data ingestion validation and inter-venue linkage rates (within a variance of under one percent) between RSA and CAT specification submissions. Accordingly, the Operating Committee approved the cutover from the RSA specification to the CAT specification as the official source of Plan Participant data as of June 1, 2021, and today, all Industry Member and Plan Participant equities data reported via the CAT specification is linked in the CAT production environment.

As discussed in the OATS Retirement Filing, FINRA continues to evaluate CAT Data quality, and in particular, linkages between Industry Member and Plan Participant data, and to test its surveillance patterns to run on CAT Data in POD. In that regard, FINRA notes that it has followed established and time-tested processes and protocols throughout the development process to ensure that its patterns will perform as expected and produce the necessary output using CAT Data following the retirement of OATS. For example, FINRA's Software Development Lifecycle (''SDLC'') procedures govern systems design, changes, testing and controls. The SDLC procedures are an essential component of FINRA's operations and have been developed to serve FINRA's unique regulatory needs and structure. Additionally, consistent with SEC Regulation SCI, FINRA procedures include a plan of coordination and communication with regulatory staff. By relying on these established processes and protocols, FINRA has confidence that the CAT Data and linkages are reliable and sufficient to run FINRA's surveillance patterns.

Based on these results, as well as the results of its quantitative and qualitative reviews of CAT Data and successful efforts integrating CAT Data into POD, in the OATS Retirement Filing, FINRA stated that it believes that the complete portfolio of equity surveillance patterns will be capable of consuming CAT Data and achieving comparable (or better) output results.

Thus, FINRA proposes to retire OATS in accordance with the schedule set forth herein. FINRA will run its surveillance patterns for review periods through the end of the second quarter of 2021 using OATS data and begin using—and be fully reliant on—CAT Data for its surveillance patterns for review periods beginning in the third quarter of 2021. Following the retirement of OATS, FINRA expects to maintain the current established cadence of its monthly, quarterly and semi-annual surveillance patterns. In addition, FINRA's analytics platforms will have access to CAT Data as soon as such data is made available to regulators. Thus, outside of regularly scheduled surveillance pattern runs, FINRA can perform expedited analytics, as required by market events.

As discussed in the OATS Retirement Filing, FINRA is finalizing the development and certification of its surveillance patterns to run on CAT Data on a rolling basis and, in accordance with its existing SDLC procedures, will run a month's worth of data and compare the output before certifying each pattern. For those equity patterns that will be subject to certification after OATS retirement, FINRA anticipates that there would be sufficient time to identify and remediate any issues prior to running the patterns in accordance with the current established cadence. FINRA does not anticipate significant issues arising from additional scheduled POD releases or in the final stages of its pattern development and certification efforts.

As discussed in the OATS Retirement Filing, on an ongoing basis following the retirement of OATS, FINRA will conduct regular reviews to ensure confidence in the completeness and accuracy of Industry Member reporting, along with the ability to remediate any issues in a timely manner. Among other things, FINRA has a robust mechanism for detecting data issues, determining which issues are material for purposes of its surveillance program, and requesting resubmission and/or reprocessing of data, as necessary. FINRA also (1) performs a suite of data quality checks against data sourced from CAT to POD and against data processed by POD for use in surveillance patterns; (2) oversees a robust surveillance and examination compliance program that evaluates Industry Member reporting timeliness, data quality, and other issues and trends; (3) reviews CAT compliance program alerts using a rapid remediation process and formal reviews, as necessary; and (4) reviews Industry Member self-reporting and error correction trends. FINRA believes that these practices are sufficient for identification and timely resolution of Industry Member reporting and data issues after OATS has been retired.

Specifically, with regard to the additional standards approved in the OATS Retirement Filing, through its use of CAT Data to date, as described above, FINRA believes that these standards have been satisfied. With respect to the first factor, FINRA does not believe that there are any material issues that have not been corrected (or could not be corrected in the course of operation of CAT, as approved by the Operating

[21] *See, e.g.,* CAT Q1 2021 Quarterly Progress Report dated April 30, 2021, available at *www.catnmsplan.com/sites/default/files/2021-05/CAT-Q1-2021-QPR.pdf.*

[22] FINRA notes that the CAT uses the same code in both the test and production environments. Thus, FINRA believes that linkages in the test environment are reliable indicators of linkages in the production environment.

Committee)[23] that would impact FINRA's ability to incorporate and use CAT Data in FINRA's surveillance program. For example, the Plan requires that raw unprocessed data that has been ingested by the Plan Processor must be available to Participant regulatory staff and the SEC prior to 12:00 p.m. Eastern Time on T+1, and access to all iterations of processed data must be available to Participant regulatory staff and the SEC between 12:00 p.m. Eastern Time on T+1 and T+5.[24] The Plan Processor also must ensure that regulators have access to corrected and linked order data by 8:00 a.m. Eastern Time on T+5.[25] Additionally, after ingestion by the Central Repository, the raw unprocessed data must be transformed into a format appropriate for data querying and regulatory output.[26] The user-defined direct queries and bulk extracts must provide authorized users with the ability to retrieve CAT Data via a query tool or language that allows users to query all available attributes and data sources.[27] FINRA's use of the CAT Data has not uncovered any processing delays or other material issues impacting the availability of, and FINRA's access to, the data.

With respect to the second factor, FINRA stated in the OATS Retirement Filing that it believes that the CAT includes all data necessary for FINRA to meet its surveillance obligations after the retirement of OATS. FINRA must ensure that the CAT, as the single source of order and trade data, can enable FINRA to conduct accurate and effective market surveillance in accordance with its regulatory obligations.[28] As noted above, Phase 2a Data includes all events and scenarios covered by OATS and is the most relevant for OATS retirement purposes. FINRA Rule 7440 describes the OATS requirements for recording information, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions. Large Industry Members and Small Industry Members that currently are reporting to OATS were required to submit data to the CAT for these same events and scenarios commencing in Phase 2a. FINRA's testing, analysis and use of the CAT Data (including integration into POD), as described above, has confirmed that the CAT includes all data necessary for FINRA to meet its surveillance obligations and that CAT is a reliable substitute for OATS. In addition, based on its qualitative data reviews, FINRA has concluded that Industry Member CAT Data, in the aggregate, is a sufficient replacement for OATS for purposes of FINRA's surveillance program.

With respect to the third factor, FINRA stated in the OATS Retirement Filing that it believes that the Plan Processor is sufficiently meeting its obligations under the CAT NMS Plan relating to the reporting and linkage of Phase 2a Data. As detailed in the Implementation Plan and Quarterly Progress Reports submitted by the Plan Participants, the Plan Processor has met its targeted completion dates for the milestones for Phase 2a, including, for example, production Go-Live for Equities 2a file submission and data integrity validation (Large Industry Members and Small OATS Reporters) on June 22, 2020; Production Go-Live for Equities 2a Intrafirm Linkage validations on July 27, 2020; and production go-live for firm-to-firm linkage validations for equities (Large Industry Members and Small OATS Reporters) and exchange and TRF/ORF linkage validations for equities (Large Industry Members and Small OATS Reporters) on October 26, 2020.[29]

Based on the foregoing, FINRA has determined that the CAT meets the accuracy and reliability standards approved by the Commission in the OATS Retirement Filing for purposes of eliminating the OATS Rules. FINRA has determined to retire OATS and remove the OATS rules from its rulebook effective September 1, 2021. Firms must continue to report to OATS all order events that occur on or prior to August 31, 2021. Reports submitted to OATS for order events that occur after August 31, 2021 will be rejected. In other words, August 31, 2021 will be the last ''OATS Business Day,'' as defined under FINRA Rule 7450(b)(3), for which OATS will accept order events and perform routine processing (including incorporation of corrections and repairs of rejections) occurring within the normal OATS timeframe for such activities. OATS will continue to accept reports for order events that occur on or prior to August 31, 2021 (including, but not limited to, late and corrected reports for such order events) through September 16, 2021. Firms must ensure that their OATS reporting is accurate and complete for all order events that occur on or prior to August 31, 2021.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[30] in general, and furthers the objectives of Section 6(b)(5) of the Act,[31] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, 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 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.

In particular, the Exchange believes that the proposed rule change is consistent with Section C.9 of Appendix C to the Plan, which requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' [32] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' [33] Accordingly, the Exchange believes the proposed rule change implements, supports, interprets or clarifies the provisions of the Plan, and is designed to assist the Exchange and its member organizations in meeting regulatory obligations pursuant to, and milestones established by, the Plan. In approving the Plan, the SEC

[23] FINRA notes that FINRA CAT tracks known issues relating to Industry Member and Plan Participant reporting. *See, e.g., catnmsplan.com/CAT-Transaction-Known-Issues-List.* FINRA regularly reviews and analyzes FINRA CAT's list of current and resolved issues and does not believe that any of these issues would impact its ability to incorporate and use CAT Data in its surveillance program.

[24] *See* CAT NMS Plan, Appendix D, Section 6.2.

[25] *See* CAT NMS Plan, Appendix C, Section A.2(a).

[26] *See* CAT NMS Plan, Appendix C, Section A.1(b).

[27] *See* CAT NMS Plan, Section 6.10(c).

[28] As discussed in the OATS Retirement Filing, OATS was originally proposed to fulfill one of the undertakings contained in an order issued by the Commission relating to the settlement of an enforcement action against FINRA (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) for failure to adequately enforce its rules. *See* Securities Exchange Act Release No. 39729 (March 6, 1998), 63 FR 12559 (March 13, 1998) (Order Approving File No SR–NASD–97- 56) (''OATS Approval Order''); *see also* Securities Exchange Act Release No. 37538 (August 8, 1996); Administrative Proceeding File No. 3–9056 (''SEC Order''). In the OATS Approval Order, the Commission concluded that OATS satisfied the conditions of the SEC Order and was consistent with the Exchange Act. *See* 63 FR 12559, 12566–67. FINRA believes that it will continue to be in compliance with the requirements of the SEC Order once the OATS Rules are deleted.

[29] The Implementation Plan and Quarterly Progress Reports are available at *www.catnmsplan.com/implementation-plan.*

[30] 15 U.S.C. 78f(b).

[31] 15 U.S.C. 78f(b)(5).

[32] Appendix C of CAT NMS Plan, Approval Order at 85010.

[33] *Id.*

noted that it ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [34] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to member organizations, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather implement provisions of the CAT NMS Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [35] and Rule 19b–4(f)(6) thereunder.[36] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [37] and Rule 19b–4(f)(6)(iii) thereunder.[38] The Exchange states that the proposed rule change would not significantly affect the protection of investors or the public interest because it seeks to delete the Exchange's OATS rules to be consistent with FINRA's announcement to retire its OATS rules effective September 1, 2021. The Exchange further believes that the proposed rule change would not impose any significant burden on competition because the proposed rule change is not designed to address any competitive issue but rather implement provisions of the CAT NMS Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

A proposed rule change filed under Rule 19b–4(f)(6) [39] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[40] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative by September 1, 2021, the date that FINRA has announced that it will retire OATS and delete the OATS rules from its rulebook, unless FINRA decides not to retire OATS as scheduled. If FINRA decides not to retire OATS as scheduled, member organizations will still be required to report to OATS. As discussed above, the Exchange believes that the OATS reporting requirements in the Rule 7400 Series are duplicative of information available in the CAT and will no longer be necessary now that the CAT is operational. In addition, August 31, 2021, will be the last ''OATS Business Day,'' as defined under FINRA Rule 7450(b)(3), for which OATS will accept order events and perform routine processing, and reports submitted to OATS for order events that occur after August 31, 2021, will be rejected. The Commission believes that it is consistent with the protection of investors and the public interest for the Exchange to delete its OATS reporting rules at the same time that FINRA retires OATS. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative on September 1, 2021.[41]

At any time within 60 days of the filing of this 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 will 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–NYSE–2021–48 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–NYSE–2021–48. 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. 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

[34] Approval Order at 84697.

[35] 15 U.S.C. 78s(b)(3)(A)(iii).

[36] 17 CFR 240.19b–4(f)(6).

[37] 15 U.S.C. 78s(b)(3)(A).

[38] 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.

[39] 17 CFR 240.19b–4(f)(6).

[40] 17 CFR 240.19b–4(f)(6)(iii).

[41] For purposed 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).

submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2021–48, and should be submitted on or before September 29, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19295 Filed 9–7–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34370; 812–15229]

Investment Managers Series Trust and Hamilton Lane Advisors, L.L.C.; Notice of Application

September 1, 2021.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934 (''1934 Act''), and sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements'').

Applicants: Investment Managers Series Trust (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, which include the *361 Domestic Long/Short Equity Fund* and the *361 Global Long/Short Equity Fund* (each a ''Fund''), and Hamilton Lane Advisors, L.L.C. (''Initial Adviser''), a Pennsylvania limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') that serves as an investment adviser to the Funds (collectively with the Trust, the ''Applicants'').

Summary of Application: The requested exemption would permit Applicants to enter into and materially amend subadvisory agreements with subadvisers without shareholder approval and would grant relief from the Disclosure Requirements as they relate to fees paid to the subadvisers.

Filing Dates: The application was filed on May 7, 2021, and amended on August 5, 2021, August 13, 2021, and August 31, 2021.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicants with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on September 26, 2021, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* The Trust and the Initial Adviser: *diane.drake@mfac-ca.com* (with a copy to *laurie.dee@morganlewis.com*).

FOR FURTHER INFORMATION CONTACT: Erin Loomis Moore, Senior Counsel, at (202) 551–6721, or Parisa Haghshenas, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number or an Applicant using the ''Company'' name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

I. Requested Exemptive Relief

1. Applicants request an order to permit the Adviser,[1] subject to the approval of the board of trustees of the Trust (collectively, the ''Board''),[2] including a majority of the trustees who are not ''interested persons'' of the Trust or the Adviser, as defined in section 2(a)(19) of the Act (the ''Independent Trustees''), without obtaining shareholder approval, to: (i) Select investment subadvisers (''Subadvisers'') for all or a portion of the assets of one or more of the Funds pursuant to an investment subadvisory agreement with each Subadviser (each a ''Subadvisory Agreement''); and (ii) materially amend Subadvisory Agreements with the Subadvisers.

2. Applicants also request an order exempting the Subadvised Funds (as defined below) from the Disclosure Requirements, which require each Fund to disclose fees paid to a Subadviser. Applicants seek relief to permit each Subadvised Fund to disclose (as a dollar amount and a percentage of the Fund's net assets): (i) The aggregate fees paid to the Adviser and any Wholly-Owned Subadvisers; and (ii) the aggregate fees paid to Affiliated and Non-Affiliated Subadvisers (''Aggregate Fee Disclosure'').[3] Applicants seek an exemption to permit a Subadvised Fund to include only the Aggregate Fee Disclosure.[4]

3. Applicants request that the relief apply to Applicants, as well as to any future Fund and any other existing or future registered open-end management investment company or series thereof that intends to rely on the requested order in the future and that: (i) Is advised by the Adviser; (ii) uses the multi-manager structure described in the application; and (iii) complies with the terms and conditions of the application (each, a ''Subadvised Fund'').[5]

4. 361 Capital, LLC (''361 Capital'') previously served as the investment adviser to the Funds. The Commission

[42] 17 CFR 200.30–3(a)(12).

[1] The term ''Adviser'' means (i) the Initial Adviser, (ii) its successors, and (iii) any entity controlling, controlled by or under common control with, the Initial Adviser or its successors that serves as the primary adviser to a Subadvised Fund (as defined below). For the purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] The term ''Board'' also includes the board of trustees or directors of a future Subadvised Fund (as defined below), if different from the board of trustees of the Trust.

[3] A ''Wholly-Owned Subadviser'' is any investment adviser that is (1) an indirect or direct ''wholly-owned subsidiary'' (as such term is defined in section 2(a)(43) of the 1940 Act) of the Adviser, (2) a ''sister company'' of the Adviser that is an indirect or direct ''wholly-owned subsidiary'' of the same company that indirectly or directly wholly owns the Adviser (the Adviser's ''parent company''), or (3) a parent company of the Adviser. A ''Non-Affiliated Subadviser'' is any investment adviser that is not an ''affiliated person'' (as defined in the 1940 Act) of a Fund or the Adviser, except to the extent that an affiliation arises solely because the Subadviser serves as a subadviser to one or more Funds. Section 2(a)(43) of the 1940 Act defines ''wholly-owned subsidiary'' of a person as a company 95 per centum or more of the outstanding voting securities of which are, directly or indirectly, owned by such a person.

[4] Applicants note that all other items required by sections 6–07(2)(a), (b) and (c) of Regulation S–X will be disclosed.

[5] All registered open-end investment companies that currently intend to rely on the requested order are named as Applicants. Any entity that relies on the requested order will do so only in accordance with the terms and conditions contained in the application.

previously issued 361 Capital and the Trust a ''manager of managers'' exemptive order (the ''Previous Order''), granting substantially the same relief as is sought in the application.[6] On April 1, 2021, the Adviser became the investment adviser to the Funds, at which time none of the Applicants were permitted to rely on the Previous Order.[7]

II. Management of the Subadvised Funds

5. The Adviser serves or will serve as the investment adviser to each Subadvised Fund pursuant to an investment advisory agreement with the Fund (each an ''Investment Advisory Agreement''). Each Investment Advisory Agreement has been or will be approved by the Board, including a majority of the Independent Trustees, and by the shareholders of the relevant Subadvised Fund in the manner required by sections 15(a) and 15(c) of the Act. The terms of these Investment Advisory Agreements comply or will comply with section 15(a) of the Act. Applicants are not seeking an exemption from the Act with respect to the Investment Advisory Agreements. Pursuant to the terms of each Investment Advisory Agreement, the Adviser, subject to the oversight of the Board, will provide continuous investment management for each Subadvised Fund. For its services to each Subadvised Fund, the Adviser receives or will receive an investment advisory fee from that Fund as specified in the applicable Investment Advisory Agreement.

6. Consistent with the terms of each Investment Advisory Agreement, the Adviser may, subject to the approval of the Board, including a majority of the Independent Trustees, and the shareholders of the applicable Subadvised Fund (if required by applicable law), delegate portfolio management responsibilities of all or a portion of the assets of a Subadvised Fund to a Subadviser. The Adviser will retain overall responsibility for the management and investment of the assets of each Subadvised Fund. This responsibility includes recommending the removal or replacement of Subadvisers, allocating the portion of that Subadvised Fund's assets to any given Subadviser and reallocating those assets as necessary from time to time.[8] The Subadvisers will be ''investment advisers'' to the Subadvised Funds within the meaning of section 2(a)(20) of the Act and will provide investment management services to the Funds subject to, without limitation, the requirements of sections 15(c) and 36(b) of the Act.[9] The Subadvisers, subject to the oversight of the Adviser and the Board, will determine the securities and other instruments to be purchased, sold or entered into by a Subadvised Fund's portfolio or a portion thereof, and will place orders with brokers or dealers that they select.[10]

7. The Subadvisory Agreements will be approved by the Board, including a majority of the Independent Trustees, in accordance with sections 15(a) and 15(c) of the Act. In addition, the terms of each Subadvisory Agreement will comply fully with the requirements of section 15(a) of the Act. The Adviser may compensate the Subadvisers or the Subadvised Funds may compensate the Subadvisers directly.

8. Subadvised Funds will inform shareholders of the hiring of a new Subadviser pursuant to the following procedures (''Modified Notice and Access Procedures''): (a) Within 90 days after a new Subadviser is hired for any Subadvised Fund, that Fund will send its shareholders either a Multi-manager Notice or a Multi-manager Notice and Multi-manager Information Statement; [11] and (b) the Subadvised Fund will make the Multi-manager Information Statement available on the website identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that website for at least 90 days.[12]

III. Applicable Law

9. Section 15(a) of the Act states, in part, that it is unlawful for any person to act as an investment adviser to a registered investment company ''except pursuant to a written contract, which contract, whether with such registered company or with an investment adviser of such registered company, has been approved by the vote of a majority of the outstanding voting securities of such registered company.''

10. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires a registered investment company to disclose in its statement of additional information the method of computing the ''advisory fee payable'' by the investment company with respect to each investment adviser, including the total dollar amounts that the investment company ''paid to the adviser (aggregated with amounts paid to affiliated advisers, if any), and any advisers who are not affiliated persons of the adviser, under the investment advisory contract for the last three fiscal years.''

11. Rule 20a–1 under the Act requires proxies solicited with respect to a registered investment company to comply with Schedule 14A under the 1934 Act. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A,

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[6] See *361 Capital, LLC* and *Investment Managers Series Trust,* Investment Company Act Rel. Nos. 33323 (December 14, 2018) (notice) and 33349 (January 29, 2019) (order).

[7] In reliance on the Commission staff no-action letter issued to Innovator Capital Management, LLC, *et al.* (pub. avail. October 6, 2017) and oral discussions with the Commission staff, the Applicants intend to rely on the Previous Order as if the Previous Order extended to the Adviser until the earlier of the receipt of the Order or 150 days from April 1, 2021, the execution date of the new investment advisory agreement between the Funds and the Adviser. During such time, the Adviser will comply with the terms and conditions in the Previous Order imposed on the Funds' previous investment adviser as though such terms and conditions were imposed directly on the Adviser. When and if the Order is granted by the Commission, the Applicants would then rely on the Order, rather than continuing to rely on the Previous Order.

[8] Applicants represent that if the name of any Subadvised Fund contains the name of a subadviser, the name of the Adviser that serves as the primary adviser to the Fund, or a trademark or trade name that is owned by or publicly used to identify the Adviser, will precede the name of the subadviser.

[9] The Subadvisers will be registered with the Commission as an investment adviser under the Advisers Act or not subject to such registration.

[10] A ''Subadviser'' also includes an investment subadviser that provides or will provide the Adviser with a model portfolio reflecting a specific strategy, style or focus with respect to the investment of all or a portion of a Subadvised Fund's assets. The Adviser may use the model portfolio to determine the securities and other instruments to be purchased, sold or entered into by a Subadvised Fund's portfolio or a portion thereof, and place orders with brokers or dealers that it selects.

[11] A ''Multi-manager Notice'' will be modeled on a Notice of internet Availability as defined in Rule 14a-16 under the 1934 Act, and specifically will, among other things: (a) Summarize the relevant information regarding the new Subadviser (except as modified to permit Aggregate Fee Disclosure); (b) inform shareholders that the Multi-manager Information Statement is available on a website; (c) provide the website address; (d) state the time period during which the Multi-manager Information Statement will remain available on that website; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-manager Information Statement may be obtained, without charge, by contacting the Subadvised Fund. A ''Multi-manager Information Statement'' will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the 1934 Act for an information statement, except as modified by the requested order to permit Aggregate Fee Disclosure. Multi-manager Information Statements will be filed with the Commission via the EDGAR system.

[12] In addition, Applicants represent that whenever a Subadviser is hired or terminated, or a Subadvisory Agreement is materially amended, the Subadvised Fund's prospectus and statement of additional information will be supplemented promptly pursuant to rule 497(e) under the Securities Act of 1933.

taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fee,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

12. Regulation S–X sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require a registered investment company to include in its financial statements information about investment advisory fees.

13. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

IV. Arguments in Support of the Requested Relief

14. Applicants assert that, from the perspective of the shareholder, the role of the Subadvisers is substantially equivalent to the limited role of the individual portfolio managers employed by an investment adviser to a traditional investment company. Applicants also assert that the shareholders expect the Adviser, subject to review and approval of the Board, to select a Subadviser who is in the best position to achieve the Subadvised Fund's investment objective. Applicants believe that permitting the Adviser to perform the duties for which the shareholders of the Subadvised Fund are paying the Adviser—the selection, oversight and evaluation of the Subadviser—without incurring unnecessary delays or expenses of convening special meetings of shareholders is appropriate and in the interest of the Fund's shareholders, and will allow such Fund to operate more efficiently. Applicants state that each Investment Advisory Agreement will continue to be fully subject to section 15(a) of the Act and approved by the relevant Board, including a majority of the Independent Trustees, in the manner required by section 15(a) and 15(c) of the Act.

15. Applicants submit that the requested relief meets the standards for relief under section 6(c) of the Act. Applicants state that the operation of the Subadvised Fund in the manner described in the Application must be approved by shareholders of that Fund before it may rely on the requested relief. Applicants also state that the proposed conditions to the requested relief are designed to address any potential conflicts of interest or economic incentives, and provide that shareholders are informed when new Subadvisers are hired.

16. Applicants contend that, in the circumstances described in the application, a proxy solicitation to approve the appointment of new Subadvisers provides no more meaningful information to shareholders than the proposed Multi-manager Information Statement. Applicants state that, accordingly, they believe the requested relief is necessary or appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

17. With respect to the relief permitting Aggregate Fee Disclosure, Applicants assert that disclosure of the individual fees paid to the Subadvisers does not serve any meaningful purpose. Applicants contend that the primary reasons for requiring disclosure of individual fees paid to Subadvisers are to inform shareholders of expenses to be charged by a particular Subadvised Fund and to enable shareholders to compare the fees to those of other comparable investment companies. Applicants believe that the requested relief satisfies these objectives because the Subadvised Fund's overall advisory fee will be fully disclosed and, therefore, shareholders will know what the Subadvised Fund's fees and expenses are and will be able to compare the advisory fees a Subadvised Fund is charged to those of other investment companies. In addition, Applicants assert that the requested relief would benefit shareholders of the Subadvised Fund because it would improve the Adviser's ability to negotiate the fees paid to Subadvisers. In particular, Applicants state that if the Adviser is not required to disclose the Subadvisers' fees to the public, the Adviser may be able to negotiate rates that are below a Subadviser's ''posted'' amounts. Applicants assert that the relief will also encourage Subadvisers to negotiate lower subadvisory fees with the Adviser if the lower fees are not required to be made public.

V. Relief for Affiliated Subadvisers

18. The Commission has granted the requested relief with respect to Wholly-Owned and Non-Affiliated Subadvisers through numerous exemptive orders. The Commission also has extended the requested relief to Affiliated Subadvisers.[13] Applicants state that although the Adviser's judgment in recommending a Subadviser can be affected by certain conflicts, they do not warrant denying the extension of the requested relief to Affiliated Subadvisers. Specifically, the Adviser faces those conflicts in allocating fund assets between itself and a Subadviser, and across Subadvisers, as it has an interest in considering the benefit it will receive, directly or indirectly, from the fee the Subadvised Fund pays for the management of those assets. Applicants also state that to the extent the Adviser has a conflict of interest with respect to the selection of an Affiliated Subadviser, the proposed conditions are protective of shareholder interests by ensuring the Board's independence and providing the Board with the appropriate resources and information to monitor and address conflicts.

19. With respect to the relief permitting Aggregate Fee Disclosure, Applicants assert that it is appropriate to disclose only aggregate fees paid to Affiliated Subadvisers for the same reasons that similar relief has been granted previously with respect to Wholly-Owned and Non-Affiliated Subadvisers.

VI. Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Subadvised Fund may rely on the order requested in the Application, the operation of the Subadvised Fund in the manner described in the Application will be, or has been, approved by a majority of the Subadvised Fund's outstanding voting securities as defined in the Act, or, in the case of a Subadvised Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder before such Subadvised Fund's shares are offered to the public.

2. The prospectus for each Subadvised Fund will disclose the existence, substance and effect of any

[13] *See Carillon Series Trust and Carillon Tower Advisers, Inc.,* Investment Company Act Rel. Nos. 33464 (May 2, 2019) (notice) and 33494 (May 29, 2019) (order).

order granted pursuant to the Application. In addition, each Subadvised Fund will hold itself out to the public as employing the multi-manager structure described in the Application. The prospectus will prominently disclose that the Adviser has the ultimate responsibility, subject to oversight by the Board, to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. The Adviser will provide general management services to each Subadvised Fund, including overall supervisory responsibility for the general management and investment of the Subadvised Fund's assets, and subject to review and oversight of the Board, will (i) set the Subadvised Fund's overall investment strategies, (ii) evaluate, select, and recommend Subadvisers for all or a portion of the Subadvised Fund's assets, (iii) allocate and, when appropriate, reallocate the Subadvised Fund's assets among Subadvisers, (iv) monitor and evaluate the Subadvisers' performance, and (v) implement procedures reasonably designed to ensure that Subadvisers comply with the Subadvised Fund's investment objective, policies and restrictions.

4. Subadvised Funds will inform shareholders of the hiring of a new Subadviser within 90 days after the hiring of the new Subadviser pursuant to the Modified Notice and Access Procedures.

5. At all times, at least a majority of the Board will be Independent Trustees, and the selection and nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. Independent Legal Counsel, as defined in Rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

7. Whenever a Subadviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

8. The Board must evaluate any material conflicts that may be present in a subadvisory arrangement. Specifically, whenever a subadviser change is proposed for a Subadvised Fund (''Subadviser Change'') or the Board considers an existing Subadvisory Agreement as part of its annual review process (''Subadviser Review''):

(a) the Adviser will provide the Board, to the extent not already being provided pursuant to section 15(c) of the Act, with all relevant information concerning:

(i) Any material interest in the proposed new Subadviser, in the case of a Subadviser Change, or the Subadviser in the case of a Subadviser Review, held directly or indirectly by the Adviser or a parent or sister company of the Adviser, and any material impact the proposed Subadvisory Agreement may have on that interest;

(ii) any arrangement or understanding in which the Adviser or any parent or sister company of the Adviser is a participant that (A) may have had a material effect on the proposed Subadviser Change or Subadviser Review, or (B) may be materially affected by the proposed Subadviser Change or Subadviser Review;

(iii) any material interest in a Subadviser held directly or indirectly by an officer or Trustee of the Subadvised Fund, or an officer or board member of the Adviser (other than through a pooled investment vehicle not controlled by such person); and

(iv) any other information that may be relevant to the Board in evaluating any potential material conflicts of interest in the proposed Subadviser Change or Subadviser Review.

(b) the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board minutes, that the Subadviser Change or continuation after Subadviser Review is in the best interests of the Subadvised Fund and its shareholders and, based on the information provided to the Board, does not involve a conflict of interest from which the Adviser, a Subadviser, any officer or Trustee of the Subadvised Fund, or any officer or board member of the Adviser derives an inappropriate advantage.

9. Each Subadvised Fund will disclose in its registration statement the Aggregate Fee Disclosure.

10. In the event that the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the Application, the requested order will expire on the effective date of that rule.

11. Any new Subadvisory Agreement or any amendment to an existing Investment Advisory Agreement or Subadvisory Agreement that directly or indirectly results in an increase in the aggregate advisory fee rate payable by the Subadvised Fund will be submitted to the Subadvised Fund's shareholders for approval.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19289 Filed 9–7–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92847; File No. SR–LTSE–2021–05]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Eliminate LTSE Rule 11.420 (Order Audit Trail System (''OATS'') Requirements)

September 1, 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 August 30, 2021, Long-Term Stock Exchange, Inc. (''LTSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

LTSE proposes to eliminate LTSE Rule 11.420 (Order Audit Trail System (''OATS'') Requirements) to reflect that as of September 1, 2021, the Financial Industry Regulatory Authority, Inc. (''FINRA'') will have retired OATS, and Industry Members will be effectively reporting to the consolidated audit trail (''CAT'') adopted pursuant to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[3] LTSE has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[4] and Rule 19b4(f)(6) thereunder,[5] which renders the proposed rule change effective upon filing with the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in LTSE CAT Compliance Rules (LTSE Rule Series 11.600) or in the CAT NMS Plan.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

LTSE is filing with the Commission a proposed rule change to eliminate LTSE Rule 11.420 to reflect that as of September 1, 2021, FINRA will have retired OATS, and Industry Members will be effectively reporting to the CAT adopted pursuant to the CAT NMS Plan.

I Background

LTSE, FINRA, and the other national securities exchanges (collectively, the ''Participants'') [6] filed with the Commission, pursuant to Section 11A of the Exchange Act [7] and Rule 608 of Regulation NMS thereunder,[8] the CAT NMS Plan.[9] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act.[10] The Plan was published for comment in the **Federal Register** on May 17, 2016,[11] and approved by the Commission, as modified, on November 15, 2016.[12] LTSE Rule Series 11.600 implements provisions of the CAT NMS Plan that are applicable to LTSE Members.[13]

The CAT NMS Plan is intended to create, implement, and maintain a consolidated audit trail that will capture in a single consolidated data source customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution.[14] Among other things, the CAT NMS Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' [15] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' [16] Specifically, the Plan requires the rule filing to discuss the following:

- Specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired;
- whether the availability of certain data from Small Industry Members [17] two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems; and
- whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.[18]

On November 30, 2020, the Commission approved a FINRA rule filing proposing to eliminate the FINRA OATS system once FINRA members are effectively reporting to the CAT and the CAT's accuracy and reliability meet certain standards.[19] Specifically, FINRA proposed that before OATS could be retired, the CAT generally must achieve a sustained error rate for Industry Member reporting in five categories for a period of at least 180 days [20] of 5% or lower on a pre-correction basis, and 2% or lower on a post-correction basis (measured at T+5). In addition to the maximum error rates and matching thresholds (hereafter the ''threshold requirements''), FINRA's use of CAT Data must confirm that (i) there are no material issues that have not been corrected, (ii) the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting its obligations under the CAT NMS Plan relating to the reporting and linkage in the initial phase of reporting (''Phase 2a'') of Industry Member Data.

In the OATS Retirement Plan Order, the Commission approved FINRA's proposal for how it would measure the CAT Data's accuracy and reliability. Specifically, the Commission endorsed FINRA's proposal that FINRA's review of CAT Data and error rates would be based on data and linkages in Phase 2a, which replicate the data in OATS today and thus are most relevant for OATS retirement purposes. Phase 2a Data includes all events and scenarios covered by OATS and applies only to equities. And FINRA would not consider options order events or Phase 2c data and validations, which are not

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[6] For a complete list of Participants, see Exhibit A to the Limited Liability Company Agreement of Consolidated Audit Trail, LLC, available at *www.catnmsplan.com/sites/default/files/2020-07/LLC-Agreement-of-Consolidated-Audit-Trail-LLC-as-of-7.24.20.pdf.*

[7] 15 U.S.C. 78k–1.

[8] 17 CFR 242.608.

[9] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[10] 17 CFR 242.613.

[11] *See* Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[12] *See* Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016).

[13] *See* LTSE Rule 1.160(w).

[14] *See, e.g.,* Securities Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722, 45723 (August 1, 2012).

[15] *See* CAT NMS Plan, Appendix C, Section C.9. LTSE notes that the current filing addresses only the elimination of the OATS rule. Any amendments to the Electronic Blue Sheets rules (LTSE Rule 8.220) would be subject to a separate rule filing made in conjunction with SEC rulemaking to amend Rule 17a–25 under the Exchange Act. 17 CFR 240.17a–25.

[16] *See* CAT NMS Plan, Appendix C, Section C.9.

[17] ''Small Industry Member'' is defined in LTSE Rule 11.610(pp) as an Industry Member that qualifies as a small broker-dealer as defined in Rule 0–10(c) of the Exchange Act. On April 20, 2020, the Commission granted exemptive relief from certain provisions of the CAT NMS Plan related to broker-dealers that do not qualify as Small Industry Members solely because such broker-dealers satisfy Rule 0–10(i)(2) under the Exchange Act in that they introduce transactions on a fully disclosed basis to clearing firms that are not small businesses or small organizations (referred to as ''Introducing Industry Members''). Specifically, the Commission provided exemptive relief from requiring Introducing Industry Members to comply with the requirements of the CAT NMS Plan that apply to Industry Members other than Small Industry Members (''Large Industry Members''), provided that the Participants require such Introducing Industry Members to comply with the requirements of the CAT NMS Plan that apply to Small Industry Members. *See* Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020) (Order Granting Limited Exemptive Relief Related to Certain Introducing Brokers From the Requirements of the CAT NMS Plan) (the ''Introducing Brokers Exemptive Order''). As used herein, the term ''Small Industry Member'' includes Introducing Industry Members in accordance with the Introducing Brokers Exemptive Order.

[18] *See supra* note 16.

[19] *See* Securities Exchange Act Release No. 90535 (November 30, 2020), 85 FR 78395 (December 4, 2020) (SR–FINRA–2020–024) (''OATS Retirement Plan Order'').

[20] As set forth in the OATS Retirement Plan Order, the 180 day ''applicable period'' ran from October 26, 2020 to April 26, 2021. October 26, 2020 was the date that Industry Members were required to begin correcting all errors for inter-firm linkages and exchange/TFR/ORF match validations.

in OATS today, for purposes of OATS retirement.[21]

On June 17, 2021, FINRA made an immediately effective filing setting forth the basis for its determination that the accuracy and reliability of the CAT met the standards approved by the Commission in the OATS Retirement Plan Order and designating September 1, 2021 as the date on which FINRA would retire OATS.[22] Specifically, FINRA determined that the CAT met the threshold requirements endorsed by the Commission in the OATS Retirement Plan Order for Industry Member reporting in each of the following categories:

A. Rejection Rates and Data Validations

As described in the OATS Retirement Filing, the Plan Processor must perform certain basic data validations, and if a record does not pass these basic data validations, it must be rejected and returned to the CAT Reporter to be corrected and resubmitted.[23] FINRA determined that for the applicable period, aggregate rejection rates across all Industry Member Reporters were 0.03% pre-correction and 0.01% post-correction, which far exceeds the threshold requirements of a 5% or lower pre-correction error rate and a 2% or lower post-correction error rate.

B. Intra-Firm Linkages

As described in the OATS Retirement Filing, the Plan Processor must be able to link all related order events from all CAT Reporters involved in the lifecycle of an order. At a minimum, this requirement includes the creation of an order lifecycle between all order events handled within an individual CAT Reporter, including orders routed to internal desks or departments with different functions (*e.g.,* an internal ATS). FINRA determined that for the applicable period, the intra-firm linkage accuracy rates across all Industry Member Reporters were 99.07% pre-correction and 99.99% post-correction, which far exceeds the threshold requirements of 95% or higher pre-correction and 98% or higher post-correction (in other words, the intra-firm linkages accuracy far exceeds the threshold requirement that there be less than 5% inaccuracy pre-correction and less than 2% inaccuracy post-correction).

C. Inter-Firm Linkages

As described in the OATS Retirement Filing, the Plan Processor must be able to create the lifecycle between orders routed between broker-dealers. FINRA determined that for the applicable period, the intra-firm linkage accuracy rates across all Industry Member Reporters were 99.08% pre-correction and 99.84% post-correction, which far exceed the threshold requirements of 95% or higher pre-correction and 98% or higher post-correction (in other words, the inter-firm linkages accuracy far exceeds the threshold requirement that there be less than 5% inaccuracy pre-correction and less than 2% inaccuracy post-correction).

D. Order Linkage Rates

As described in the OATS Retirement Filing, in addition to creating linkages within and between broker-dealers, the Plan Processor must be able to create lifecycles to link various pieces of related orders. For example, the Plan requires linkages of order information to create an order lifecycle from origination or receipt to cancellation or execution. This category essentially combines all of the order-related linkages to capture an overall snapshot of order linkages in the CAT.[24] FINRA determined that for the applicable period, the order-related linkage accuracy rates across all Industry Member Reporters were 99.66% pre-correction and 99.93% post-correction, which far exceed the threshold requirements of 95% or higher pre-correction and 98% or higher post-correction (in other words, the order linkages accuracy far exceeds the threshold requirement that there be less than 5% inaccuracy pre-correction and less than 2% inaccuracy post-correction).

E. Exchange and TRF/ORF Match Rates

As described in the OATS Retirement Filing, an order lifecycle must be created to link orders routed from broker-dealers to exchanges and executed orders and trade reports. FINRA determined that for the applicable period, the match rate across all equity exchanges for orders routed from Industry Members to an exchange was 99.51% pre-correction and 99.87% post-correction. This match rate far exceeds the threshold requirements of 95% or higher pre-correction and 98% or higher post-correction (in other words, the match rate accuracy far exceeds the threshold requirement that there be less than 5% inaccuracy pre-correction and less than 2% inaccuracy post-correction).

Based upon the accuracy and reliability of the above five categories of CAT Data, FINRA determined that the CAT Data met the accuracy and reliability standards required for OATS retirement.[25]

II. FINRA's Use of CAT Data

Additionally, the OATS Retirement Plan Order set forth that before retiring OATS, FINRA's use of CAT data must confirm that (i) there are no material issues that have not been corrected (*e.g.,* delays in the processing of data, issues with query functions, etc.); (ii) the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations[26]; and (iii) the Plan Processor is sufficiently meeting its obligations under the CAT NMS Plan relating to the reporting and linkage of Phase 2a Data.

As set forth in FINRA's OATS Retirement Filing, by September 1, 2021, FINRA will be ready to retire its use of OATS data for cross-market surveillance, and replace it with a newly created surveillance data mart, the Pattern Optimized Datamart (''POD''), which incorporates equities (and options) data submitted by both Participants such as LTSE and Industry Members. LTSE has been reporting via the CAT technical specifications since its launch on August 28, 2020. Full Participant equities reporting and linkage validations commenced on June 1, 2021.[27] Successful completion of the transition to the CAT specification for Participants was a prerequisite for FINRA to retire the OATS-based cross market surveillance patterns and leverage CAT Data and linkages in POD for its surveillance patterns. FINRA has completed all planned activities on schedule, including substantially completing the process of integrating

[21] *See supra* note 19.

[22] *See* Securities Exchange Act Release No. 92239 (June 23, 2021), 86 FR 34293 (June 29, 2021) (SR–FINRA–2021–017) (''OATS Retirement Filing'').

[23] Appendix D of the CAT NMS Plan, Section 7.2, for example, requires that certain file validations (*e.g.,* file transmission and receipt are in the correct formats, confirmation of a valid SRO-Assigned Market Participant Identifier, etc.), and syntax and context checks (*e.g.,* format checks, data type checks, consistency checks, etc.) be performed on all submitted records.

[24] *See* Letter from Lisa C. Horrigan, Associate General Counsel, FINRA, to Vanessa Countryman, Secretary, Commission, dated October 29, 2020.

[25] *See supra* note 22.

[26] FINRA conducts surveillance on behalf of LTSE pursuant to the Regulatory Service Agreement entered into by LTSE and FINRA (''RSA''). Therefore, any references in this rule filing to FINRA surveillance include FINRA's use of either OATS or CAT Data in furtherance of the regulatory services it provides on behalf of LTSE.

[27] For example, according to the CAT Reporting Technical Specification for Participants (version 4.0.0–r4 dated April 20, 2021), additional linkage error feedback for off-exchange trade reports was effective as of June 1, 2021. The Technical Specifications can be found on the CAT NMS Plan website at *www.catnmsplan.com/sites/default/files/2021-04/04.20.2021-CAT-Reporting-Technical-Specifications-for-Participants-4.0.0-r4.pdf.*

CAT Data into POD and successfully running large amounts of production CAT Data for the month of May through POD.[28] FINRA anticipates completing additional activities before the proposed OATS retirement date of September 1, 2021, including planned user acceptance testing.[29]

Additionally, FINRA has confirmed that all of the data required to support the transition from OATS to CAT is available in CAT.[30] Specifically, FINRA, supported by the Participants, conducted a mapping of all OATS data to CAT data, and then completed a ''gap analysis'' to address any issues with the field-level mapping of OATS to CAT data. Furthermore, LTSE, along with other Participants, has had a very high compliance rate in reporting CAT Data using the CAT specifications (both in the testing and production environments).[31] Reviewing the Participant submitted CAT Data and matching it with Industry Member data, FINRA determined that the data linkages in CAT are ''comparable to the linkages between RSA exchange data and OATS data'' currently used by FINRA.[32] Accordingly, the CAT NMS Plan Operating Committee approved the cutover from the RSA specification to the CAT specification as the official source of Participant data as of June 1, 2021, and today, all Industry Member and Participant equities data reported via the CAT specification is linked in the CAT production environment.

Thus, FINRA will use OATS data for surveillance patterns run through the end of the second quarter of 2021 and has already begun using CAT Data for its surveillance patterns for review periods beginning in the third quarter of 2021.[33] As detailed in the OATS Retirement Filing, FINRA will continue to conduct regular reviews to ensure confidence in the completeness and accuracy of Industry Member reporting, along with the ability to remediate any issues in a timely manner.[34]

[28] *See supra* note 22.

[29] As noted in the FINRA OATS Retirement Filing, user acceptance testing is the final stage of any software development lifecycle and enables actual users to test the system to confirm it is able to carry out the required tasks it was designed to address in real-world situations.

[30] *See supra* note 22.

[31] For example, for the month of July 2021, LTSE's compliance error rate for CAT Data reporting was 1.7% (*i.e.,* 98.3% of records were successfully reported). However, this monthly average error rate was impacted by a single day; for all other days in that month, LTSE's compliance error rate ranged between 0.00% and 0.05%.

[32] *See supra* note 22.

[33] *See supra* note 22.

[34] *See supra* note 22.

III. OATS May Be Retired in Light of the Accuracy and Reliability of the CAT Data

LTSE, like FINRA, believes that the three additional standards set forth in the OATS Retirement Order for retiring OATS have been satisfied. With respect to the first factor, LTSE, like FINRA, does not believe that there are any material issues that have not been corrected (or could not be corrected in the course of operation of CAT, as approved by the Operating Committee) that would impact FINRA's ability to incorporate and use CAT Data in FINRA's surveillance program, which it conducts on behalf of LTSE pursuant to the RSA. For example, the Plan requires that raw unprocessed data that has been ingested by the Plan Processor must be available to Participant regulatory staff and the SEC prior to 12:00 p.m. Eastern Time on T+1, and access to all iterations of processed data must be available to Participant regulatory staff and the SEC between 12:00 p.m. Eastern Time on T+1 and T+5.[35] The Plan Processor also must ensure that regulators have access to corrected and linked order data by 8:00 a.m. Eastern Time on T+5.[36] Additionally, after ingestion by the Central Repository, the raw unprocessed data must be transformed into a format appropriate for data querying and regulatory output.[37] The user-defined direct queries and bulk extracts must provide authorized users with the ability to retrieve CAT Data via a query tool or language that allows users to query all available attributes and data sources.[38] FINRA's use of the CAT Data has not uncovered any processing delays or other material issues impacting the availability of, and FINRA's access to, the data.[39]

With respect to the second factor, LTSE, like FINRA, believes that the CAT includes all data necessary for FINRA to meet its surveillance obligations after the retirement of OATS. FINRA must ensure that the CAT, as the single source of order and trade data, can enable FINRA to conduct accurate and effective market surveillance in accordance with its regulatory obligations. As noted above, Phase 2a Data includes all events and scenarios covered by OATS and is the most relevant for OATS retirement purposes. FINRA's testing, analysis and use of the CAT Data (including integration into POD), as described above, has confirmed that the CAT includes all data necessary for FINRA to meet its surveillance obligations and that CAT is a reliable substitute for OATS. In addition, based on its qualitative data reviews, FINRA has concluded that Industry Member CAT Data, in the aggregate, is a sufficient replacement for OATS for purposes of FINRA's surveillance program.

With respect to the third factor, LTSE, like FINRA, believes that the Plan Processor is sufficiently meeting its obligations under the CAT NMS Plan relating to the reporting and linkage of Phase 2a Data. As detailed in the Implementation Plan and Quarterly Progress Reports submitted by the Plan Participants, the Plan Processor has met its targeted completion dates for the milestones for Phase 2a, including, for example, production Go-Live for Equities 2a file submission and data integrity validation (Large Industry Members and Small OATS Reporters) on June 22, 2020; Production Go-Live for Equities 2a Intrafirm Linkage validations on July 27, 2020; and production go-live for firm-to-firm linkage validations for equities (Large Industry Members and Small OATS Reporters) and exchange and TRF/ORF linkage validations for equities (Large Industry Members and Small OATS Reporters) on October 26, 2020.[40]

Based on the foregoing, LTSE agrees with FINRA's determination that the CAT meets the accuracy and reliability standards approved by the Commission in the OATS Retirement Order for purposes of eliminating OATS. FINRA has determined to retire OATS effective September 1, 2021.[41] Firms must continue to report to OATS all order events that occur on or prior to August 31, 2021. Reports submitted to OATS for order events that occur after August 31, 2021 will be rejected. In other words, August 31, 2021 will be the last ''OATS Business Day,'' as defined under FINRA Rule 7450(b)(3), for which OATS will accept order events and perform routine processing (including incorporation of corrections and repairs of rejections) occurring within the normal OATS timeframe for such activities. OATS will continue to accept reports for order events that occur on or prior to August 31, 2021 (including, but not limited to, late and corrected reports for such order events) through September 16, 2021. Firms must ensure that their OATS

[35] *See* CAT NMS Plan, Appendix D, Section 6.2.

[36] *See* CAT NMS Plan, Appendix C, Section A.2(a).

[37] *See* CAT NMS Plan, Appendix C, Section A.1(b).

[38] *See* CAT NMS Plan, Section 6.10(c).

[39] *See* supra note 20.

[40] The Implementation Plan and Quarterly Progress Reports are available at *www.catnmsplan.com/implementation-plan.*

[41] See FINRA Regulatory Notice 21–21 (June 2021).

reporting is accurate and complete for all order events that occur on or prior to August 31, 2021. LTSE Rule 11.420, like the FINRA OATS Rules, will be deleted from the LTSE rulebook effective September 1, 2021.[42]

In light of the foregoing, LTSE, like FINRA, believes that retiring OATS as of September 1, 2021 is appropriate, particularly given the potential risks of continuing to run OATS and CAT in parallel for an additional period of time. Such potential risks may include, for example, on an industry-wide basis: (1) Processing and storage capacity issues from operating two systems (particularly in the event of extraordinary market volume); (2) cybersecurity risks from having data flow through two separate systems for a longer time period; (3) systems issues from reporting infrastructure that is near end-of-life; and (4) the expense and burden on CAT Reporters of dual reporting, particularly in the event of systems issues requiring correction and/or resubmission of data and competing resource priorities between OATS and CAT reporting and repair activities.

LTSE has filed the proposed rule change for immediate effectiveness and is seeking a waiver of the 30 day operative delay to allow its OATS rules to be retired concurrent with the September 1, 2021 retirement of FINRA's OATS Rules. LTSE will also announce the retirement of OATS via a trader alert to its Members.

2. Statutory Basis

LTSE believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act, [43] which require, among other things, that LTSE's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. LTSE believes that the proposed retirement of LTSE Rule 11.420 fulfills the obligation in the CAT NMS Plan for LTSE to submit a proposed rule change to eliminate or modify duplicative rules, and that the CAT NMS Plan has achieved the accuracy and reliability standards required by the Commission in the OATS Retirement Order.

Additionally, as discussed in the Purpose section, LTSE believes that the use of CAT Data, whether by LTSE directly, or by FINRA pursuant to the RSA, will continue to allow for accurate and effective surveillance of market activity on LTSE. Therefore, LTSE will continue to be able to fulfill its statutory obligation to protect investors and the public interest after the retirement of OATS.

B. Self-Regulatory Organization's Statement on Burden on Competition

LTSE does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. LTSE notes that the proposed rule change implements provisions of the CAT NMS Plan, facilitates the retirement of certain existing regulatory systems, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. LTSE also notes that the proposed rule change will apply equally to all firms that trade NMS Securities. In addition, all national securities exchanges and FINRA are proposing substantially similar rule filings. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

Furthermore, LTSE notes that FINRA undertook an economic impact assessment of the potential costs and benefits associated with OATS retirement and determined that CAT meets or exceeds the OATS standards.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [44] and Rule 19b–4(f)(6) thereunder.[45] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [46] and Rule 19b–4(f)(6)(iii) thereunder.[47]

The proposed rule change would not significantly affect the protection of investors or the public interest because it seeks to align LTSE's retirement of its OATS rule with FINRA's September 1, 2021 retirement of the OATS system itself. Thus, this rule change would facilitate the retirement of certain existing, duplicative, regulatory systems. Additionally, all national securities exchanges that currently have OATS rules are proposing substantially similar regulatory filings retiring their respective OATS rules. Therefore, this is not a competitive rule filing, and it does not impose a burden on competition. Accordingly, the Exchange has filed this rule change under Section 19(b)(3)(A) of the Act [48] and paragraph (f)(6) of Rule 19b–4 thereunder.[49]

A proposed rule change filed under Rule 19b–4(f)(6) [50] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[51] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative by September 1, 2021, the first day in which FINRA will no longer accept OATS data.[52] As discussed above, LTSE believes that it is appropriate for FINRA to retire OATS effective September 1, 2021. LTSE states that the use of CAT Data, whether by LTSE or by FINRA pursuant to LTSE's RSA with FINRA, will allow for accurate and effective surveillance of market activity on LTSE. In addition, August 31, 2021, will be the last ''OATS Business Day,'' as defined under FINRA Rule 7450(b)(3), for which OATS will accept order events and perform routine processing, and reports submitted to OATS for order events that occur after August 31, 2021, will be rejected. The Commission believes that it is

[42] In the unlikely event that FINRA determines it is unable to retire OATS effective September 1, 2021, LTSE will delay the retirement of LTSE Rule 11.420 pending the actual retirement of FINRA OATS.

[43] 15 U.S.C. 78f(b)(5).

[44] 15 U.S.C. 78s(b)(3)(A)(iii).

[45] 17 CFR 240.19b–4(f)(6).

[46] 15 U.S.C. 78s(b)(3)(A).

[47] 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.

[48] 15 U.S.C. 78s(b)(3)(A).

[49] 17 CFR 240.19b–4.

[50] 17 CFR 240.19b–4(f)(6).

[51] 17 CFR 240.19b–4(f)(6)(iii).

[52] In the unlikely event that FINRA determines it is unable to retire OATS effective September 1, 2021, LTSE will delay the retirement of LTSE Rule 11.420 pending the actual retirement of FINRA OATS.

consistent with the protection of investors and the public interest for LTSE to delete its OATS reporting rules at the same time that FINRA retires OATS. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative on September 1, 2021.[53]

At any time within 60 days of the filing of this 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 will 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–LTSE–2021–05 *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–LTSE–2021–05. 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 LTSE and on its internet website at *https://longtermstockexchange.com/.* 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–LTSE–2021–05, and should be submitted on or before September 29, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[54]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19296 Filed 9–7–21; 8:45 am]

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[53] For purposed 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).

[54] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92839; File No. SR–NYSE–2021–42]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend the Requirements of Section 102.06 of the NYSE Listed Company Manual To Allow an Acquisition Company To Contribute a Portion of Its Trust Account to a New Acquisition Company and Spin-Off the New Acquisition Company to Its Shareholders

September 1, 2021.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 23, 2021, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 requirements of Section 102.06 of the NYSE Listed Company Manual (''Manual'') for the listing of acquisition companies and the provisions of Section 802.01B with respect to the qualification of an acquisition company after its business combination. The proposed rule 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify Section 102.06 of the Manual to allow an acquisition company listed under that rule to contribute a portion of the amount held in its trust account to a trust account of a new AC and spin off the new AC to its shareholders in certain situations where the new AC will be subject to all of the same requirements as the original AC.

In 2008, the Exchange adopted a rule to allow companies that have no specific business plan or that have indicated their business plan is to consummate the acquisition of one or more operating businesses or assets (a ''Business Combination'') to list if they meet all applicable initial listing requirements, as well as additional conditions designed to provide investor protections to address specific concerns about the structure of such companies (''Acquisition Companies'' or ''ACs'').[4]

[4] *See* Securities Exchange Act Release No. 57785 (May 6, 2008), 73 FR 27597 (May 13, 2008) (SR–NYSE–2008–17).

These additional conditions generally require, among other things, that at least 90% of the gross proceeds from the initial public offering must be deposited in a ''trust account,'' as that term is defined in the rule, and that the AC complete within three years (or such shorter period specified by the AC's constitutive documents or by contract) one or more Business Combinations having an aggregate fair market value of at least 80% of the value of the trust account at the time of the agreement to enter into the initial combination.

When an AC conducts its initial public offering, it raises the amount of capital that it estimates will be necessary to finance a subsequent business combination with its ultimate target. However, because an AC cannot identify or select a specific Business Combination target at the time of its IPO, it often turns out that the amount raised is not optimal for the needs of a specific target. This has resulted in the inefficient, current practice of AC sponsors creating multiple ACs of different sizes at the same time, with the intention to use the AC that is closest in size to the amount a particular target needs. This practice creates the potential for conflicts between the multiple ACs (each of which has different shareholders) and still fails to optimize the amount of capital that would benefit the AC's public shareholders and a Business Combination target. Moreover, this creates the need for repetitive action throughout the ecosystem, including the filing and SEC review of multiple registration statements and periodic reports, formation of multiple boards of directors, multiple audits and multiple company listings. This practice also can lead to confusion amongst investors.

Accordingly, the Exchange proposes to modify Section 102.06 to permit a more efficient structure whereby an AC can raise in its initial public offering the maximum amount of capital it anticipates it may need for a Business Combination transaction and then ''rightsize'' itself by contributing any amounts not needed to a new AC (the ''SpinCo AC''), and spinning off this SpinCo AC to its shareholders. The SpinCo AC will be subject to all the existing provisions of Section 102.06 in the same manner, and subject to the same timeframes, as the original AC.

It is expected that, if approved, the new structure will be implemented in the following manner. If the listed AC determines that it will not need all of the cash in its trust account for its initial business combination, it will designate the excess cash for a new trust account held by a SpinCo AC, which will be spun off to the original AC's shareholders as described below. Until the spin-off described below, the amount designated for the SpinCo trust account must continue to be held for the benefit of the shareholders of the original AC. Following the spin-off, the SpinCo trust account will be subject to the same requirements as the trust account of the original AC.

The SpinCo AC will file a registration statement under the Securities Act of 1933 for purposes of effecting the spin-off of the SpinCo AC. Prior to the effectiveness of the registration statement, the original AC will provide its public shareholders through one or more corporate transactions with the opportunity to redeem a pro rata amount of their holdings equal to the amount of the SpinCo trust account divided by the per share amount in the original AC's trust account (the ''redemption price'').[5]

After completing the tender offer and effectiveness of the SpinCo AC's registration statement, the original AC will contribute the SpinCo trust account to a trust account held by the SpinCo AC in exchange for shares or units of the SpinCo AC, which the original AC will then distribute to its public shareholders on a pro rata basis through one or more corporate transactions pursuant to the SpinCo AC's effective registration statement.

The original AC will then continue to operate as an AC until it completes its business combination and will offer redemption rights to its public shareholders in connection with that business combination in the same manner as a traditional AC. The SpinCo AC will operate in the same manner as a traditional AC, except that it could effect a spin-off prior to its business combination like the original AC. If it does not elect to effect a spin-off, the SpinCo AC will either (1) proceed to complete an initial business combination and offer redemption rights in connection therewith like a traditional AC or (2) liquidate.

The Exchange proposes adopting a new subsection of Section 102.06 which will specifically permit this type of transaction by allowing the Original AC to contribute (the ''Contribution'') a portion of the amount held in the trust account to the trust account of a SpinCo AC in a spin-off or similar corporate transaction where all of the conditions described below are satisfied:

(i) In connection with the Contribution, each AC public shareholder has the right, through one or more corporate transactions, to redeem a portion of its shares of common stock or units, as applicable, for its pro rata portion of the amount of the Contribution in lieu of being entitled to receive shares or units in the SpinCo AC;

(ii) the requirement of Section 102.06 that the AC provide each public shareholder voting against a Business Combination with the right to convert its shares of common stock into a pro rata share of the aggregate amount then on deposit in the trust account (net of taxes payable, and amounts disbursed to management for working capital purposes), provided that the Business Combination is approved and consummated, will be considered satisfied by pro rata distribution to such shareholders of the amounts in the trust account after having been reduced by the Contribution;

(iii) the public shareholders of the AC receive shares or units of the SpinCo AC on a pro rata basis, except to the extent they have elected to redeem a portion of their shares of the AC in lieu of being entitled to receive shares or units in the SpinCo AC;

(iv) the Contribution will remain in a trust account for the benefit of the shareholders of the SpinCo AC in the manner required for ACs listed under Section 102.06;

(v) the SpinCo AC meets all applicable initial listing requirements for an AC listing in connection with an initial public offering under Section 102.06; it being understood that, following such spin-off or similar corporate transaction:

(A) The 80% described in the first paragraph of Section 102.06 shall, in the case of the AC, be calculated based on the aggregate amount remaining in the trust account of the AC at the time of the agreement to enter into the Business Combination as reduced by the Contribution, and, in the case of the SpinCo AC, be calculated based on the aggregate amount in its trust account at the time of its agreement to enter into a Business Combination, and

(B) the right to convert and opportunity to redeem shares of common stock on a pro rata basis required for ACs listed under this Section 102.06 shall, in the case of the AC, be deemed to apply to the aggregate amount remaining in the trust account of the AC after the Contribution to the SpinCo AC, and, in the case of the

[5] This redemption could occur, for example, through a partial cash tender offer for shares of the original AC pursuant to Rule 13e–4 and Regulation 14E of the Securities Exchange Act of 1934, and the redemption may be of a separate class of shares distributed to unitholders of the original AC for the purpose of facilitating the redemption.

SpinCo AC, be deemed to apply to the aggregate amount in its trust account;

(vi) in the case of the SpinCo AC, and any additional entities spun off from the SpinCo AC, each of which will also be considered a SpinCo AC, the 36-month period within which a listed AC must consummate its Business Combination under Section 102.06 (or such shorter period that the AC specifies in its registration statement) will be calculated based on the date of effectiveness of the AC's IPO registration statement; and

(vii) in the aggregate, through one or more opportunities by the AC and one or more SpinCo ACs, public shareholders will have the ability to convert or redeem shares, or receive amounts upon liquidation, for the full amount of the trust account established by the AC as described in the first paragraph of this Section 102.06 (excluding any deferred underwriters fees and taxes payable on the income earned on the trust account).

For the avoidance of doubt, the conditions above will similarly apply to successive spinoffs or similar corporate transactions.

Under Section 102.06, a majority of the AC's independent directors must approve its Business Combination and a majority of the independent directors of the SpinCo AC must approve the SpinCo AC's Business Combination.

The structure allows public shareholders an additional, early redemption opportunity with respect to a portion of their holdings, before the time they would be able to do so in a traditional AC, and public shareholders would maintain the ability to redeem the portion of their investment attributable to each specific acquisition after reviewing all disclosure with respect to that acquisition. All other protections provided under Section 102.06 would continue to apply, with adjustments only to reflect the potential for a spin-off of a new AC that is subject to all of the requirements of Section 102.06. Moreover, the proposed structure would also provide shareholders the opportunity to invest with a sponsor without spreading that investment across the sponsor's multiple ACs.

Finally, the Exchange proposes to amend the subsection of Section 802.01B of the Manual setting forth the continued listing criteria applicable to ACs to specify that those criteria are also applicable in their entirety to SpinCo ACs. In addition, the Exchange proposes to add a new subsection to Section 102.06 stating that the applicable continued listing criteria for both ACs and SpinCo ACs are set forth in Section 802.01B.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by establishing the means through which an AC can complete more than one business combination resulting in separate operating companies.

The Commission has previously concluded that listing an acquisition company that satisfies the requirements of Section 102.06 is consistent with the investor protection goals of the Act.[8] The proposed rule change will extend these important investor protections to a new structure that addresses inefficiencies and potential conflicts of interest in the AC market. Specifically, as proposed, a SpinCo AC will be required to satisfy all applicable initial listing requirements, like any other AC listing on the Exchange. In addition, the provisions of Section 102.06 will apply to the SpinCo AC in the same manner as they apply to any other AC, except the trust account will be contributed to the SpinCo AC by the original AC.

The existing requirements of Section 102.06 with respect to the consummation of a business combination and the related redemption rights will also apply to each of the original AC and the SpinCo AC in the proposed structure in the same manner as they apply to any other AC, except that the 80% test will be applied to the amount retained by the original AC after public shareholders have had an initial, early redemption opportunity and the original AC has contributed a portion of its trust account to the SpinCo AC. The Exchange believes that this proposed difference does not adversely affect shareholders because the shareholders will still have the opportunity to redeem for the entire pro rata share of the trust account prior to completion of the business combination. The primary difference is that the redemption right may be effected through two decisions, one of which is accelerated to allow an earlier redemption than would be available to the public shareholders of a traditional AC and the other will come at the time of the business combination, just as in a traditional AC.

As with the existing rules, each business combination must be approved by the AC's independent directors, as required by the existing provisions of Section 102.06, and following each business combination, the combined company must satisfy all initial listing requirements, as required by Section 802.01B.

Accordingly, in this manner, the Exchange believes that the proposed rule change satisfies the requirements of Section 6(b)(5) of the Act in that it is designed 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule would be available in a non-discriminatory way to any company satisfying its requirements, as well as all other applicable NYSE listing requirements. In addition, the Exchange faces competition for listings but the proposed rule change does not impose any burden on the competition with other exchanges; any competing exchange could similarly adopt rules to allow listing ACs using such a structure.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *See* Securities Exchange Act Release No. 57785, *supra* note 3.

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–NYSE–2021–42 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–NYSE–2021–42. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2021–42, and should be submitted on or before September 29, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92844; File No. SR–MEMX–2021–10]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing of a Proposed Rule Change To Establish a Retail Midpoint Liquidity Program

September 1, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 18, 2021, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to establish a Retail Midpoint Liquidity Program. The text of the proposed rule change is provided in Exhibit 5.

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.

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

Background

The Exchange proposes to adopt new Exchange Rule 11.22 to establish a Retail Midpoint Liquidity Program (the ''RML Program''). As proposed, the RML Program is designed to provide retail investors with meaningful price improvement opportunities by executing at the midpoint of the national best bid and offer (''NBBO'') such that Users [3] will be incentivized to direct additional orders designed to execute at the midpoint of the NBBO (the ''Midpoint Price'') to the Exchange to interact with orders that originate from retail investors that are also designed to execute at the Midpoint Price.

As former Commission Chairman Jay Clayton noted in a 2018 speech, forty-three million U.S. households hold a retirement or brokerage account, with $3.6 trillion in balance sheet assets in 128 million customer accounts serviced by more than 2,800 registered broker-dealers.[4] He also noted the importance of continued broad, long-term retail participation in our capital markets, and that retail investors count on the capital markets to fund major life events such as paying for their children's higher education or funding their own retirements.[5]

Against this backdrop, the RML Program is designed to provide retail investors with access to a pool of midpoint liquidity on the Exchange by introducing a new mechanism for retail-oriented liquidity provision, thereby providing enhanced opportunities for meaningful price improvement at the Midpoint Price for retail investors. The Exchange believes that introducing the RML Program could provide retail investors with a competitive alternative to existing exchange and over-the-counter (''OTC'') retail programs, by

[3] As defined in Exchange Rule 1.5(jj), a ''User'' is a member of the Exchange (''Member'') or sponsored participant of a Member who is authorized to obtain access to the System pursuant to Exchange Rule 11.3. The term ''System'' refers to the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing. *See* Exchange Rule 1.5(gg).

[4] *See* The Evolving Market for Retail Investment Services and Forward-Looking Regulation—Adding Clarity and Investor Protection while Ensuring Access and Choice, Chairman Jay Clayton, Commission (May 2, 2018), available at *https://www.sec.gov/news/speech/speech-clayton-2018-05-02*.

[5] *Id.*

attracting counterparty liquidity to the Exchange from Users and their clients seeking to interact with retail liquidity. The Exchange understands that many professional market participants, such as market makers, view interacting with orders of retail investors as more desirable than interacting with orders of other professional market participants. For example, as the Commission staff noted in a 2016 memorandum to the Equity Market Structure Advisory Committee (''EMSAC Memorandum''), ''[m]arket makers are interested in retail customer order flow because retail investors are, on balance, less informed than other traders about short-term price movements . . . [and t]rading against retail customer order flow enables market makers to avoid adverse selection by informed professional traders and to more reliably profit from market-making activity.'' [6] Consistent with the EMSAC Memorandum's conclusions, and based on informal discussions with market participants and the knowledge and experience of its staff, the Exchange believes that market makers and other sophisticated market participants generally value interacting with retail orders because they are smaller and not likely to be part of a larger parent order that can move a stock price, causing a loss to the market maker. The proposed rule change thus seeks to provide enhanced price improvement opportunities for retail customers by incentivizing Users and their clients to provide price-improving liquidity to interact with the orders of retail investors. The RML Program would therefore be consistent with the goals of the Commission to encourage markets that are structured to benefit ordinary investors,[7] while facilitating order interaction to the benefit of all market participants.

As proposed, through the RML Program, the Exchange would enable Retail Member Organizations [8] to submit a new type of Retail Order designed to execute at the Midpoint Price (*i.e.,* a Retail Midpoint Order, described below) to the Exchange, and any User would be permitted to provide price improvement to such order in the form of another new order type that is designed to execute at the Midpoint Price and that is only eligible to execute against a Retail Midpoint Order (*i.e.,* an RML Order, described below). The Exchange expects that the introduction of Retail Midpoint Orders and RML Orders, through the proposed RML Program, would result in a balanced mix of retail brokerage firms and their wholesaling partners submitting Retail Midpoint Orders to the Exchange to access the additional midpoint liquidity provided by RML Orders that the Exchange anticipates resulting from the RML Program.

The Exchange notes that the proposed RML Program is comparable in purpose and effect to the Investors Exchange LLC (''IEX'') Retail Price Improvement Program (the ''IEX Retail Program''), which is also designed to provide retail investors with meaningful price improvement opportunities.[9] Further, the Commission recently approved several changes to the IEX Retail Program that make certain features of the IEX Retail Program substantially similar to proposed features of the RML Program.[10] The Exchange will describe certain differences between the proposed RML Program and the IEX Retail Program under the appropriate headings below.

The Exchange will submit a separate proposal to amend its Fee Schedule in connection with the proposed RML Program. Under that proposal, the Exchange expects to provide free executions or charge a fee to Users for executions of their RML Orders against Retail Midpoint Orders, and in turn would provide a rebate or free executions to RMOs for executions of their Retail Midpoint Orders against RML Orders.

Definitions

The Exchange proposes to adopt the following definitions under paragraph (a) of proposed Exchange Rule 11.22 (Retail Midpoint Liquidity Program). First, the term ''Retail Midpoint Order'' would be defined as a Retail Order submitted by an RMO that is a Pegged Order [11] with a Midpoint Peg [12] instruction (''Midpoint Peg Order'') and that is only eligible to execute against RML Orders (a proposed new order type described below), and other orders priced more aggressively than the Midpoint Price, through the execution process described in proposed Exchange Rule 11.22(c). As proposed, a Retail Midpoint Order must have a time-in-force (''TIF'') instruction of IOC.[13]

Second, the term ''Retail Midpoint Liquidity Order'' or ''RML Order'' would be defined as a Midpoint Peg Order that is only eligible to execute against Retail Midpoint Orders through the execution process described in proposed Exchange Rule 11.22(c). As proposed, an RML Order must have a TIF instruction of Day,[14] RHO,[15] or GTT [16] and may not include a Minimum Execution Quantity [17] instruction. Any User would be permitted, but not required, to submit RML Orders. Additionally, the Exchange proposes that a User may, but is not required to, designate an RML Order to be identified as RML Order interest (''RML Interest'') for purposes of the Retail Liquidity

[6] *See* January 26, 2016 Memorandum entitled ''Certain Issues Affecting Customers in the Current Equity Market Structure'' from the staff of the Commission's Division of Trading and Markets, available at *https://www.sec.gov/spotlight/equity-market-structure/issues-affecting-customers-emsac-012616.pdf*.

[7] *See, e.g.,* U.S. Securities and Exchange Commission, Strategic Plan, Fiscal Years 2018–2022, available at *https://www.sec.gov/files/SEC_Strategic_Plan_FY18-FY22_FINAL_0.pdf* (''Commission Strategic Plan'').

[8] A ''Retail Member Organization'' or ''RMO'' is a Member (or a division thereof) that has been approved by the Exchange under Exchange Rule 11.21 to submit Retail Orders. A ''Retail Order'' means an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. *See* Exchange Rule 11.21(a).

[9] *See* IEX Rule 11.232; *see also* Securities Exchange Act Release No. 92398 (July 13, 2021), 86 FR 38166 (July 19, 2021) (SR–IEX–2021–06) (order approving changes to the IEX Retail Program including dissemination of a retail liquidity identifier and limiting IEX Retail Liquidity Provider orders to midpoint peg orders) (the ''IEX Retail Approval Order''). The Exchange notes that the IEX Retail Program, as amended, supports executions of retail orders described in IEX Rule 11.190(b)(15) (''IEX Retail Orders'') at the Midpoint Price as well as prices that are different than the Midpoint Price in certain limited circumstances. While the Exchange's proposed new order types under the RML Program would only be eligible to execute at the Midpoint Price, as further described below, the Exchange notes that Retail Orders would still be eligible to execute at prices that are different than the Midpoint Price outside of the RML Program as they are today.

[10] *See* IEX Retail Approval Order, *supra* note 9.

[11] Pegged Orders are described in Exchange Rules 11.6(h) and 11.8(c) and generally defined as an order that is pegged to a reference price and automatically re-prices in response to changes in the NBBO.

[12] A Midpoint Peg instruction is an instruction that may be placed on a Pegged Order that instructs the Exchange to peg the order to the midpoint of the NBBO. *See* Exchange Rule 11.6(h)(2).

[13] ''IOC'' is an instruction the User may attach to an order stating the order is to be executed in whole or in part as soon as such order is received, and the portion not executed immediately on the Exchange or another trading center is treated as cancelled and is not posted to the MEMX Book. *See* Exchange Rule 11.6(o)(1). The term ''MEMX Book'' refers to the System's electronic file of orders. *See* Exchange Rule 1.5(q).

[14] *See* Exchange Rule 11.6(o)(2).

[15] *See* Exchange Rule 11.6(o)(5).

[16] *See* Exchange Rule 11.6(o)(4).

[17] The Minimum Execution Quantity instruction is described in Exchange Rule 11.6(f) and is generally defined as an instruction a User may attach to an order with a Non-Displayed instruction or a TIF of IOC instruction requiring the System to execute the order only to the extent that a minimum quantity can be satisfied. A Non-Displayed instruction is an instruction a User may attach to an order stating that the order is not to be displayed by the System on the MEMX Book. *See* Exchange Rule 11.6(c)(2).

Identifier pursuant to proposed Exchange Rule 11.22(b) (such RML Interest is sometimes referred to herein as ''designated RML Interest''), as further described below, by including a Displayed instruction.[18] A User would be able to designate RML Interest for this purpose on an order-by-order basis or on a port-by-port basis. The Exchange notes that, except with respect to a User's ability to elect whether to designate an RML Order to be identified as such for purposes of the Retail Liquidity Identifier, an RML Order is substantially similar in effect to IEX's Retail Liquidity Provider Order (''IEX RLP Order'') offered under the IEX Retail Program, in that an RML Order is an order that is designed to execute at the Midpoint Price, is only eligible to execute against retail order interest, and may be submitted by any User.[19]

As further described below, Retail Midpoint Orders and RML Orders would only be eligible to execute at the Midpoint Price. Additionally, as reflected in the proposed definitions of Retail Midpoint Order and RML Order, such orders would only be eligible to execute against each other with the exception that a Retail Midpoint Order would also be eligible to execute against other orders in certain limited circumstances (*i.e.,* against displayed odd lot orders and/or non-displayed orders priced more aggressively than the Midpoint Price resting on the MEMX Book) pursuant to proposed Exchange Rule 11.22(c)(2), as further described below. The purpose of limiting Retail Midpoint Orders and RML Orders to interacting with each other (subject to the exception of Retail Midpoint Orders being eligible to execute against other orders priced more aggressively than the Midpoint Price) is that the proposed RML Program is designed to provide a mechanism whereby liquidity-providing Users can provide price-improving liquidity at the Midpoint Price specifically to retail investors, and liquidity-removing RMOs submitting orders on behalf of retail investors can interact with such price-improving liquidity at the Midpoint Price, in a deterministic manner. The Exchange notes that this aspect of the proposed RML Program is partially different than the IEX Retail Program. Like an IEX RLP Order, which is only eligible to execute against IEX Retail Orders, the Exchange's proposed RML Order would only be eligible to execute against Retail Midpoint Orders. However, an IEX Retail Order is generally eligible to execute against order types other than an IEX RLP Order,[20] whereas the Exchange's proposed Retail Midpoint Order would be generally limited to executing against RML Orders (subject to the exception of Retail Midpoint Orders being eligible to execute against other orders priced more aggressively than the Midpoint Price). While this aspect of the Exchange's proposal differs from the IEX Retail Program, the Exchange notes that the concept of an order type that is limited to interacting with a specific contra-side order type has previously been approved by the Commission both in the context of liquidity-providing orders for retail programs[21] and in other contexts.[22] The Exchange believes the proposed Retail Midpoint Order is analogous to such order types even though a Retail Midpoint Order would be eligible to execute against non-RML Orders where such orders are priced more aggressively than the Midpoint Price because orders priced more aggressively than the Midpoint Price comprise only a small amount of the Exchange's volume of orders, and thus, the Exchange expects that Retail Midpoint Orders would mostly interact with RML Orders. Moreover, the Exchange generally expects RMOs to submit Retail Midpoint Orders when the Retail Liquidity Identifier is disseminated, which indicates that there is available RML Interest of at least one round lot on the MEMX Book, and generally does not expect RMOs to submit Retail Midpoint Orders when the Retail Liquidity Identifier is not disseminated or otherwise to specifically seek to interact with other orders priced more aggressively than the Midpoint Price, particularly as any such orders would be either non-displayed (and therefore not known to the RMO) or less than a round lot in size, and RMOs could still submit Retail Orders to interact with such liquidity using an order type other than the Retail Midpoint Order as they can today.

As Retail Midpoint Orders and RML Orders are types of Pegged Orders, and are designed to execute on the Exchange against each other, such orders would not be eligible for routing.[23]

Retail Liquidity Identifier

Under the RML Program, the Exchange proposes to disseminate a Retail Liquidity Identifier through the Exchange's proprietary market data feeds, MEMOIR Depth[24] and MEMOIR Top,[25] and the appropriate securities information processor (''SIP'') when designated RML Interest aggregated to form at least one round lot for a particular security is available in the System (''Retail Liquidity Identifier''), provided that such designated RML Interest is resting at the Midpoint Price and is priced at least $0.001 better than the national best bid (''NBB'') or national best offer (''NBO'').

The purpose of the Retail Liquidity Identifier is to provide relevant market information to RMOs that there is available RML Interest on the Exchange, thereby incentivizing them to send Retail Midpoint Orders to the Exchange seeking execution at the Midpoint Price. The Retail Liquidity Identifier would reflect the symbol and the side (buy and/or sell) of the designated RML Interest but would not include the price or size. The Exchange does not believe that such market information constitutes a ''quote'' within the meaning of

[18] A Displayed instruction is an instruction a User may attach to an order stating that the order is to be displayed by the System on the MEMX Book. *See* Exchange Rule 11.6(c)(1). Under Exchange Rule 11.8(c)(3), Pegged Orders, including Midpoint Peg Orders, are not eligible to include a Displayed instruction; however, as proposed, an RML Order would be eligible to include a Displayed instruction, which would be for the sole purpose of indicating to the Exchange that the User has designated the RML Order to be identified as RML Interest for purposes of the Retail Liquidity Identifier pursuant to proposed Exchange Rule 11.22(b), and inclusion of the Displayed instruction would not indicate to the Exchange that the RML Order is to be displayed by the System on the MEMX Book. The Exchange's proposal to permit Users to include a Displayed instruction for an RML Order for this purpose is purely to facilitate the implementation of the Retail Liquidity Identifier by using an existing but otherwise inapplicable instruction type (*i.e.,* the Displayed instruction), and the System will otherwise handle an RML Order with a Displayed instruction as if no Displayed instruction was included.

[19] *See* IEX Rule 11.190(b)(14), which describes the IEX RLP Order. *See also* IEX Retail Approval Order, *supra* note 9.

[20] *See* IEX Rule 11.232(e)(3), which describes the priority and order execution processes for IEX Retail Orders and provides that such orders are eligible to execute against order types other than an IEX RLP Order in certain circumstances, including against other orders during a locked or crossed market, against displayed odd lot orders priced at or better than the Midpoint Price, and against other non-displayed interest at the Midpoint Price.

[21] *See, e.g.,* IEX Rule 11.190(b)(14), which states that an IEX RLP Order is only eligible to execute against IEX Retail Orders; Nasdaq PSX Rule 4702(b)(5)(A), which states that on Nasdaq PSX a Retail Price Improving Order may only execute against a Retail Order.

[22] *See, e.g.,* Securities Exchange Act Release No. 82825 (March 7, 2018), 83 FR 10937 (March 13, 2018) (SR–NASDAQ–2017–074) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3, to Adopt the Midpoint Extended Life Order) (the ''MELO Approval Order''). As set forth in the MELO Approval Order, Nasdaq originally allowed executions of Midpoint Extended Life Orders (''MELOs'') only against other eligible MELOs. Pursuant to Rule 4702(b)(14)(A) Nasdaq today allows executions of MELOs only against eligible MELOs and MELO+CB orders.

[23] *See* Exchange Rule 11.8(c)(5), which provides that Pegged Orders are not eligible for routing.

[24] *See* Exchange Rule 13.8(a).

[25] *See* Exchange Rule 13.8(b).

Regulation NMS because it does not include a specific price or size of the interest; alternatively, if such information is deemed a quote, the Exchange believes that an exemption from applicable rules would be appropriate.[26] While an explicit price would not be disseminated, because RML Orders are only eligible to execute at the Midpoint Price, dissemination of the Retail Liquidity Identifier would thus reflect the availability of price improvement at the Midpoint Price.[27]

As noted above, the Exchange would only disseminate the Retail Liquidity Identifier when designated RML Interest would provide at least $0.001 of price improvement, which is consistent with the rules of the other exchanges that disseminate Retail Liquidity Identifiers [28] as well as the SIP Plans' requirements.[29] Because RML Orders are proposed to be only Midpoint Peg Orders, they will always represent at least $0.001 price improvement over the NBB or NBO, with two exceptions: (1) In a locked or crossed market; and (2) a sub-dollar quote when the security's spread is less than $0.002.[30] Under Exchange Rule 11.8(c)(6), a Pegged Order resting on the MEMX Book is not eligible for execution when the market is locked or crossed; thus, an RML Order would not be eligible for execution when the market is locked or crossed and would rest on the MEMX Book and become eligible for execution again when the market ceases to be locked or crossed.[31] Because an RML Order would not be eligible for execution when the market is locked or crossed, such order would not provide any price improvement to an incoming Retail Midpoint Order (*i.e.,* would not be priced at least $0.001 better than the NBB or NBO) and therefore would not comprise eligible RML Interest for purposes of the Retail Liquidity Identifier. Similarly, when a particular security is priced less than $1.00 per share, its MPV is $0.0001, so the Midpoint Price will not always represent at least $0.001 in price improvement.[32] Therefore, the Exchange would only disseminate the Retail Liquidity Identifier for sub-dollar securities if the spread in the security is greater than or equal to $0.002, meaning the Midpoint Price represents at least $0.001 price improvement over the NBB or NBO. With respect to the requirement that an RML Order must be resting at the Midpoint Price in order to be included in the designated RML Interest to be disseminated pursuant to the Retail Liquidity Identifier, the Exchange notes that an RML Order could have a limit price that is less aggressive than the Midpoint Price in which case it would not be eligible to trade with an incoming Retail Midpoint Order and therefore should not be included for purposes of Retail Liquidity Identifier dissemination since it would not reflect interest available to trade with Retail Midpoint Orders. The Exchange notes that not including: (1) RML Interest for a security when the market for the security is locked or crossed; (2) RML Interest for a sub-dollar security if the spread in the security is greater [sic] than or equal [sic] to $0.002; and (3) RML Interest that is not resting at the Midpoint Price (*i.e.,* RML Interest that is constrained by a limit price that is less aggressive than the Midpoint Price), for purposes of Retail Liquidity Identifier dissemination is consistent with the Retail Liquidity Identifier disseminated by IEX under the IEX Retail Program.[33]

The Exchange also proposes to remove the Retail Liquidity Identifier previously disseminated through the MEMOIR Depth and MEMOIR Top data products and through the appropriate SIP after executions against Retail Midpoint Orders have depleted the available designated RML Interest such that the remaining designated RML Interest does not aggregate to form at least one round lot, or in situations where there is no actionable RML Interest (such as when the market is locked or crossed), in order to indicate to market participants that there is no longer designated RML Interest of at least one round lot available. The Exchange believes that removing the Retail Liquidity Identifier on the market data feeds and SIP when there is not sufficient eligible RML Interest available is consistent with the implementation of the other exchanges that disseminate Retail Liquidity Identifiers.

As described above, the Exchange's proposed Retail Liquidity Identifier is substantially similar to IEX's Retail Liquidity Identifier. However, the Exchange notes one key distinction—the Exchange would enable a User to elect whether to designate an RML Order to be identified as such for purposes of the Retail Liquidity Identifier. Similar to the proposed RML Program, under the IEX Retail Program, eligible IEX RLP Order interest that is aggregated to form at least one round lot is required to cause the dissemination of the Retail Liquidity Identifier. Under the IEX Retail Program, a User is not able to elect whether an IEX RLP Order is to be identified as such for purposes of the Retail Liquidity Identifier, and thus, all IEX RLP Order interest is included in determining whether there is a sufficient amount of IEX RLP Order interest (*i.e.,* one round lot) to cause the dissemination of the Retail Liquidity Identifier. In contrast, under the proposed RML Program, a User may, but is not required to, designate an RML Order to be identified as such for purposes of the Retail Liquidity Identifier. Therefore, a User would be able to elect whether an RML Order that it submits will be included in determining whether there is a sufficient amount of RML Interest (*i.e.,* one round lot) to cause the dissemination of the Retail Liquidity Identifier (*i.e.,* whether it constitutes designated RML Interest).[34]

As further described below, RML Orders that are designated to be identified as such for purposes of the Retail Liquidity Identifier would receive execution priority ahead of RML Orders that are not designated to be identified as such. The Exchange believes that providing Users with the optionality to designate their RML Orders to be identified as such for purposes of the Retail Liquidity Identifier is appropriate

[26] The Exchange plans to submit a letter requesting no-action or exemptive relief from obligations set forth in Rule 602 of Regulation NMS.

[27] The Exchange notes that this aspect of the proposed Retail Liquidity Identifier is the same as the Retail Liquidity Identifier disseminated by IEX under the IEX Retail Program that was recently approved by the Commission. *See* IEX Rule 11.232(f); *see also* IEX Retail Approval Order, *supra* note 9, at 38167.

[28] *See, e.g.,* IEX Rule 11.232(f), Cboe BYX Rule 11.24(e), and NYSE Arca Equities Rule 7.44(j).

[29] *See* January 26, 2021 CQS Participant Input Binary Specification Version 2.6a, available at *https://www.ctaplan.com/publicdocs/ctaplan/CQS_Pillar_Input_Specification.pdf* and May 2020 UTP Data Feed Services Specification Version 1.5, available at *https://www.utpplan.com/DOC/UtpBinaryOutputSpec.pdf.*

[30] The Minimum Price Variation (''MPV'') for bids, offers, or orders in securities priced less than $1.00 per share is $0.0001. *See* Exchange Rule 11.6(g).

[31] *See* Exchange Rule 11.8(c)(6).

[32] For example, if a security's NBB is $0.505 and NBO is $0.506, the Midpoint Price would be $0.5055, which is $0.0005 more than the NBB and less than the NBO, so it would not represent at least $0.001 price improvement over the NBB or NBO, and therefore would not comprise eligible RML Interest for purposes of the Retail Liquidity Identifier.

[33] *See* IEX Rule 11.232(f); *see also* IEX Retail Approval Order, *supra* note 9, at 38167.

[34] As an example, assume the following facts: User 1 enters an RML Order that is designated to be identified as such for purposes of the Retail Liquidity Identifier to buy 50 shares of ABC; User 2 enters an RML Order that is not designated to be identified as such for purposes of the Retail Liquidity Identifier to buy 100 shares of ABC; and such orders are the only RML Orders resting on the MEMX Book. In this event, the Exchange would not disseminate the Retail Liquidity Identifier because there is not designated RML Interest to buy ABC aggregated to form at least one round lot available in the System, as only User 1's RML Order to buy 50 shares of ABC was designated as such.

because some Users submitting RML Orders may be concerned with signaling to the market that there is interest to buy or sell at the non-displayed Midpoint Price. In particular, while a User submitting a smaller sized RML Order as part of a normal liquidity provision strategy might prefer to have its interest identified through the Retail Liquidity Identifier, it is possible that a larger sized RML Order could be entered and that the User submitting such order may prefer not to signal to the market that there is significant interest in that security at the Midpoint Price. While the Retail Liquidity Identifier would not identify the size associated with an RML Order, a larger RML Order would likely result in the Retail Liquidity Identifier persisting for a longer period of time despite multiple executions of Retail Midpoint Orders against such order. The Exchange acknowledges that since, as proposed, a User may elect not to designate an RML Order to be identified as such for purposes of the Retail Liquidity Identifier, RML Interest could be available without causing the dissemination of the Retail Liquidity Identifier. The Exchange nevertheless believes it is appropriate to limit dissemination of the Retail Liquidity Identifier to those cases when at least one round lot of *designated* RML Interest is available in order to maintain the proposed optionality available to Users that wish to submit RML Orders but do not want indications of their midpoint interest disseminated by the Exchange. While different than the IEX Retail Program, the Exchange notes that the ability for a User to elect whether to designate their RML Interest to be identified as such for purposes of the Retail Liquidity Identifier is similar in purpose and effect to the ability of a User to elect whether to designate their orders as displayed or non-displayed on an exchange's order book—functionality that is offered by most U.S. equities exchanges, including the Exchange—as it is simply intended to provide Users with the ability to decide which information they publicize in the marketplace.

Priority and Order Execution

Retail Midpoint Orders and RML Orders would only execute at the Midpoint Price, as stated in proposed Exchange Rule 11.22(c)(1) and further described below. As discussed above, Retail Midpoint Orders and RML Orders are primarily intended to interact with each other; however, proposed Exchange Rule 11.22(c)(2) provides that if there is: (A) A Limit Order [35] of Odd Lot [36] size that is displayed by the System (''Displayed Odd Lot Order'') and that is priced more aggressively than the Midpoint Price and/or (B) an order that is not displayed by the System (''Non-Displayed Order'') and that is priced more aggressively than the Midpoint Price, resting on the MEMX Book, then an incoming Retail Midpoint Order would first execute against any such orders pursuant to the Exchange's standard price/time priority in accordance with Exchange Rule 11.9 and Exchange Rule 11.10 before executing against RML Orders resting on the MEMX Book.[37] Proposed Exchange Rule 11.22(c)(2) further provides that any such executions would be at the Midpoint Price irrespective of the prices at which such Displayed Odd Lot Orders and/or Non-Displayed Orders were ranked by the System on the MEMX Book.

The purpose of permitting a Retail Midpoint Order to first execute against Displayed Odd Lot Orders and/or Non-Displayed Orders that are priced more aggressively than the Midpoint Price is to ensure that the priority of more aggressively priced orders over less aggressively priced orders is maintained on the Exchange, consistent with Exchange Rule 11.9. The Exchange notes that its proposed handling of a Retail Midpoint Order in this regard is similar to Nasdaq's handling of a MELO, which is an order type that is similarly designed to interact with a specific contra-side order type at the Midpoint Price, in that MELOs will respect better priced liquidity, as MELOs that ''would otherwise be eligible to execute, will not execute if there is a more aggressively priced Order resting on the Nasdaq Book.'' [38] Thus, because the Exchange's proposal introduces new order types that are designed to interact with each other at the Midpoint Price but provides for a mechanism to respect the priority of more aggressively priced liquidity on the Exchange, similar to Nasdaq's handling of a MELO, the Exchange believes that this aspect of the proposal does not raise any novel issues for the Commission to consider.

The Exchange believes that it is appropriate to execute any such Displayed Odd Lot Orders and/or Non-Displayed Orders against a Retail Midpoint Order at the Midpoint Price instead of the prices at which such orders were ranked because RMOs that submit Retail Midpoint Orders to the Exchange are, by selecting an order type that is specifically limited to executing at the Midpoint Price, expecting to receive an execution at the Midpoint Price and not at any other price(s). Thus, the Exchange is proposing to address the needs of RMOs that focus their Retail Order trading on receiving executions at the Midpoint Price through the adoption of the Retail Midpoint Order, and the Exchange notes that use of this order type is completely voluntary and that RMOs may continue to submit their Retail Orders to the Exchange to execute against orders at prices different than the Midpoint Price, outside of the RML Program, as they can today. Moreover, based on informal discussions with market participants, the Exchange believes that there are benefits associated with executing Retail Orders submitted to the Exchange at one price level rather than multiple prices, such as simplified record-keeping for retail investors and execution reporting by RMOs. The Exchange also believes the Users submitting the contra-side Displayed Odd Lot Orders and/or Non-Displayed Orders would prefer an execution against an incoming Retail Midpoint Order at the Midpoint Price, as this would provide price improvement to such orders, which were originally priced more aggressively than the Midpoint Price.

After first executing against any resting Displayed Odd Lot Orders and/or Non-Displayed Orders priced more aggressively than the Midpoint Price, as described above, a Retail Midpoint Order would then execute against RML Orders resting on the MEMX Book in accordance with proposed Exchange Rule 11.22(c)(3). Specifically, Retail

[35] *See* Exchange Rule 11.8(b).

[36] *See* Exchange Rule 11.6(q)(2).

[37] The Exchange notes that Displayed Odd Lot Orders and Non-Displayed Orders are the only types of orders that could rest on the MEMX Book at a price that is more aggressive than the Midpoint Price, as any displayed buy (sell) order that is at least one round lot in size would be eligible to form the NBB (NBO) as a Protected Quotation. The term ''Protected Quotation'' refers to a quotation that is a Protected Bid or Protected Offer. In turn, the term ''Protected Bid'' or ''Protected Offer'' refers to a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association. *See* Exchange Rule 1.5(z).

[38] SR–NASDAQ–2017–074, Amendment No. 2, at page 20, available at *https://www.sec.gov/comments/sr-nasdaq-2017-074/nasdaq2017074-2659324-161401.pdf. See also* Nasdaq Rule 4702(b)(14)(A). While the Exchange's proposed handling of Retail Midpoint Orders when there is a resting order priced more aggressively than the Midpoint Price similarly respects the more aggressively priced resting order, it differs from Nasdaq's handling of MELOs in this event, in that MELOs will not execute and will be held for execution until such resting order is no longer on the Nasdaq book or the Midpoint Price matches the price of such resting order, and the Exchange proposes to execute a Retail Midpoint Order against such resting order at the Midpoint Price. Thus, both implementations are designed to maintain the priority of more aggressively priced orders.

Midpoint Orders would execute against RML Orders resting on the MEMX Book at the Midpoint Price in relative time priority in accordance with Exchange Rule 11.10 as follows: (1) First against RML Orders that are designated to be identified as RML Interest pursuant to proposed Exchange Rule 11.22(b); and (2) then against RML Orders that are not designated to be identified as RML Interest pursuant to proposed Exchange Rule 11.22(b). Thus, RML Orders that are designated to be identified as such for purposes of the Retail Liquidity Identifier, as described above, would be executed ahead of previously-received RML Orders that are not designated to be identified as such.[39] The execution of multiple RML Orders that are designated to be identified as such would be determined vis-à-vis each other based on time priority. Similarly, the execution of multiple RML Orders that are not designated to be identified as such would be determined vis-à-vis each other based on time priority.

The Exchange believes it is appropriate to provide priority to RML Orders that are designated to be identified as such for purposes of the Retail Liquidity Identifier over orders that are not so designated because the Retail Liquidity Identifier is likely to be an important factor in attracting RMOs to send Retail Midpoint Orders, and thus increases the likelihood of execution for resting RML Orders. Thus, similar to the priority afforded to orders that are displayed on the MEMX Book, which receive priority because they contribute to price discovery and attract liquidity to the Exchange, the Exchange believes that designated RML Orders resulting in the dissemination of the Retail Liquidity Identifier should receive priority over those that do not.

The following examples, which the Exchange proposes to codify in proposed Exchange Rule 11.22(c)(3)(B) as slightly modified to conform with the Rule's context, illustrate how the Exchange would handle orders under the proposed RML Program:

Assume the following facts:

- The NBBO for security ABC is $10.00–$10.10.
- User 1 enters an RML Order that is not designated to be identified as RML Interest to buy ABC for 500 shares. The RML Order is posted to the MEMX Book as an RML Order to buy ABC at $10.05.
- User 2 then enters an RML Order that is designated to be identified as RML Interest to buy ABC for 500 shares. The RML Order is posted to the MEMX Book as an RML Order to buy ABC at $10.05. The Exchange publishes through the MEMOIR Depth and MEMOIR Top data products and through the appropriate SIP a Retail Liquidity Identifier indicating the presence of designated RML Interest of at least one round lot to buy ABC.
- User 3 then enters a Pegged Order with a Midpoint Peg instruction to buy ABC for 500 shares. The Pegged Order is posted to the MEMX Book as a Pegged Order to buy ABC at $10.05.
- User 4 then enters a Limit Order with a Non-Displayed instruction to buy ABC at $10.07 for 100 shares, which is posted to the MEMX Book.
- There are no other orders resting on the MEMX Book.

Example 1: Retail Member Organization enters a Retail Midpoint Order to sell 1,200 shares of ABC. The Retail Midpoint Order will execute in the following order:

- First, against the full size of User 4's buy order for 100 shares at $10.05 (because it is priced more aggressively than the Midpoint Price, and thus, it is eligible to execute against a Retail Midpoint Order, it has priority over the RML Orders resting on the MEMX Book, and it executes at the Midpoint Price pursuant to proposed Exchange Rule 11.22(c)(2));
- second, against the full size of User 2's buy order for 500 shares at $10.05 (because it has priority over User 1's RML Order that is not designated to be identified as RML Interest pursuant to proposed Exchange Rule 11.22(c)(3)(A)(i) and (ii)); and
- third, against the full size of User 1's buy order for 500 shares at $10.05.

The Retail Midpoint Order does not execute against User 3's buy order because User 3's buy order is not an RML Order. The Retail Midpoint Order is filled for 1,100 shares and the balance of 100 shares is cancelled back to the Retail Member Organization. The Exchange removes the Retail Liquidity Identifier previously disseminated through the MEMOIR Depth and MEMOIR Top data products and through the appropriate SIP as there is no longer designated RML Interest of at least one round lot to buy ABC.

Example 2: Assume the same facts above, except that User 3 enters a Limit Order with a Displayed instruction to buy 50 shares of ABC at $10.06, which is posted to the MEMX Book. The incoming Retail Midpoint Order to sell 1,200 shares of ABC will execute in the following order:

- First, against the full size of User 4's buy order for 100 shares at $10.05 (because it is priced more aggressively than User 3's buy order and is priced more aggressively than the Midpoint Price, and thus, it is eligible to execute against a Retail Midpoint Order, it has priority over the RML Orders resting on the MEMX Book, and it executes at the Midpoint Price pursuant to proposed Exchange Rule 11.22(c)(2));
- second, against the full size of User 3's buy order for 50 shares at $10.05 (because it is priced more aggressively than the Midpoint Price, and thus, it is eligible to execute against a Retail Midpoint Order, it has priority over the RML Orders resting on the MEMX Book, and it executes at the Midpoint Price pursuant to proposed Exchange Rule 11.22(c)(2));
- third, against the full size of User 2's buy order for 500 shares at $10.05 (because it has priority over User 1's RML Order that is not designated to be identified as RML Interest pursuant to proposed Exchange Rule 11.22(c)(3)(A)(i) and (ii)); and
- fourth, against the full size of User 1's buy order for 500 shares at $10.05.

The Retail Midpoint Order is filled for 1,150 shares and the balance of 50 shares is cancelled back to the Retail Member Organization. The Exchange removes the Retail Liquidity Identifier previously disseminated through the MEMOIR Depth and MEMOIR Top data products and through the appropriate SIP as there is no longer designated RML Interest of at least one round lot to buy ABC.

Implementation

The Exchange proposes that all securities traded on the Exchange would be eligible for inclusion in the RML Program. If the Commission approves this proposed rule change, the Exchange will implement it within 90 days of approval and will provide notice to Members and market participants of the implementation timeline.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[40] in general, and furthers the objectives of Section 6(b)(5) of the Act[41] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the

[39] The Exchange notes that this aspect of the proposed RML Program is different than the IEX Retail Program since the IEX Retail Program does not offer the ability to elect whether to designate an IEX RLP Order to be identified as such for purposes of IEX's Retail Liquidity Identifier, as described above.

[40] 15 U.S.C. 78f(b).

[41] 15 U.S.C. 78f(b)(5).

mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the proposed rule change is consistent with these principles because it is designed to increase competition among execution venues and offer the potential for meaningful price improvement to orders of retail investors, including through encouraging market participants to provide additional liquidity to execute against the orders of retail investors at the Midpoint Price.

As discussed in the Purpose section, the Exchange's proposed RML Program is a simple, transparent approach designed to provide retail investors with meaningful price improvement opportunities by executing at the Midpoint Price (through RMOs' use of the proposed new Retail Midpoint Order) by incentivizing Users who wish to interact with such retail liquidity to send additional non-displayed resting interest also designed to execute at the Midpoint Price (through such Users' use of the proposed new RML Order).

As described above, the proposed RML Program is comparable in purpose and effect to the IEX Retail Program, and the Commission recently approved several changes to the IEX Retail Program that make certain of its features substantially similar to proposed features of the RML Program.[42] Accordingly, the Exchange's proposal generally encourages competition between exchange venues. In this connection, the Exchange believes that the proposed distinctions between the Exchange's proposal and the approved IEX Retail Program will both enhance competition amongst market participants and encourage competition amongst exchange venues.

Section 6(b)(5) of the Act prohibits an exchange from establishing rules that treat market participants in an unfairly discriminatory manner. However, Section 6(b)(5) of the Act does not prohibit exchange members or other broker-dealers from discriminating, so long as their activities are otherwise consistent with the federal securities laws. Nor does Section 6(b)(5) of the Act require exchanges to preclude discrimination by broker-dealers, and the Exchange understands that broker-dealers commonly differentiate between customers based on the nature and profitability of their business.

While the RML Program would differentiate among its Users, in that Retail Midpoint Orders may only be submitted by an RMO, as is the case with other Retail Orders on the Exchange today, the Exchange believes that such differentiation is not unfairly discriminatory but rather is designed to promote a competitive process for retail executions while providing retail investors with the potential to receive meaningful price improvement at the Midpoint Price. In addition to the Exchange's existing rules relating to Retail Orders,[43] there is ample precedent for differentiation of retail order flow in the existing approved programs of other national securities exchanges,[44] including the IEX Retail Program, as described in the Purpose section. As the Commission has recognized, retail order segmentation was designed to create additional competition for retail order flow, leading to additional retail order flow to the exchange environment and ensuring that retail investors benefit from the better price that liquidity providers are willing to give their orders.[45]

The Commission consistently highlights the need to ensure that the U.S. capital markets are structured with the interests of retail investors in mind, and highlighted its focus on the ''long-term interests of Main Street investors'' as its number one strategic goal for fiscal years 2018 to 2022 in the Commission Strategic Plan.[46] The Exchange believes its proposed RML Program would serve the retail investing public by providing them with the opportunity for meaningful price improvement on eligible trades.

The Exchange notes that several other national securities exchanges, including IEX as described herein, have for several years operated retail liquidity programs that include market segmentation whereby retail orders are permitted to interact with specified price-improving liquidity or receive execution priority.[47] The Exchange understands that these programs were designed to promote competition for retail order flow among execution venues, most of which continues to be executed in the OTC markets rather than on exchanges. Similarly, the Exchange's proposed RML Program is designed to provide an additional competitive alternative for retail orders to receive price improvement. The Exchange believes that it is appropriate to provide incentives to bring more retail order flow to a public exchange. As described in the Purpose section, these incentives include the opportunity for Retail Orders to receive meaningful price improvement at the Midpoint Price (through RMOs' use of the proposed Retail Midpoint Order) by providing all Users with the opportunity to provide price-improving liquidity to such orders (through Users' use of the proposed RML Order).

Definitions

The Exchange believes that it is consistent with the Act for a Retail Midpoint Order to be a Retail Order that is a Midpoint Peg Order with a TIF instruction of IOC, as this is designed to ensure that such orders are entered on behalf of retail investors[48] and will receive price improvement at the Midpoint Price when executing against resting RML Orders. Similarly, the Exchange believes that it is consistent with the Act for an RML Order to be a Midpoint Peg Order with a TIF instruction of Day, RHO, or GTT, as this is designed to ensure that such orders are able to post to the MEMX Book and will provide price improvement at the Midpoint Price to retail investors when executing against incoming Retail Midpoint Orders. The Exchange also believes that it is appropriate and consistent with the Act for Retail Midpoint Orders and RML Orders to not be eligible for routing because, as noted above, such orders are designed to execute on the Exchange against each other and, as Pegged Orders, are not eligible for routing under the Exchange's current rules relating to Pegged Orders.

The Exchange further believes that it is consistent with the Act to structure its RML Program such that Retail Midpoint Orders and RML Orders are only eligible to execute against each other (subject to the exception of Retail Midpoint Orders being eligible to execute against other orders priced more aggressively than the Midpoint Price in order to maintain price priority on the Exchange, as described above) to provide a mechanism whereby liquidity-providing Users can provide price-improving liquidity at the Midpoint Price specifically to retail investors, and liquidity-removing RMOs submitting orders on behalf of retail investors can interact with such price-improving liquidity at the Midpoint Price in a deterministic manner. This structure

[42] *See* IEX Retail Approval Order, *supra* note 9.

[43] *See* Exchange Rule 11.21.

[44] *See infra* note 47.

[45] *See* Securities Exchange Act Release No. 85160 (February 15, 2019), 84 FR 5754 (February 22, 2019) (SR–NYSE–2018–28) (order approving NYSE's Retail Liquidity Program on a permanent basis).

[46] *See* Commission Strategic Plan, *supra* note 7.

[47] *See* IEX Rule 11.232. *See also* NYSE Rule 107C, NYSE Arca Equities Rule 7.44, Cboe EDGX Rule 11.9(a)(2)(A) and (B), Cboe BYX Rule 11.24, and Nasdaq BX Rule 4780.

[48] An RMO must exercise due diligence and monitor orders that it enters as Retail Orders to ensure that such orders originate from natural persons (*i.e.,* retail investors). *See* Exchange Rule 11.21(b)(6).

would thus facilitate the interaction of such liquidity-providing Users with the orders of retail investors, which the Exchange believes is desirable for certain Users, as described above, while avoiding the possibility of such Users unintentionally interacting with another type of market participant. Accordingly, the Exchange believes that it is consistent with the Act for RML Orders to only execute against Retail Midpoint Orders (subject to the exception of Retail Midpoint Orders being eligible to execute against other orders priced more aggressively than the Midpoint Price) so as to incentivize the entry of RML Orders and thereby provide meaningful price improvement to retail investors. Further, as noted above, the concept of an order type that is only eligible to interact with a specific contra-side order type has previously been approved by the Commission both in the context of liquidity-providing orders for retail programs and in other contexts.[49] The Exchange reiterates that RMOs may continue to submit their Retail Orders to the Exchange to execute against the various other order types offered by the Exchange, at prices different than the Midpoint Price, as they can today.

For the foregoing reasons, the Exchange believes that the proposed definitions of Retail Midpoint Order and RML Order, and the proposed structure of the RML Program whereby such orders are only eligible to execute against each other (subject to the exception of Retail Midpoint Orders being eligible to execute against other orders priced more aggressively than the Midpoint Price) and at the Midpoint Price, are designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and further the investor protection and public interest objectives of Section 6(b) of the Act, by establishing a simple, transparent structure that is designed to facilitate the provision of meaningful price improvement (*i.e.,* at the Midpoint Price) for orders of retail investors in a deterministic manner.

Retail Liquidity Identifier

The Exchange believes that it is consistent with the Act to disseminate a Retail Liquidity Identifier in connection with its RML Program, as described in the Purpose section. The purpose of the Retail Liquidity Identifier is to provide relevant market information to RMOs that there is available RML Interest on the Exchange. The dissemination is thus designed to augment the total mix of information available to RMOs that may benefit the Retail Orders they represent by encouraging RMOs to send such retail liquidity as Retail Midpoint Orders designed to receive price improvement by executing at the Midpoint Price against available RML Interest.

As noted above, the proposed Retail Liquidity Identifier is substantially similar to the Retail Liquidity Identifier disseminated by IEX, which was recently approved by the Commission, except that the Exchange would enable a User to elect whether to designate an RML Order to be identified as such for purposes of the Retail Liquidity Identifier. The Exchange believes that providing Users with the optionality to designate an RML Order to be identified as such for purposes of the Retail Liquidity Identifier is appropriate and consistent with the Act because, as described above, some Users submitting RML Orders, such as those with a larger sized RML Order, may be concerned about potential information leakage when the Retail Liquidity Identifier persists for extended periods of time despite multiple executions of Retail Midpoint Orders against such order. The Exchange thus believes that offering this optionality would enable such Users to manage their RML Orders more effectively and would therefore foster cooperation and coordination with persons engaged in facilitating transactions in securities and remove impediments to and perfect the mechanism of a free and open market and a national market system. Further, as noted above, the ability for a User to elect whether to designate their RML Interest to be identified as such for purposes of the Retail Liquidity Identifier is similar in purpose and effect to the ability of a User to elect whether to designate their orders as displayed or non-displayed on an exchange's order book—functionality that is offered by most U.S. equities exchanges, including the Exchange—as it is simply intended to provide Users with the ability to decide which information they publicize in the marketplace, and thus, the Exchange does not believe this aspect of the proposal raises any novel issues for the Commission to consider.

The Exchange also believes that removing the Retail Liquidity Identifier previously disseminated through the MEMOIR Depth and MEMOIR Top data products and through the appropriate SIP after executions against Retail Midpoint Orders have depleted the available designated RML Interest such that the remaining designated RML Interest does not aggregate to form at least one round lot is consistent with the Act, as it would increase transparency in the market by indicating to RMOs that there is no longer designated RML Interest of at least one round lot available, which the Exchange believes would reduce the amount of Retail Midpoint Orders sent to the Exchange that are cancelled back to the User when there is no actionable RML Interest to execute against. In this regard, the Exchange believes that its proposed implementation of the Retail Liquidity Identifier would foster cooperation and coordination with persons engaged in facilitating transactions in securities and remove impediments to and perfect the mechanism of a free and open market and a national market system. As noted above, the Exchange also believes this implementation is consistent with the implementation of the other exchanges that disseminate Retail Liquidity Identifiers.

Priority and Order Execution

The Exchange further believes that its priority and order execution approach for the RML Program is consistent with the Act. As discussed above, the RML Program is designed to incentivize RMOs to submit Retail Midpoint Orders to the Exchange to receive meaningful price improvement while simultaneously incentivizing Users and their clients to enter additional non-displayed interest in the form of RML Orders that will only trade with, and offer meaningful price improvement to, Retail Midpoint Orders. Thus, the proposed RML Program is designed to facilitate the provision of meaningful price improvement (*i.e.,* at the Midpoint Price) for orders of retail investors.

The Exchange believes that it is appropriate and consistent with the Act to structure its RML Program such that Retail Midpoint Orders and RML Orders are only eligible to execute against each other at the Midpoint Price, so that Retail Midpoint Orders, which are entered on behalf of retail investors, receive price improvement that is meaningful by definition, as they are guaranteed, if executed, to execute at the Midpoint Price. The Exchange believes that introducing a program that provides and encourages additional liquidity and price improvement to Retail Orders, in the form of Retail Midpoint Orders designed to execute at the Midpoint Price, is appropriate because retail investors are typically less sophisticated than professional market participants and therefore would

[49] *See supra* notes 21–22 and accompanying text.

not have the type of technology to enable them to compete with such market participants. Therefore, the Exchange believes that it is consistent with the public interest and the protection of investors to provide retail investors with these enhanced execution opportunities. Additionally, as discussed above, the Exchange believes that the opportunity to obtain meaningful price improvement at the Midpoint Price should operate as a powerful incentive for RMOs to send Retail Orders to the Exchange in the form of Retail Midpoint Orders, thereby contributing to the Exchange's midpoint liquidity to the benefit of all Users. While the Exchange typically has resting non-displayed liquidity priced to execute at the Midpoint Price, a key aspect of the proposed RML Program is to further incentivize Users and their clients to enter additional non-displayed interest that will trade with Retail Orders and offer meaningful price improvement at the Midpoint Price (*i.e.,* in the form of RML Orders) in a deterministic manner.

In addition, the proposal to execute Retail Midpoint Orders against RML Orders only at the Midpoint Price is also designed to facilitate RMOs' compliance with their best execution obligations when acting as agent on behalf of a Retail Order.[50] Specifically, as noted in FINRA Regulatory Notice 15–46 (Guidance on Best Execution Obligations in Equity, Options and Fixed Income Markets), when conducting its review of execution quality in any security, a firm should consider, among other things, whether it could obtain mid-point price improvement on one venue versus less price improvement on another venue.[51] Further, limiting the execution of Retail Midpoint Orders against RML Orders to the Midpoint Price is designed to be a simple approach that does not introduce unnecessary complexity to the order entry and execution process on the Exchange, as both orders are proposed to be a type of Midpoint Peg Order. The Exchange notes that under the initial implementation of the IEX Retail Program, approved by the Commission in 2019, IEX Retail Orders and IEX RLP Orders were only eligible to trade at the Midpoint Price.[52] Accordingly, the Exchange does not believe this aspect of the proposal raises any novel issues that have not been considered by the Commission.

The Exchange further believes that it is appropriate and consistent with the Act to execute Retail Midpoint Orders against Displayed Odd Lot Orders and/or Non-Displayed Orders priced more aggressively than the Midpoint Price at the Midpoint Price, rather than at the prices at which such orders are ranked on the MEMX Book, as doing so would ensure that the priority of more aggressively priced orders is maintained on the Exchange, as described above, in a manner that provides the expected execution price to RMOs that submit Retail Midpoint Orders and provides price improvement to Users that submit more aggressively priced orders. As noted above, by selecting an order type that is specifically limited to executing at the Midpoint Price, an RMO would expect to receive an execution of their Retail Midpoint Order at the Midpoint Price and not at any other price(s), and thus, the Exchange is proposing to address the needs of RMOs that focus their Retail Order trading on receiving executions at the Midpoint Price in a deterministic manner through the adoption of the Retail Midpoint Order. Additionally, as noted above, use of this order type is completely voluntary, and RMOs may continue to submit their Retail Orders to the Exchange to execute against orders at prices different than the Midpoint Price, outside of the RML Program, as they can today. Moreover, the Exchange believes that there are benefits associated with executing Retail Orders submitted to the Exchange at one price level rather than multiple prices, such as simplified record-keeping for retail investors and execution reporting by RMOs. The Exchange believes such benefits, in addition to the simplicity and transparency of the RML Program achieved by permitting executions of the proposed new order types only at the Midpoint Price, outweigh the potential additional price improvement that Retail Midpoint Orders could receive if they were permitted to execute against Displayed Odd Lot Orders and/or Non-Displayed Orders priced more aggressively than the Midpoint Price at the prices at which such orders were ranked, in a manner consistent with the objectives of Section 6(b)(5) of the Act[53] described above.

The Exchange believes that first executing a Retail Midpoint Order against any resting Displayed Odd Lot Orders and/or Non-Displayed Orders priced more aggressively than the Midpoint Price ahead of RML Orders is consistent with the Act because, notwithstanding the RML Program's goal of matching Retail Midpoint Orders against RML Orders at the Midpoint Price in a deterministic manner, doing so ensures that the priority of more aggressively priced orders is maintained on the Exchange, as described above. Maintaining price priority in this regard, consistent with its current rules, reflects the Exchange's overall goal of incentivizing Users to submit aggressively priced orders to the Exchange, which contribute to the overall market quality and attract liquidity on the Exchange, thereby promoting just and equitable principles of trade and removing impediments to and perfecting the mechanism of a free and open market and a national market system. Furthermore, as the proposed RML Program provides for a mechanism to respect the priority of more aggressively priced liquidity on the Exchange prior to executing Retail Midpoint Orders against RML Orders at the Midpoint Price, similar to Nasdaq's handling of MELOs, as described above, the Exchange believes that this aspect of the proposal does not raise any novel issues for the Commission to consider.

The Exchange believes that providing execution priority to RML Orders that are designated to be identified as such for purposes of the Retail Liquidity Identifier ahead of RML Orders that are not so designated is consistent with the Act, as the Exchange believes that designated RML Orders would attract additional liquidity to the Exchange. Specifically, as noted above, the Exchange believes that dissemination of the Retail Liquidity Identifier is likely to be an important factor in attracting incoming Retail Midpoint Orders, and thus increases the likelihood of execution for resting RML Orders. Therefore, the Exchange believes that it removes impediments to and perfects the mechanism of a free and open market and national market system to provide execution priority to designated

[50] All Users that handle customer orders as agent are required to be FINRA members, and therefore are subject to FINRA guidance. *See* 17 CFR 240.15b9–1(a).

[51] *See* FINRA Regulatory Notice 15–46, endnote 25, available at *https://www.finra.org/sites/default/files/notice_doc_file_ref/Notice_Regulatory_15-46.pdf.*

[52] *See* Securities Exchange Act Release No. 86619 (August 9, 2019), 84 FR 41769 (August 15, 2019) (SR–IEX–2019–05) (order granting approval of a proposed rule change to establish the IEX Retail Program). The Exchange notes that IEX subsequently amended the IEX Retail Program to permit executions at prices other than the Midpoint Price in certain limited circumstances—*i.e.,* against displayed odd lots priced at or more aggressively than the Midpoint Price—although the Exchange is instead proposing to execute Retail Midpoint Orders against Displayed Odd Lot Orders priced more aggressively than the Midpoint Price at the Midpoint Price in this circumstance, as described above. *See* Securities Exchange Act Release No. 91324 (March 15, 2021), 86 FR 15015 (March 19, 2021) (SR–IEX–2021–03) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Allow Retail Orders to Trade with Certain Aggressively Priced Displayed Odd Lot Orders).

[53] 15 U.S.C. 78f(b)(5).

RML Orders, which cause the dissemination of the Retail Liquidity Identifier, over those that do not. Additionally, the Exchange believes that providing execution priority to designated RML Orders is not unfairly discriminatory since any User can designate their RML Orders to be identified as such for purposes of the Retail Liquidity Identifier, and the Exchange believes that Users would only choose not to designate RML Orders to be identified as such when another purpose, such as the potential for information leakage, outweighs the importance of execution priority for such orders.

In sum, the Exchange submits that the proposed RML Program is a simple, transparent approach designed to provide an opportunity for retail customers' orders to receive meaningful price improvement in a manner generally consistent with the approved retail programs of other exchanges. Thus, the Exchange believes that the proposed RML Program is consistent with the Act in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

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. To the contrary, the Exchange believes that the proposed RML Program would enhance competition and execution quality for retail investors and would enhance competition for Users and their clients seeking to interact with retail liquidity.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition since competing venues have and can continue to adopt similar retail programs, subject to the SEC rule change process. The Exchange operates in a highly competitive market in which market participants can easily direct their orders to competing venues, including off-exchange venues.

The Exchange also 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. As described above, a Retail Midpoint Order may only be submitted by firms approved to send Retail Orders on the Exchange (*i.e.,* RMOs), which is comparable to an IEX Retail Order offered under the IEX Retail Program and retail programs on other exchanges where specific rules have been approved allowing only certain participants to send Retail Orders.[54] All Users would be eligible to enter an RML Order, and all Users would be eligible to execute against an incoming Retail Midpoint Order in price priority in accordance with the Exchange's existing rules. Moreover, the proposed rule change would provide potential benefits to all Users to the extent it is successful in attracting additional midpoint liquidity.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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–MEMX–2021–10 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–MEMX–2021–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MEMX–2021–10 and should be submitted on or before September 29, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[55]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19294 Filed 9–7–21; 8:45 am]

BILLING CODE 8011–01–P

[54] *See supra* note 47.

[55] 17 CFR 200.30–3(a)(12).

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36542]

NCSR, LLC d/b/a New Castle Southern Railroad—Lease and Operation Exemption With Interchange Commitment—Norfolk Southern Railway Company

NCSR, LLC d/b/a New Castle Southern Railroad (NCSR), a noncarrier, has filed a verified notice of exemption pursuant to 49 CFR 1150.31 to lease from Norfolk Southern Railway Company (NSR) and operate approximately 21 miles of rail line

extending from milepost CB 5.40 at Beesons, Ind., to milepost CB 25.30 at New Castle, Ind., and from milepost R 0.09 to milepost R 1.16 at New Castle (the Line).

According to the verified notice, NCSR and NSR have recently reached a lease agreement pursuant to which NCSR will provide common carrier rail service on the Line. According to NCSR, the agreement between NCSR and NSR contains an interchange commitment that affects the interchange point at Beesons.[1] The verified notice states that NSR and Big Four Terminal Railroad, LLC, are the carriers that could physically interchange with NCSR at Beesons. As required under 49 CFR 1150.33(h), NCSR provided additional information regarding the interchange commitment.

NCSR has certified that its projected annual revenues will not exceed $5 million and will not result in NCSR's becoming a Class I or Class II rail carrier.

Pursuant to 49 CFR 1150.32(b), the effective date of an exemption is 30 days after the verified notice of exemption is filed, which here would be September 22, 2021. However, concurrently with its verified notice, NCSR filed a petition to partially waive the 30-day effectiveness period to allow the exemption to become effective on September 13, 2021. The Board will address NCSR's petition for partial waiver and establish the effective date of the exemption in a separate decision.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. A deadline for petitions for stay will also be established in the Board's decision on the petition for partial waiver.

All pleadings, referring to Docket No. FD 36542, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, one copy of each pleading must be served on NCSR's representative: Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to NCSR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

[1] A copy of the agreement with the interchange commitment was submitted under seal. *See* 49 CFR 1150.33(h)(1).

Board decisions and notices are available at *www.stb.gov.*

Decided: September 1, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2021–19309 Filed 9–7–21; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 767]

First-Mile/Last-Mile Service

The Board seeks comments on issues regarding first-mile/last-mile (FMLM) service, particularly on whether additional metrics to measure such service might have utility that exceeds any associated burden. FMLM service refers to the movement of railcars between a local railroad serving yard and a shipper or receiver facility. So-called ''local trains'' serve customers in the vicinity of the local yard, spotting (*i.e.,* placing for loading or unloading) inbound cars and pulling (*i.e.,* picking up) outbound cars from each customer facility. A larger local yard may run numerous local trains serving many customers dispersed along separate branches; a smaller yard may run only a handful of local trains. Yard crews build outbound local trains by assembling blocks (groups of cars) for each customer on the route. Inbound local trains return to the yard with cars released from shipper facilities and, in turn, are sorted into outbound blocks for line-haul movements. After hearing concerns raised by shippers across numerous industries and requests for transparency of FMLM data, the Board seeks information on possible FMLM service issues, the design of potential metrics to measure such service, and the associated burdens or trade-offs with any suggestions raised by commenters.

Background

In addition to weekly and monthly collection of certain railroad performance data metrics from Class I railroads,[1] the Board actively monitors, on an informal basis, the national rail network, including network fluidity and service issues, through, for example, the Railroad-Shipper Transportation Advisory Council (RSTAC), the Rail Customer and Public Assistance Program, and information requests to Class I railroads. *See, e.g.,* Surface Transportation Board, *Budget Request Fiscal Year 2022,* 14–15.[2] Since Spring 2020, the Board has focused its informal monitoring on the effects of and response to the pandemic, engaging in frequent communication [3] with carriers, shippers, and other stakeholders. *See id.* Recently, the Board's Chairman inquired to each Class I carrier about rail service issues [4] and supply chain issues [5] (including local service issues). The Board appreciates the carriers' responses to its informal requests and now seeks more formal input from shippers, carriers, and the public focused specifically on FMLM service. As the Board has heard from various stakeholders, in recent months, crew shortages and other issues stemming from the COVID–19 pandemic and worldwide supply chain complications have heightened and added to the importance of the Board exploring FMLM service.

The Board has received a number of letters about FMLM service issues. For example, the Rail Customer Coalition (RCC) wrote to the Board this year to request, among other things, that the Board ''adopt new reporting metrics to provide a more complete and useful picture of rail service, including [FMLM] performance.'' RCC Letter 2.[6] Following the Chairman's May 27, 2021 letters regarding rail service to the Class I carriers, the American Chemistry Council (ACC) wrote to the Board regarding general service concerns, briefly noting local service failures, *see*

[1] *See* 49 CFR 1250.2.

[2] Available at *https://prod.stb.gov/about-stb/agency-materials/budget-requests/* then follow hyperlink ''FY 2022 Budget Request Final.''

[3] This communication during the initial phase of the pandemic included ''daily and weekly communications with key railroad and shipper stakeholders to actively monitor the reliability of the freight rail network with a special focus on critical supply chains.'' Surface Transportation Board, *Budget Request Fiscal Year 2022,* 14. For example, the Board and RSTAC convened weekly (and later biweekly) conference calls. *Id.* The Board also participated in calls hosted by the Federal Railroad Administration, held with representatives from each Class I railroad, the short line and regional railroads, and the National Passenger Railroad Corporation (Amtrak). *Id.*

[4] *See, e.g.,* Letter from Martin J. Oberman, Chairman, to Canadian Pacific (May 27, 2021), *https://prod.stb.gov/news-communications/non-docketed-public-correspondence/* (follow hyperlink ''Chairman Oberman Rail Service Letter to CP, May 27, 2021'' under headings ''2021'' and ''May'').

[5] *See, e.g.,* Letter from Martin J. Oberman, Chairman, to BNSF Railway Company (July 22, 2021), *https://prod.stb.gov/news-communications/non-docketed-public-correspondence/* (follow hyperlink ''Chairman Oberman Letter to BNSF Regarding Intermodal Supply Chain Issues, July 22, 2021'' under headings ''2021'' and ''July'').

[6] Available at *https://prod.stb.gov/news-communications/non-docketed-public-correspondence/* then follow hyperlink ''RCC Letter to STB regarding regulation and rail service, February 11, 2021'' under headings ''2021'' and ''February.''

ACC Letter 2,[7] and The Fertilizer Institute (TFI) wrote to express general service concerns, which encompass issues such as reductions in days of service to customers, increased dwell times, and car order errors, *see* TFI Letter 2.[8]

The Board has received additional correspondence relating to FMLM service over the last year.[9] On August 31, 2020, the Freight Rail Customer Alliance (FRCA), the National Coal Transportation Association (NCTA), the National Industrial Transportation League (NITL), and the Private Railcar Food and Beverage Association, Inc. (PRFBA), (collectively, the Shipper Group) stated that their members have become increasingly aware of and concerned by what they describe as the gap between the service data that the railroads report to the Board and the level of service that shippers receive in the real world. the Shipper Group Letter 2.[10] The Shipper Group noted that the service metrics collected pursuant to rules adopted in *United States Rail Service Issues—Performance Data Reporting,* Docket No. EP 724 (Sub-No. 4), do not focus on FMLM service for traffic that does not move in unit trains. *Id.* Therefore, they seek ''improved transparency regarding [FMLM service issues]'' and suggest that such ''transparency could be achieved by having the rail carriers report appropriate data.'' *Id.*

The Association of American Railroads (AAR) responded to the letter on September 10, 2020, stating that the request is unnecessary and undefined, that data collection would not be practicable or meaningful, and that shippers have remedies for service concerns. AAR Letter 1–3.[11] AAR notes that railroads provide such information directly to their customers, *id.* at 1, and that the Shipper Group's suggestion would require that the Board ''collect, process, and protect enormous amounts of commercially sensitive data and information,'' *id.* at 3. On September 21, 2020, UP responded to the Shipper Group, stating that it already provides local service metrics at the customer level and that aggregated metrics would not provide customers with meaningful representation of their local service levels. UP Letter 1.[12]

On October 8, 2020, the Shipper Group replied that data reporting on FMLM issues would not be unduly burdensome, that it would be useful regardless of some inconsistencies between carriers, and that it is needed because it would help the Board better monitor carriers' service and the data available to individual shippers does not allow the Board to ''ascertain whether carriers are meeting their common carrier obligations in the aggregate.'' the Shipper Group Response Letter 2–3.[13]

Request for Comments

The Board seeks comment from the shipping community, carriers, and the public concerning what, if any, FMLM issues they consider relevant. The Board also seeks comment on whether further examination of FMLM issues is warranted, and what, if any, actions may help address such issues, taking into account the information shippers already receive from carriers. Of particular importance, and as set forth in the questions raised below, the Board seeks recommendations as to specific additional data commenters view as important to identify FMLM service concerns that is not now being reported to the Board.[14] The Board would find such data recommendations helpful with respect to the issues commenters may find relevant to FMLM service. The Board also seeks information about potential burdens of any suggested data collection and reporting.

Shipper commenters may wish to provide context for their comments by including information about the quantity or volume of traffic they ship, their storage capacity, seasonality of their shipments (if any), work windows, and other factors that make their facilities or operations unique. If requested, a protective order may be issued that would allow sensitive information to be filed under seal.

In identifying FMLM issues, commenters should provide concrete examples, if possible. Further, although there is no set format for comments, answers to the following questions would be helpful when identifying issues:

- How often does the issue arise?
- Why does the issue occur?
  - How does the issue affect your operations? How does the issue affect your facilities and/or production?
  - How does the issue affect your labor schedule?
  - What is the financial impact associated with this issue?
- Has this issue changed with the implementation of operating changes generally referred to as precision scheduled railroading?
- How do you typically try to address the issue? What is communication regarding this issue like between shippers and carriers?
- What remedies are available to you?

Design of metrics. As noted, some shippers have suggested that the Board collect additional service metrics to measure FMLM service, and commenters may wish to further address:

- What, if any, existing information or metrics (collected by the Board or maintained by carriers) facilitate an understanding of the issue?
- What new information or metrics would illuminate the issue? The Board asks for specificity in any suggestions, including specific definitions for different types of services (*e.g.,* transportation involving one carrier vs. multiple carriers) and facilities (*e.g.,* open- vs. closed-gate).
- How and at what level should any metrics be reported (individual shipper, local, regional, or national)?
- Should metrics only measure FMLM service, or should additional

[7] Available at *https://prod.stb.gov/news-communications/non-docketed-public-correspondence/* then follow hyperlink ''ACC Letter to STB Regarding Rail Service, June 8, 2021'' under headings ''2021'' and ''June.''

[8] Available at *https://prod.stb.gov/news-communications/non-docketed-public-correspondence/* then follow hyperlink ''Fertilizer Institute Letter to STB Regarding CSX Rail Service, June 2, 2021'' under headings ''2021'' and ''June.''

[9] These letters follow comments in *Oversight Hearing on Demurrage and Accessorial Charges,* Docket No. EP 754, regarding a variety of local service issues that may relate to FMLM service. *See, e.g.,* International Paper Statement 2, May 7, 2019, *Oversight Hearing on Demurrage and Accessorial Charges,* EP 754 (''Reduced switch frequency has led to last mile service issues. . . . Changes to local service yards have also heightened risks for service failure.''); Packaging Corporation of America Statement 3–5, May 8, 2019, *Oversight Hearing on Demurrage and Accessorial Charges,* EP 754 (describing local service issues such as switching issues); Ag Processing Inc Statement 4, June 5, 2019, *Oversight Hearing on Demurrage and Accessorial Charges,* EP 754 (referring to increased dwell times due to reductions in local service).

[10] Available at *https://prod.stb.gov/news-communications/non-docketed-public-correspondence/* then follow hyperlink ''FRCA, NCTA, NITL, PRFBA Letter to STB regarding Rail Service Data, August 31, 2020'' under headings ''2020'' and ''August.''

[11] Available at *https://prod.stb.gov/news-communications/non-docketed-public-correspondence/* then follow hyperlink ''AAR response regarding FRCA, NCTA, NITL, PRFBA Letter to STB, September 10, 2020'' under headings ''2020'' and ''September.''

[12] Available at *https://prod.stb.gov/news-communications/non-docketed-public-correspondence/* then follow hyperlink ''UP Response Letter to FRCA regarding Rail Service Data, September 21, 2020'' under headings ''2020'' and ''September.''

[13] Available at *https://prod.stb.gov/news-communications/non-docketed-public-correspondence/* then follow hyperlink ''FRCA, NCTA, NITL, PRFBA Response Letter regarding AAR Letter to STB, October 8, 2020'' under headings ''2020'' and ''October.''

[14] For example, the Board is interested in the insights it may be able to draw from event data such as the TeleRail Automated Information Network (TRAIN II) information exchange protocol or similar datasets available to the railroads.

metrics more broadly measure service that may relate to or involve FMLM service, such as metrics on car trip plan compliance? Who would use any such information or measurements, and how?

- What are the specific benefits, if any, that would arise from the use of any suggested metrics?
- Would reports to the Board, shipper surveys, reports directly to individual shippers, or some other type of information be helpful to clarify the issue?

The above list of questions is non-exhaustive—commenters should feel free to provide any information they believe will be helpful to the Board as it considers issues related to FMLM service.

Some of the issues that have been raised with the Board by stakeholders and that commenters may wish to comment on, if pertinent to them, include (a) switching, including missed switches and/or inconsistent switches; (b) modified service plans at local yards (such modified plans may reduce the number of service days per week, increase the number of service days per week, or change the timing of service (morning versus night)); (c) car delivery, such as the delivery of cars carrying a different commodity, delivery of a different type of car than the cars ordered, or delivery of fewer or more cars than were ordered; (d) extended dwell times at railroad facilities local to shipper/receiver locations; and (e) discrepancies in information between the railroad and the rail customer as to the location of cars between the local yard and the shipper's facility.

Carrier data tracking. As indicated by AAR's letter, carriers track some information related to FMLM service, and the Board could consider extant data in evaluating comments on the design of metrics. The Board seeks comment regarding the following questions:

- What data do Class I carriers track that are relevant to FMLM service?
- What aspects of these data do Class I carriers make available to their customers?
- To the extent that Class I carriers collect certain information, what uniformity issues may exist related to that data that may affect reporting to the Board?

Trade-offs. Finally, the Board seeks comment on the trade-offs of any suggestions.

- Factoring in the information that carriers already track, what additional burden would be associated with providing any suggested information or measurements?
- If aggregated reports are suggested, what, if any, are the drawbacks of aggregation?
- If individual reports directly to shippers are suggested, what, if any, are the drawbacks of such approach, particularly in comparison to reporting directly to the Board, as was required in *United States Rail Service Issues—Performance Data Reporting,* Docket No. EP 724?
- How should the Board consider relative burden based on the type of carrier involved in the transportation (*e.g.,* Class II or III railroad)?

Interested persons may file comments by October 18, 2021. If any comments are filed, replies will be due by November 16, 2021.

It is ordered:

1. Comments are due October 18, 2021. Replies are due November 16, 2021.

2. This decision is effective on its service date.

Decided: August 31, 2021.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.

Regena Smith-Bernard,

Clearance Clerk.

[FR Doc. 2021–19362 Filed 9–7–21; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2021–0802]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Training and Qualification Requirements for Check Airmen and Flight Instructors

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 the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves the reporting requirements to ensure the check pilots and instructors are adequately trained and checked/evaluated to ensure they are capable and competent to perform the duties and responsibilities required by the air carrier to meet the regulations. Experienced pilots who would otherwise qualify as flight instructors or check airmen, but who may not medically eligible to hold the requisite medical certificate are mandated to keep records that may be inspected by the FAA to certify eligibility to perform flight instructor or check airmen functions.

DATES: Written comments should be submitted by November 8, 2021.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Sheri A. Martin, Federal Aviation Administration, Safety Standards, AFS–200 Division, 777 S Aviation Blvd., Suite 150, El Segundo, CA 90245.

By fax: 424–405–7218.

FOR FURTHER INFORMATION CONTACT: Kevin M. Donohue by email at: *kevin.donohue@faa.gov;* phone: 316–941–1223

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: 2120–0600.

Title: Training and Qualification Requirements for Check Airmen and Flight Instructors.

Form Numbers: There are no forms associated with this collection of information.

Type of Review: Renewal of an information collection.

Background: Federal Aviation Regulations (FAR) parts 121.411(d), 121.412(d), 135.337(d), and 135.338(d) require the collection of this data. This collection is necessary to insure that instructors and check airmen have completed necessary training and checking required to perform instructor and check airmen functions.

Respondents: There are approximately 15,925 check airmen and flight instructors.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 15 seconds.

Estimated Total Annual Burden: 66 hours.

Issued in Washington, DC, on September 2, 2021.

Sheri Martin,

Management and Program Analyst, FAA, Safety Standards, AFS–200 Division.

[FR Doc. 2021–19360 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0011]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from six individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions will enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Comments must be received on or before October 8, 2021.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2021–0011 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number, FMCSA–2021–0011, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2021–0011), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/docket?D=FMCSA-2021-0011.* Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2021–0011, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The six individuals listed in this notice have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

On July 16, 1992, the Agency first published the criteria for the Vision Waiver Program, which listed the conditions and reporting standards that CMV drivers approved for participation would need to meet (57 FR 31458). The current Vision Exemption Program was established in 1998, following the

enactment of amendments to the statutes governing exemptions made by § 4007 of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107, 401 (June 9, 1998). Vision exemptions are considered under the procedures established in 49 CFR part 381 subpart C, on a case-by-case basis upon application by CMV drivers who do not meet the vision standards of § 391.41(b)(10).

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely in intrastate commerce with the vision deficiency for the past three years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at *www.regulations.gov/docket?D=FMCSA-1998-3637.*

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's former waiver study program clearly demonstrated the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively.[1] The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

[1] A thorough discussion of this issue may be found in a FHWA final rule published in the **Federal Register** on March 26, 1996 and available on the internet at *https://www.govinfo.gov/content/pkg/FR-1996-03-26/pdf/96-7226.pdf.*

III. Qualifications of Applicants

Jason R. Flodin

Mr. Flodin, 47, has amblyopia in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2021, his optometrist stated, ''In my medical opinion, Jason is [sic] has sufficient vision to perform driving tasks required to operate a commercial vehice.'' Mr. Flodin reported that he has driven straight trucks for 30 years, accumulating 210,000 miles, and tractor-trailer combinations for 14 years, accumulating 14,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Justin W. Green

Mr. Green, 38, has had a retinal detachment in his left eye due to a traumatic incident in 2009. The visual acuity in his right eye is 20/15, and in his left eye, light perception. Following an examination in 2021, his optometrist stated, ''It is my professional opinion that Mr. Green meets the visual requirements to operate a commercial motor vehicle.'' Mr. Green reported that he has driven straight trucks for 18 years, accumulating 216,000 miles, and tractor-trailer combinations for 4 years, accumulating 400,000 miles. He holds a Class A CDL from Arkansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Joshua L. Kupsch

Mr. Kupsch, 31, has a retinal hermorrhage in his right eye due to a traumatic incident in 2017. The visual acuity in his right eye is counting fingers, and in his left eye, 20/15. Following an examination in 2021, his ophthalmologist stated, ''It is my opinion that his current level of vision, being very stable, should be sufficient for commercial driving.'' Mr. Kupsch reported that he has driven straight trucks for 6 years, accumulating 162,000 miles. He holds a Class ABCDM CDL from Wisconsin. His driving record for the last 3 years shows one crash in a CMV, for which he was cited, and no convictions for moving violations in a CMV.

Josue M. Rodriguez-Espinoza

Mr. Rodriguez-Espinoza, 30, has had refractive amblyopia in his right eye since birth. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2021, his ophthalmologist stated, ''I feel that Mr. Rodriguez would have no problem performing the tasks required to appropriately operate a commercial vehicle despite the poor vision in his right eye.'' Mr. Rodriguez-Espinoza reported that he has driven straight trucks for 8 years, accumulating 80,000 miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dana R. Williams

Mr. Williams, 30, has complete loss of vision in his right eye due to a traumatic incident in 2009. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2021, his ophthalmologist stated, ''In my medical opinion Dana Williams have [sic] sufficient vision to operate a commercial vehicle safely.'' Mr. Williams reported that he has driven straight trucks for 5 years, accumulating 125,000 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Larry L. Yow

Mr. Yow, 65, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2021, his ophthalmologist stated, ''In my professional opinion, the patient has sufficient correctable vision to [sic] ability to perform driving tasks required to operate a commercial motor vehicle.'' Mr. Yow reported that he has driven tractor-trailer combinations for 12 years, accumulating 1.08 million miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no

convictions for moving violations in a CMV.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments and material received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–19471 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0140]

Entry-Level Driver Training: Application for Exemption; Oak Harbor Freight Lines, Inc.

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

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that Oak Harbor Freight Lines, Inc., (Oak Harbor) has applied for an exemption from the qualification requirements pertaining to entry-level driver training (ELDT) theory instructors, as set forth in the definition of ''theory instructor''. Oak Harbor requests the exemption so that the company's safety supervisor, Mr. Jeff McLaughlin, will be able to conduct classroom (theory) training for entry-level drivers who intend to operate commercial motor vehicles (CMV) used in the transportation of hazardous materials (HM). The company states the exemption is warranted due to Mr. McLaughlin's experience and expertise related to the transportation of HM. Oak Harbor also states that the road portion of the training would be completed by behind-the-wheel (BTW) instructors that meet the ELDT requirements.

DATES: Comments must be received on or before October 8, 2021.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2021–0140 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the Public Participation and Request for Comments section below for further information.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Docket Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice (FMCSA–2021–0140). Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; (202–366–4225); *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2021–0140), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comments online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2021–0140'' in the ''Search'' box, and click ''Search.'' When the new screen appears, click on ''Documents'' button, then click ''Comment'' button associated with the latest notice posted. Another screen will appear, insert the required information. Choose whether you are submitting your comment as an individual, an organization, or anonymous. Click ''Submit Comment.''

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the

exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

The Agency's ELDT regulations, set forth in 49 CFR part 380, subparts F and G, establish theory and BTW training requirements for individuals seeking to obtain a Class A or Class B CDL or a passenger (P), school bus (S), or hazardous materials (H) endorsement for the first time. The regulations take effect on February 7, 2022. The regulations require that ELDT be conducted only by qualified training providers and training instructors; drivers must obtain ELDT from a training provider listed on FMCSA's Training Provider Registry. The theory training instructor qualifications, set forth in the definition of ''theory instructor'' in 49 CFR 380.605, are: (1) The instructor must hold a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least 2 years of experience driving a CMV requiring a CDL of the same (or higher) class and/or the same endorsement and meets all applicable State qualification requirements for CMV instructors; or (2) the instructor must hold a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least 2 years of experience as a BTW CMV instructor and meets all applicable State qualification requirements for CMV instructors. The definition of ''theory instructor'' in 49 CFR 380.605 includes an exception from the requirement that the instructor currently hold a CDL and relevant endorsements if the instructor previously held a CDL of the same or higher class and complies with the other requirements set forth in the definition.

Unlike the P and S endorsement training curricula, which include both theory and BTW portions, the required H endorsement training is theory only. The H endorsement theory curriculum, set forth in Appendix E, applies to driver-trainees who intend to use CMVs to transport hazardous materials as defined in 49 CFR 383.5. Because applicants are not required to take an HM-specific skills test to obtain the H endorsement, the ELDT regulations do not contain a BTW curriculum requirement applicable to that endorsement. There are, however, BTW ELDT requirements for applicants seeking a Class A or Class B CDL or a P or S endorsement.

Applicant's Request

Oak Harbor seeks an exemption, on behalf of its Pacific Northwest Safety Supervisor, Mr. Jeff McLaughlin, from the ELDT theory instructor qualifications set forth in the definition of the term ''theory instructor'' in 49 CFR 380.605, as previously identified. Oak Harbor requests the exemption so that Mr. McLaughlin will be able to provide ELDT theory instruction pertaining to the transportation of HM by CMV. Oak Harbor cites Mr. McLaughlin's extensive teaching experience and subject matter expertise as the basis for its exemption request. Oak Harbor further states that the road portion of the training would be completed by BTW instructors that meet the ELDT requirements. A copy of the exemption application is in the docket referenced at the beginning of this notice.[1]

IV. Equivalent Level of Safety

Oak Harbor states that Mr. McLaughlin's experience and expertise in the HM field would supersede HM training offered by other theory and BTW training instructors and would enhance their HM materials and safety program. Oak Harbor provided the following list of Mr. McLaughlin's credentials:

- Over 20 years of experience as a certified State commercial vehicle inspector holding certifications in Commercial Vehicle Safety Alliance (CVSA) Part A and B, Hazardous Materials, Tank and other bulk packaging's, Motorcoach and Multi Surface HM Transportation;
- 18 years of experience as an FMCSA National Training Center Basic HM instructor;
- Previous Region IV Cooperative Hazardous Materials Enforcement Development (COHMED) Vice Chairman;
- Current COHMED Industry Liaison;
- Former Training Lieutenant, Supervisory Lieutenant and District Captain in charge of CVSA and Hazardous Materials training and recertification programs for the Montana Motor Carrier Services;
- Certified civilian CVSA Hazardous Materials instructor;
- Former Sergeant, Lieutenant and Captain overseeing CMV inspectors at the Montana/Alberta Joint Use Vehicle Inspection Station Coutts, AB regulating enforcement of FMCSA and Transport Canada regulations pertaining to vehicle safety and hazardous material/dangerous goods regulations.

[1] The Agency notes that Oak Harbor's application requests exemption specifically from the requirement that theory instructors hold a CDL of the same (or higher) class and with all endorsement necessary to operate the CMV for which training is to be provided. On August 30, 2022, in a conversation with Oak Harbor's Safety Manager, Mr. Tom Mueller, FMCSA personnel confirmed that Oak Harbor is seeking exemption from all the theory instructor qualification requirements set forth in the definition of ''theory instructor'' in 49 CFR 380.605. A summary of that conversation can be found in the docket for this notice.

V. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Oak Harbor's application for an exemption from the qualification requirements set forth in the definition of ''theory instructor'' in 49 CFR 380.605. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–19440 Filed 9–7–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before October 8, 2021.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 2, 2021.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data—Granted			
12240–M	Spence Air Service	172.200, 172.301(c), 172.301(d), 175.75(b), 175.310(a).	To modify the special permit to waive certain marking and shipping paper requirements.
13220–M	Entegris, Inc	173.302, 173.302c	To modify the special permit by authorizing additional carbon steels specified for the cylindrical shell of the pressure vessel.
14661–M	FIBA Technologies, Inc	180.209(a), 180.209(a), 180.209(b)(1), 180.209(b)(1)(iv).	To modify the special permit to authorize additional Division 2.1 and 2.2 hazmat.
20584–M	Battery Solutions, LLC	173.185(f)(3), 173.185(c)(1)(iii), 173.185(c)(1)(iv), 173.185(c)(1)(v), 173.185(c)(3), 173.185(f), 173.185(f)(1), 173.185(a)(1).	To modify the special permit to authorize relief from the UN 38.3 testing and recordkeeping requirements of § 173.185(a).
20898–M	Rivian Automotive, LLC	172.101(j), 173.185(a), 173.185(b)(3)(i), 173.185(b)(3)(ii).	To modify the special permit to authorize additional batteries and cargo vessel as a mode of transportation.
21025–M	Airgas USA, LLC	173.301(a)(6), 180.205(c)	To modify the special permit to authorize an additional Division 2.2 hazmat.
21209–N	Atlas Air, Inc	172.101(j)	To authorize the transportation in commerce of a material forbidden for transportation by air by cargo-only aircraft.
21229–N	Mercedes-Benz U.S. International, Inc.	172.101(j), 173.185(b)(6)	To authorize the transportation in commerce of certain lithium ion battery assemblies that exceed 35 kg aboard cargo-only aircraft.
21240–N	Volkswagen Group of America Chattanooga Operations, LLC.	172.101(j), 173.185(b)(1)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg by cargo-only aircraft in alternative packaging.
21246–N	Ensign-Bickford Aerospace & Defense Co.	172.320(a), 173.51(a), 173.56(b)	To authorize the transportation in commerce of subassembly components of previously approved assemblies without subassembly components being tested, classed, and approved.
21256–N	Veolia Es Technical Solutions, LLC.	173.56(b)	To authorize the one-time, one-way transportation in commerce of unapproved explosives originating at Aberdeen Proving Ground and transported to Veolia's waste incinerator for final disposal located at in Sauget, Illinois.
21261–N	Korean Airlines Co., Ltd	172.101(j)(1), 173.27(b)(2), 173.27(b)(3), 175.30(a)(1).	To authorize the transportation in commerce of certain explosives that are forbidden for transportation by cargo aircraft only.
21264–N	National Air Cargo Group, Inc.	172.101(j), 172.204(c)(3), 173.27(b)(2), 173.27(b)(3), 175.30(a)(1).	To authorize the transportation in commerce of certain Division 1.1, 1.2, 1.3 and 1.4 explosives which are forbidden or exceed quantities authorized for transportation by cargo aircraft only.
Special Permits Data—Denied			
20279–M	City Carbonic LLC	180.207(d)(1)	To modify the special permit to remove specific manufacturer applicability to the manufacture of authorized cylinders.
21062–N	Gas Innovations Inc	171.23	To authorize the transportation in commerce of pressure drums containing Hydrogen chloride, anhydrous, UN 1050 that do not meet the requalification requirement in § 171.23 for export.
21234–N	Air Liquide Advanced Materials Inc.	173.301	To authorize the transportation in commerce of Dichlorosilane in non-DOT specification cylinders.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21263–N	Veolia Es Technical Solutions, LLC.	173.196(a)	To authorize the transportation in commerce of certain Monkeypox-contaminated medical waste to Veolia ES Technical Solutions, L.L.C.'s Port Arthur, TX incinerator for disposal.
Special Permits Data—Withdrawn			
21276–N	Space Exploration Technologies Corp.	172.300, 172.400, 173.302(a)	To authorize the transportation in commerce of satellites containing krypton, compressed in non-DOT specification cylinders.
21277–N	Wampum Hardware Co	178.703(a)(1)	To authorize the transportation in commerce of Ammonium Nitrate-Fuel Oil mixture in blank bags with alternative marking.

[FR Doc. 2021–19463 Filed 9–7–21; 8:45 am]
BILLING CODE 4909–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Modifications to Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Transportation (DOT).

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before September 23, 2021.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 2, 2021.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application number	Applicant	Regulation(s) affected	Nature of the special permits thereof
10511–M	Schlumberger Technology Corp.	173.304a	To modify the special permit to authorize an additional packaging configuration. (modes 1, 2, 3, 4, 5)
10776–M	Bevin Bros Manufacturing Company.	173.302a(a)(1), 173.304a(a)(1).	To modify the special permit to authorize additional hazardous materials. (modes 1, 2, 3, 4, 5)
13112–M	Cobham Mission Systems Orchard Park Inc.	173.302a(a)(1)	To modify the special permit to update the drawing revision number of the packaging. (modes 1, 2, 3, 4, 5)
20351–M	Roeder Cartage Company, Incorporated.	180.407(c), 180.407(e), 180.407(f).	To modify the special permit to authorize an additional cargo tank. (mode 1)
20646–M	Omni Tanker Pty. Ltd	107.503(b), 107.503(c), 172.102(c)(3), 172.102(c)(7)(ii), 178.274(b), 178.274(c), 178.274(d).	To modify the special permit to authorize additional hazardous materials and rail freight. (modes 1, 2)
21199–M	Solvay Fluorides, LLC	173.227(c)	To modify the special permit to remove the requirement to line the freight container with plywood. (mode 1)
21213–M	Space Exploration Technologies Corp.	172.300, 172.400, 173.302(a)	To modify the special permit to increase the number of cylinders and add additional routes. (mode 1)
21240–M	Volkswagen Group of America Chattanooga Operations, LLC.	172.101(j)	To modify the special permit to authorize an additional lithium ion battery. (mode 4)

[FR Doc. 2021–19462 Filed 9–7–21; 8:45 am]

BILLING CODE 4909–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been removed from the Specially Designated Nationals and Blocked Person List (SDN List).

DATES: See Supplementary Information section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2480; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Actions

On May 28, 2003, the individuals listed below were included in the Annex to Executive Order 13219 of June 26, 2001, ''Blocking Property of Persons Who Threaten International Stabilization Efforts in the Western Balkans,'' as amended by Executive Order 13304 of May 28, 2003, ''Termination of Emergencies With Respect to Yugoslavia and Modification of Executive Order 13219 of June 26, 2001'' and added to the SDN List. On September 2, 2021 OFAC determined that circumstances no longer warrant the inclusion of the following individuals on the SDN List under this authority.

Individuals

1. KRAJISNIK, Momcilo; DOB 20 Jan 1945; POB Zabrdje, Bosnia-Herzegovina; ICTY indictee (individual) [BALKANS].

2. DJOGO, Jovan; POB Kalinovik, Bosnia-Herzegovina (individual) [BALKANS].

3. NIKOLIC, Dragan; DOB 26 Apr 1957; POB Vlasenica, Bosnia-Herzegovina; ICTY indictee (individual) [BALKANS].

Dated: September 2, 2021.

Bradley T. Smith,

Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2021–19377 Filed 9–7–21; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of one vessel that has been removed from the Specially Designated Nationals and Blocked Person List (SDN List). Additionally, OFAC is publishing updates to the identifying information of two vessels currently identified as blocked property on the SDN List. All property and interests relating to these vessels that are subject to U.S. jurisdiction remain blocked, and U.S. persons are generally prohibited from engaging in transactions relating to these vessels.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2480; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Actions

A. On September 2, 2021, OFAC determined that circumstances no longer warrant the inclusion of the following vessel on the SDN List under the relevant sanctions authority listed below.

Vessel

1. HERMANN (CL2685) General Cargo 2,597DWT 1,098GRT Cuba flag (Compania Navegacion Golfo S.A.) (vessel) [CUBA]. Added to the SDN List on October 21, 1988 pursuant to one or more of the criteria under the Cuban Assets Control Regulations, 31 CFR part 515 (CACR) and Sections 5 and 16 of the Trading With the Enemy Act, 50 U.S.C. App. §§ 5, 16 (TWEA).

B. On September 2, 2021, OFAC updated the entries on the SDN List for the following vessels, which continue to be identified as blocked property under the relevant sanctions authority listed below.

Vessels

1. SAND SWAN (f.k.a. ''ANA I'') (P3QG3) General Cargo 2,595DWT 1,116GRT Cyprus flag (Sand & Swan Navigation Co. Ltd.) (vessel) [CUBA].

-to-

EBANO (f.k.a. ''ANA I''; f.k.a. ''SAND SWAN'') General Cargo 2,595DWT 1,865GRT Panama flag; Vessel Registration Identification IMO 7406784 (vessel) [CUBA].

Blocked pursuant to one or more of the criteria under the CACR and the TWEA.

2. TIFON (CL2059) Tug 164GRT Cuba flag (Samir de Navegacion S.A.) (vessel) [CUBA].

-to-

TIFON (CL2059) Tug 189GRT Cuba flag; Vessel Registration Identification IMO 7206512 (vessel) [CUBA].

Blocked pursuant to one or more of the criteria under the CACR and the TWEA.

Dated: September 2, 2021.

Bradley T. Smith,

Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2021–19378 Filed 9–7–21; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel; Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held virtually by ZoomGov.

DATES: The meeting will be held September 22, 2021.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held virtually by ZoomGov.

FOR FURTHER INFORMATION CONTACT: Robin B. Lawhorn, 400 West Bay Street, Suite 252, Jacksonville, FL 32202. Telephone (904) 661–3198 (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 closed meeting of the Art Advisory Panel will be held virtually by ZoomGov.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in sections 552b(c)(3), (4), (6), and (7), of the Government in the Sunshine Act, and that the meeting will not be open to the public.

Andrew J. Keyso,

Chief, Appeals.

[FR Doc. 2021–19452 Filed 9–7–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Special Medical Advisory Group (the Committee) will meet on September 30, 2021, from 8:00 a.m. EDT to 3:00 p.m. EDT. The meeting is open to the public. The public will only be able to attend virtually. Members of the Committee may join in person or virtually. Join by phone: 1–404–397–1596, Access code 199 871 2999. Join via Webex (please contact POC below for assistance connecting): *https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=mc8f213c6049548932570e6cb5382d63f.*

The purpose of the Committee is to advise the Secretary of Veterans Affairs and the Under Secretary for Health on the care and treatment of Veterans, and other matters pertinent to the Veterans Health Administration.

On September 30, 2021, the agenda for the meeting will include discussions on electronic health record modernization, health equity and workforce strength and resiliency.

Members of the public may submit written statements for review by the Committee to: Department of Veterans Affairs, Special Medical Advisory Group—Office of Under Secretary for Health (10), Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420 or by email at *VASMAGDFO@va.gov.* Comments will be accepted until close of business on September 28, 2021.

Any member of the public wishing to attend the meeting or seeking additional information should email *VASMAGDFO@va.gov* or call 202–461–7000.

Dated: September 1, 2021.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2021–19288 Filed 9–7–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

VA High Risk List Action Plan, Managing Risks, and Improving VA Health Care

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Notice is given that the Department of Veterans Affairs (VA) report, High Risk List Action Plan Update—Managing Risks and Improving VA Health Care, provided to the U.S. Government Accountability Office (GAO), is available for public review at *https://www.va.gov/performance/.* In this update, VA provides status on actions taken from March 2020 through May 2021, future planned actions with detailed project milestones, refined goals and objectives, a resource assessment, information on work related to the coronavirus disease 2019 (COVID–19) pandemic and a response to critiques made in GAO's 2021 High Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas (21–119SP), published March 2, 2021.

FOR FURTHER INFORMATION CONTACT: Karen Rasmussen, M.D., Director for GAO-Office of Inspector General Accountability Liaison at 202–340–9429 or *VHA10BGOALGAOHRL@va.gov.*

SUPPLEMENTARY INFORMATION: VA's commitment to addressing the management functions GAO highlighted in its report will ensure initiatives continue to be reinforced by sound policy; are implemented by staff with the right knowledge, skills, and abilities; receive the right information technology support; identify and secure essential human and financial resources; have management oversight; and are accountable throughout planning, implementation, and reinforcement. Leaders in the Veterans Health Administration, in partnership with the Office of Information Technology, continue to establish a unified vision for ensuring VA effectively takes action to address the five areas of concern and drives organizational accountability toward resolution of the high-risk listing.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on September 2, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Michael P. Shores,

Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2021–19453 Filed 9–7–21; 8:45 am]

BILLING CODE 8320–01–P

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Federal Register

Vol. 86, No. 171

Wednesday, September 8, 2021

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At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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 September 2, 2021

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