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# Rules and Regulations

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2021-0260; Project Identifier MCAI-2020-01255-T; Amendment 39-21745; AD 2021-20-07]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD-500-1A10 and BD-500-1A11 airplanes. This AD was prompted by a report that following an in-service engine shutdown during taxi, water was found to be dripping into the forward avionics bay; the water caused a short circuit and tripped a circuit breaker. This AD requires replacing the forward galley slotted drain covers with solid blanking plates and modifying the associated drain tubing to block water. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective November 17, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 17, 2021.

**ADDRESSES:** For service information identified in this final rule, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec J7N 3C6, Canada; telephone 450-476-7676; email [a220\\_crc@abc.airbus](mailto:a220_crc@abc.airbus) internet <https://a220world.airbus.com>. You may view this service information at the FAA,

Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0260.

#### 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-2021-0260; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7323; email [9-avs-nyaco-cos@faa.gov](mailto:9-avs-nyaco-cos@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF-2020-30R1, dated December 11, 2020 (TCCA AD CF-2020-30R1) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus Canada Limited Partnership Model BD-500-1A10 and BD-500-1A11 airplanes. You may examine the MCAI in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0260.

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 Canada Limited Partnership Model BD-500-1A10 and BD-500-1A11 airplanes. The NPRM published in the **Federal Register** on April 26, 2021 (86 FR 21969). The NPRM was prompted by a report that

following an in-service engine shutdown during taxi, water was found to be dripping into the forward avionics bay; the water caused a short circuit and tripped a circuit breaker. The NPRM proposed to require replacing the forward galley slotted drain covers with solid blanking plates and modifying the associated drain tubing to block water. The FAA is issuing this AD to address water ingress into the forward avionics bay, which could short circuit the equipment in the bay area and lead to a loss of air data sources and consequent reduced functional capabilities and increase in crew workload, possibly leading to a loss of continued safe flight and landing. See the MCAI for additional background information.

#### Comments

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

#### Support for the Proposed AD

Air Line Pilots Association, International (ALPA) stated that it supports the NPRM.

#### Request To Clarify Details of In-Service Event

Delta Air Lines requested that the FAA review the background information contained in TCCA AD CF-2020-30R1, and verify the details with Airbus Canada Limited Partnership (Airbus Canada) to ensure the accuracy of the FAA AD. Delta Air Lines stated that it contacted Airbus Canada about the "in-service engine shutdown" phrase in the background statement, and found that there was no actual engine power loss in either event reported and that the flightcrew had reactively shut down the engine under normal procedures before returning to the gate. Delta Air Lines believes misleading information was communicated that caused TCCA to release the TCCA AD with incorrect information.

The FAA provides the following clarification of the event. The FAA contacted TCCA to discuss in detail the events leading up to the "in-service engine shutdown" before publishing the NPRM for public comment. In those discussions, it was determined and confirmed that while there was no actual engine power loss in either event,

the flightcrew had shut down the engine for taxi back to the gate out of prudence after the CDC 4 AC 2 FEED 1 circuit breaker tripped. The FAA has not changed this AD in this regard.

**Request To Specify Actions for Preventing Water Ingress**

Delta Air Lines requested that the FAA consider providing interim guidance on how or what to inspect if water is discovered in the forward avionics bay. Delta Air Lines stated that it is concerned that Airbus Canada has not provided operators any guidance for addressing water found in the galley area. Delta Air Lines also stated that the Airbus Canada’s only guidance offered to operators are the recommendations in Airbus Canada Limited Partnership All Operator Message (AOM) CS-AOM-53-00-0002: “Make sure the drain lines are free of dirt and other obstructions so that fluids drain freely,” and “Where possible, avoid leaving Passenger and Service doors open during periods of heavy rain, and eliminate large accumulations of water or other fluids in the Forward Fuselage as expeditiously as possible.”

The FAA discussed this concern with TCCA and it was discovered that the

Airbus Canada Limited Partnership Model BD-500-1A10/-1A11 Aircraft Maintenance Publication (AMP) contains an inspection for liquid spillage in the galley area of the aircraft. This special inspection, Airbus Canada Limited Partnership Data Module Code (DMC) BD500-A-J05-51-12-01AAA-284A-A, describes procedures for a general visual inspection in the galley area, and a supplemental detailed visual inspection if it is discovered that liquid has passed beyond the galley into other areas. The FAA suggests that operators consider using not only the guidance referenced by the commenter, Airbus Canada Limited Partnership AOM CS-AOM-53-00-0002, but also the procedure in the AMP, Airbus Canada Limited Partnership DMC BD500-A-J05-51-12-01AAA-284A-A, should excessive amounts of water be found in the galley. However, because this AD does not require an inspection for liquid spillage in or around the galley area, the FAA has not changed this AD in this regard.

**Conclusion**

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the

public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

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

**Related Service Information Under 14 CFR Part 51**

Airbus Canada Limited Partnership has issued Service Bulletin BD500-530009, Issue 001, dated July 31, 2020. This service information describes procedures for replacing the forward galley slotted drain covers with solid blanking plates and modifying the associated drain tubing to block water. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

**Costs of Compliance**

The FAA estimates that this AD affects 39 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

**ESTIMATED COSTS FOR REQUIRED ACTIONS**

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × \$85 per hour = \$85 .....	\$665	\$750	\$29,250

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

**Authority for This Rulemaking**

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

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

unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

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

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

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

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

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

**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:

**2021-20-07 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Amendment 39-21745; Docket No.**



FAA–2021–0260; Project Identifier  
MCAI–2020–01255–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective November 17, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to the Airbus Canada Limited Partnership (type certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) airplanes identified in paragraphs (c)(1) and (2) of this AD, certificated in any category.

(1) Model BD–500–1A10 airplanes, having serial number (S/N) 50001 through 50018 inclusive, and 50020 through 50055 inclusive.

(2) Model BD–500–1A11 airplanes, having S/N 55001 through 55016 inclusive, 55018 through 55068 inclusive, 55070 through 55083 inclusive, 55086 through 55088 inclusive, and 55090.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by a report that following an in-service engine shutdown during taxi, water was found dripping into the forward avionics bay; the water caused a short circuit and tripped a circuit breaker. The FAA is issuing this AD to address water ingress into the forward avionics bay, which could short circuit the equipment in the bay area and lead to a loss of air data sources and consequent reduced functional capabilities and increase in crew workload, possibly leading to a loss of continued safe flight and landing.

**(f) Compliance**

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

**(g) Replacement and Modification**

Within 12 months after the effective date of this AD, replace the forward galley slotted drain covers with solid blanking plates and modify the associated drain tubing to block water, in accordance with paragraph 2, “Procedure,” of the Accomplishment Instructions of Airbus Canada Limited Partnership Service Bulletin BD500–530009, Issue 001, dated July 31, 2020.

**(h) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or 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 Airbus Canada Limited Partnership’s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(i) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2020–30R1, dated December 11, 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–2021–0260.

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

**(j) Material Incorporated by Reference**

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

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

(i) Airbus Canada Limited Partnership Service Bulletin BD500–530009, Issue 001, dated July 31, 2020.

(ii) [Reserved].

(3) For service information identified in this AD, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec J7N 3C6, Canada; telephone 450–476–7676; email [a220\\_crc@abc.airbus](mailto:a220_crc@abc.airbus); internet <https://a220world.airbus.com>.

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

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

Issued on September 15, 2021.

**Ross Landes,**

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

[FR Doc. 2021–22199 Filed 10–12–21; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA–2021–0563; Project Identifier MCAI–2021–00282–T; Amendment 39–21742; AD 2021–20–04]

RIN 2120–AA64

**Airworthiness Directives; Airbus SAS Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by a report that during flight tests, the opening of the ram air outlet flaps was found to cause a disturbance of the air flow around the ram air turbine (RAT) when the landing gear (L/G) is extended. This AD requires revising the existing airplane flight manual (AFM) and applicable corresponding operational procedures to provide procedures for all engines failure and L/G gravity extension related to certain software, and installing Airbus temporary quick change (ATQC) V3 for the flight warning system (FWS) software (SW) standard (STD) 6/2.0, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective November 17, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 17, 2021.

**ADDRESSES:** For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0563.

**Examining the AD Docket**

You may examine the AD docket at <https://www.regulations.gov> by

searching for and locating Docket No. FAA–2021–0563; 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 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:** Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email [Dan.Rodina@faa.gov](mailto:Dan.Rodina@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0061, dated March 5, 2021 (EASA AD 2021–0061) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A350–941 and –1041 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A350–941 and –1041 airplanes. The

NPRM published in the **Federal Register** on July 14, 2021 (86 FR 37087). The NPRM was prompted by a report that during flight tests, the opening of the ram air outlet flaps was found to cause a disturbance of the air flow around the RAT when the L/G is extended. The NPRM proposed to require revising the existing AFM and applicable corresponding operational procedures to provide procedures for all engines failure and L/G gravity extension related to certain software, and installing ATQC V3 for the FWS SW STD 6/2.0, as specified in EASA AD 2021–0061.

The FAA is issuing this AD to address a non-negligible effect on the overall performance of the RAT in case of total engine flame out (TEFO) or electrical emergency configuration combined with the auxiliary power unit (APU) running, which could lead to partial or total loss of RAT electrical power generation when the RAT is deployed in an emergency condition with the landing gear extended, and possibly result in reduced control of the airplane. See the MCAI for additional background information.

**Discussion of Final Airworthiness Directive**

**Comments**

The FAA received comments from The Air Line Pilots Association,

International (ALPA), who supported the NPRM without change.

**Conclusion**

The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator. 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 2021–0061 describes procedures for revising the existing AFM to provide procedures for all engines failure and L/G gravity extension related to certain software, and installing ATQC V3 for the FWS SW STD 6/2.0. 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 17 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

**ESTIMATED COSTS FOR REQUIRED ACTIONS**

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
3 work-hours × \$85 per hour = \$255 .....	\$0	\$255	\$4,335

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

**Authority for This Rulemaking**

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA

with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

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

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

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

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

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

**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:

**2021–20–04 Airbus SAS:** Amendment 39–21742; Docket No. FAA–2021–0563; Project Identifier MCAI–2021–00282–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective November 17, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0061, dated March 5, 2021 (EASA AD 2021–0061).

**(d) Subject**

Air Transport Association (ATA) of America Code 31, Instruments.

**(e) Reason**

This AD was prompted by a report that during flight tests, the opening of the ram air outlet flaps was found to cause a disturbance of the air flow around the ram air turbine (RAT) when the landing gear is extended. The FAA is issuing this AD to address a non-negligible effect on the overall performance of the RAT in case of total engine flame out (TEFO) or electrical emergency configuration combined with the auxiliary power unit (APU) running, which could lead to partial or total loss of RAT electrical power generation when the RAT is deployed in an emergency condition with the landing gear extended, and possibly result in reduced control of the airplane.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0061.

**(h) Exceptions to EASA AD 2021–0061**

(1) Where EASA AD 2021–0061 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2021–0061 specifies to “inform all flight crews, and, thereafter, operate the aeroplane accordingly,” this AD does not require those actions as those actions are already required by existing FAA operating regulations.

(3) Paragraph (1) of EASA AD 2021–0061 specifies amending “the applicable AFM

[airplane flight manual],” however this AD requires amending “the applicable existing AFM and applicable corresponding operational procedures.”

(4) The “Remarks” section of EASA AD 2021–0061 does not apply to this AD.

**(i) Additional AD Provisions**

The following provisions also apply to this AD:

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

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

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

**(j) Related Information**

For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email [Dan.Rodina@faa.gov](mailto:Dan.Rodina@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 this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2021–0061, dated March 5, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0061, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>.

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

(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](mailto:fr.inspection@nara.gov), or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on September 15, 2021.

**Gaetano A. Sciortino,**

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

[FR Doc. 2021–22198 Filed 10–12–21; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 97**

[Docket No. 31394; Amdt. No. 3978]

**Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments**

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** This rule is effective October 13, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

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

**ADDRESSES:** Availability of matter incorporated by reference in the amendment is as follows:

#### For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov) or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

#### Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at [nfdc.faa.gov](http://nfdc.faa.gov) to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

#### FOR FURTHER INFORMATION CONTACT:

Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd. Registry Bldg. 29, Room 104, Oklahoma City, OK 73169. Telephone: (405) 954–4164.

**SUPPLEMENTARY INFORMATION:** This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further,

airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

#### Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

#### The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to

the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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 so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on October 1, 2021.

#### Thomas J. Nichols,

*Aviation Safety, Flight Standards Service, Manager, Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division.*

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, CFR part 97, (is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

#### PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows: By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

*Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
4–Nov–21 ....	CA	Hemet .....	Hemet-Ryan .....	1/5569	6/25/21	This NOTAM, published in Docket No. 31392, Amdt No. 3976, TL 21–23, (86 FR 54606, October 4, 2021) is hereby rescinded in its entirety.
4–Nov–21 ....	TX	San Antonio .....	San Antonio Intl .....	1/7447	8/16/21	This NOTAM, published in Docket No. 31392, Amdt No. 3976, TL 21–23, (86 FR 54606, October 4, 2021) is hereby rescinded in its entirety.
4–Nov–21 ....	TX	San Antonio .....	San Antonio Intl .....	1/1488	9/21/21	ILS OR LOC RWY 13R, Amdt 14C.
4–Nov–21 ....	OH	Painesville .....	Concord Airpark .....	1/4019	9/20/21	VOR OR GPS–A, Orig-B.
4–Nov–21 ....	NV	Reno .....	Reno/Stead .....	1/9469	9/17/21	ILS OR LOC RWY 32, Orig-B.

[FR Doc. 2021–22210 Filed 10–12–21; 8:45 am]  
**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 97**

[Docket No. 31393; Amdt. No. 3977]

**Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments**

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

**ACTION:** Final rule.

**SUMMARY:** This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPS) and associated Takeoff Minimums and Obstacle Departure procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** This rule is effective October 13, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

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

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

**For Examination**

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov) or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

**Availability**

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at [nfdc.faa.gov](http://nfdc.faa.gov) to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

**FOR FURTHER INFORMATION CONTACT:**

Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg., 29 Room 104, Oklahoma City, OK 73169. Telephone (405) 954–4164.

**SUPPLEMENTARY INFORMATION:** This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes

SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, 8260–15B, when required by an entry on 8260–15A, and 8260–15C.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers or aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the typed of SIAPS, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

**Availability and Summary of Material Incorporated by Reference**

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

## The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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 so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Lists of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on October 1, 2021.

**Thomas J Nichols,**

*Aviation Safety, Flight Standards Service, Manager, Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division.*

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

### PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

*Effective 4 November 2021*

Middlefield, OH, 7G8, RNAV (GPS) RWY 11, Orig-C

Middlefield, OH, 7G8, RNAV (GPS) RWY 29, Orig-C

*Effective 2 December 2021*

Beaver, AK, PAWB, RNAV (GPS) RWY 5, Orig-A

Beaver, AK, PAWB, RNAV (GPS) RWY 23, Orig-A

Taylor, AZ, KTYL, RNAV (GPS) RWY 21, Amdt 1

Taylor, AZ, Taylor, Takeoff Minimums and Obstacle DP, Amdt 2

Lamoni, IA, KLWD, RNAV (GPS) RWY 18, Amdt 1

Lamoni, IA, KLWD, RNAV (GPS) RWY 36, Amdt 1

Lamoni, IA, Lamoni Muni, Takeoff Minimums and Obstacle DP, Amdt 1

Newton, IA, Newton Muni-Earl Johnson Field, VOR RWY 14, Amdt 9C

Presque Isle, ME, Presque Isle Intl, Takeoff Minimums and Obstacle DP, Amdt 7

Cadillac, MI, KCAD, ILS OR LOC RWY 7, Amdt 1

Cadillac, MI, KCAD, RNAV (GPS) RWY 7, Orig-C

Cadillac, MI, KCAD, RNAV (GPS) RWY 25, Orig-B

Ionia, MI, Y70, RNAV (GPS) RWY 10, Orig Ionia, MI, Y70, RNAV (GPS) RWY 28, Amdt 1

Ionia, MI, Ionia County, Takeoff Minimums and Obstacle DP, Orig-B

Manistee, MI, KMBL, ILS OR LOC RWY 28, Amdt 2

Columbia, MS, K0R0, RNAV (GPS) RWY 23, Amdt 2

Columbia, MS, Columbia-Marion County, Takeoff Minimums and Obstacle DP, Amdt 1

Buffalo, NY, KBUF, ILS OR LOC RWY 5, Amdt 18

Buffalo, NY, KBUF, ILS OR LOC RWY 23, ILS RWY 23 (SA CAT I), Amdt 34

Buffalo, NY, KBUF, ILS OR LOC RWY 32, Amdt 3

Springfield, OH, KSGH, RNAV (GPS) RWY 6, Orig-A

Springfield, OH, KSGH, RNAV (GPS) RWY 15, Orig

Springfield, OH, KSGH, RNAV (GPS) RWY 24, Orig-A

Springfield, OH, KSGH, RNAV (GPS) RWY 33, Orig

Ardmore, OK, KADM, VOR-B, Amdt 1C

Gold Beach, OR, Gold Beach Muni, NELL ONE Graphic DP

Gold Beach, OR, Gold Beach Muni, Takeoff Minimums and Obstacle DP, Orig

Lexington, OR, Lexington Airport, Takeoff Minimums and Obstacle DP, Amdt 1

Washington, PA, KAFJ, ILS OR LOC RWY 27, Amdt 1D

Washington, PA, KAFJ, RNAV (GPS) RWY 9, Amdt 1F

Washington, PA, KAFJ, RNAV (GPS) RWY 27, Amdt 1C

Westerly, RI, KWST, LOC RWY 7, Amdt 7

Lemmon, SD, KLEM, RNAV (GPS) RWY 30, Orig-B

Lemmon, SD, Lemmon Muni, Takeoff Minimums and Obstacle DP, Amdt 2

Smyrna, TN, Smyrna, Takeoff Minimums and Obstacle DP, Amdt 7

Sweetwater, TX, KSWW, RNAV (GPS) RWY 17, Orig-B

Omak, WA, Omak, EPHRATA ONE Graphic DP

Omak, WA, Omak, GETNG ONE Graphic DP, CANCELLED

Omak, WA, Omak, Takeoff Minimums and Obstacle DP, Amdt 1A

Jackson, WY, Jackson Hole, GEYSER SIX Graphic DP

Jackson, WY, KJAC, RNAV (GPS) X RWY 1, Amdt 2

Jackson, WY, KJAC, VOR RWY 1, Amdt 1

Jackson, WY, KJAC, VOR RWY 19, Amdt 1

[FR Doc. 2021–22209 Filed 10–12–21; 8:45 am]

**BILLING CODE 4910–13–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2020–0476; FRL–8777–03–R9]

### Air Plan Approval; California; Antelope Valley Air Quality Management District, Eastern Kern Air Pollution Control District, and Yolo-Solano Air Quality Management District; Combustion Sources; Correcting Amendment

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

**ACTION:** Final rule; correction.

**SUMMARY:** On September 10, 2021, the Environmental Protection Agency (EPA) published a final rule in the **Federal**

**Register** approving revisions to the Antelope Valley Air Quality Management District, Eastern Kern Air Pollution Control District and Yolo-Solano Air Quality Management District portions of the California State Implementation Plan (SIP). In that rulemaking, the EPA inadvertently cited the incorrect local effective date in identifying one of the rules being approved into the SIP. This document corrects that error in the final rule's preamble and regulatory text.

**DATES:** This correction is effective on October 12, 2021.

**FOR FURTHER INFORMATION CONTACT:** Kevin Gong, EPA Region IX, (415) 972-3073, [gong.kevin@epa.gov](mailto:gong.kevin@epa.gov).

**SUPPLEMENTARY INFORMATION:** In FR Doc. 2021-19434 appearing on page 50645 in the **Federal Register** of Friday, September 10, 2021, the following corrections are made:

■ 1. On page 50645, in Table 1—Submitted Rules, in the column for “Local action” and the row for “EKAPCD”, the table cell is corrected to read “Amended 03/08/2018”.

**§ 52.220 [Corrected]**

■ 2. On page 50646, at the bottom of the third column, the regulatory text for

added 52 CFR 52.220(c)(520)(i)(B)(1), “(1) Rule 425.2, “Boilers, Steam Generators, and Process Heaters (Oxides of Nitrogen),” amended on January 11, 2018.” is corrected to read “(1) Rule 425.2, “Boilers, Steam Generators, and Process Heaters (Oxides of Nitrogen),” amended on March 8, 2018.”.

Dated: October 5, 2021.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2021-22153 Filed 10-8-21; 11:15 am]

**BILLING CODE 6560-50-P**

# Proposed Rules

Federal Register

Vol. 86, No. 195

Wednesday, October 13, 2021

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 984

[Doc. No. AMS–SC–21–0067; SC20–984–3 CR]

#### Walnuts Grown in California; Continuance Referendum

**AGENCY:** Agricultural Marketing Service, Department of Agriculture (USDA).

**ACTION:** Referendum order.

**SUMMARY:** This document directs that a referendum be conducted among eligible California walnut growers to determine whether they favor continuance of the marketing order regulating the handling of walnuts grown in California.

**DATES:** The referendum will be conducted from December 6 through December 31, 2021. To vote in this referendum, growers must have produced walnuts in California during the period September 1, 2020, through August 31, 2021.

**ADDRESSES:** Copies of the marketing order may be obtained from the office of the referendum agents at 1220 SW 3rd Avenue, Suite 305, Portland, OR 97204; Telephone: (503) 326–2724; or the Office of the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491; or on the internet at <https://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Joshua R. Wilde or Gary D. Olson, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1220 SW 3rd Avenue, Suite 305, Portland, OR 97204; Telephone: (503) 326–2724, or Email: [Joshua.R.Wilde@usda.gov](mailto:Joshua.R.Wilde@usda.gov) or [GaryD.Olson@usda.gov](mailto:GaryD.Olson@usda.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to Marketing Agreement and Order No. 984, as amended (7 CFR part 984),

hereinafter referred to as the “Order,” and applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act,” it is hereby directed that a referendum be conducted to ascertain whether continuance of the Order is favored by the growers. The referendum shall be conducted from December 6 to December 31, 2021, among eligible California walnut growers. Only growers that were engaged in the production of walnuts in California during the period September 1, 2020, through August 31, 2021, may participate in the continuance referendum.

USDA has determined that continuance referenda are an effective means for determining whether growers favor continuation of marketing order programs. The Order will continue in effect if at least two-thirds of growers voting in the referendum, or growers of at least two-thirds of the volume of California walnuts represented in the referendum, favor continuance. In evaluating merits of continuance versus termination, USDA will not exclusively consider results of the continuance referendum. USDA will also consider all other relevant information concerning the operation of the Order and relative benefits and disadvantages to growers, handlers, and consumers in order to determine whether continued operation of the Order would tend to effectuate the declared policy of the Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the ballots used in the referendum have been approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0178—Vegetable and Specialty Crops. It has been estimated that it will take an average of 20 minutes for each of the approximately 4,400 growers of California walnuts to cast a ballot. Participation is voluntary. Ballots postmarked after December 31, 2021, will not be included in the vote tabulation.

Joshua R. Wilde and Gary D. Olson of the Northwest Marketing Field Office, Specialty Crops Program, Agricultural Marketing Service (AMS), USDA, are hereby designated as the referendum agents of the Secretary of Agriculture to conduct this referendum. The procedure applicable to the referendum shall be the “Procedure for the Conduct of

Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended” (7 CFR 900.400 through 900.407).

Ballots will be mailed to all growers of record and may also be obtained from the referendum agents or from their appointees.

#### List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

**Authority:** 7 U.S.C. 601–674.

**Erin Morris,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2021–22312 Filed 10–12–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2021–0788; Project Identifier AD–2021–00489–T]

RIN 2120–AA64

#### Airworthiness Directives; The Boeing Company Airplanes

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 737–700, –800, and –900ER series airplanes. This proposed AD was prompted by reports of incorrectly installed fuselage skin fasteners. This proposed AD would require a detailed inspection of a certain body station bulkhead, between certain stringers, for any incorrectly installed fastener common to fuselage skin, and applicable on-condition actions. 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 November 29, 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 Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0788.

#### Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0788; 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:** Lu Lu, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3525; email: [lu.lu@faa.gov](mailto:lu.lu@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-2021-0788; Project Identifier AD-2021-00489-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 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 Lu Lu, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3525; email: [lu.lu@faa.gov](mailto:lu.lu@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 has received a report indicating incorrectly installed fasteners were found at the station (STA) 727 bulkhead between stringers S-22 and S-27. The fasteners, installed with a gap under the fastener head, were found at the STA 727 bulkhead common to fuselage skin, including the S-23 skin lap splice. Incorrectly installed fasteners are suspected to exist on airplanes delivered within a certain time period. The FAA has confirmed that the fastener installation procedures were corrected on airplanes subsequently delivered. This condition was the result of incorrect procedures used to install affected fasteners during airplane production, which could result in incorrectly installed fasteners going undetected. Continuous operation of the airplane with incorrectly installed fasteners may generate fatigue cracking that could adversely affect the structural integrity of the airplane. Gaps under fastener heads will result in bending

loads on the bulkhead chord that could cause chord failure and adjacent skin failure, resulting in reduced control of the airplane.

#### FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

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

The FAA reviewed Boeing Alert Requirements Bulletin 737-53A1384 RB, dated September 10, 2020. This service information specifies procedures for a detailed inspection for incorrectly installed fasteners at the STA 727 bulkhead outer chord common to the fuselage skin between stringers S-22 and S-27 on the left and right sides, and applicable on-condition actions. In addition to repair and replacement, on-condition actions include repetitive inspections for cracking of the fuselage skin between stringers S-22 and S-27; an open hole high frequency eddy current (HFEC) inspection for cracking at all incorrectly installed fastener locations; and external and internal general visual inspections for repairs of the STA 727 bulkhead. On-condition actions also include repetitive HFEC and low frequency eddy current (LFEC) inspections in unrepaired areas for cracking of the inner skin from the wheel well; of the outer, upper, and lower chords from the wheel well; and of the fail-safe chord from the cargo compartment.

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**.

#### Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the service information already described except for any differences identified as exceptions in the regulatory text of this proposed AD. For information on the procedures and compliance times, see this service information at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0788.

#### Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 78 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections .....	13 work-hours × \$85 per hour = \$1,105 .....	\$0	\$1,105	\$86,190

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

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

of aircraft that might need these on-condition actions.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Open hole HFEC inspections ..	21 work-hours × \$85 per hour = \$85 per inspection cycle .....	\$0	\$1,785 per inspection cycle.
HFEC and LFEC inspections ..	36 work-hours × \$85 per hour = \$3,060 per inspection cycle	0	3,060 per inspection cycle.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all 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:

**The Boeing Company:** Docket No. FAA–2021–0788; Project Identifier AD–2021–489–T.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by November 29, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to The Boeing Company Model 737–700, –800, and –900ER series airplanes, certificated in any category, and identified in Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by reports of incorrectly installed fuselage skin fasteners. The FAA is issuing this AD to address incorrectly installed fasteners. This condition, if not addressed, could result in incorrectly installed fasteners going undetected. Continuous operation of the airplane with undetected incorrectly installed fasteners may generate fatigue cracking that could adversely affect the structural integrity of the airplane.

**(f) Compliance**

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

**(g) Required Actions**

Except as specified by paragraph (h) of this AD: At the applicable times specified in the “Compliance” paragraph of Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020.

**Note 1 to paragraph (g):** Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–53A1384, dated September 10, 2020, which is referred to in Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020.

**(h) Exceptions to Service Information Specifications**

(1) Where the “Effectivity” paragraph and the Condition and Compliance Time columns of the tables in the “Compliance” paragraph of Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020, use the phrase “the Original Issue date of Requirements Bulletin 737–53A1384 RB,” this AD requires using “the effective date of this AD.”

(2) Where Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020, specifies contacting Boeing for

repair instructions or for alternative inspections: This AD requires doing the repair, or doing the alternative inspections and applicable on-condition actions, using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

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

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards 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)(1) of this AD. Information may be emailed to: [9-ANM-Seattle-ACO-AMOC-Requests@faa.gov](mailto:9-ANM-Seattle-ACO-AMOC-Requests@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

**(j) Related Information**

(1) For more information about this AD, contact Lu Lu, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3525; email: [lu.lu@faa.gov](mailto:lu.lu@faa.gov).

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

Issued on September 9, 2021.

**Lance T. Gant,**

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

[FR Doc. 2021-22203 Filed 10-12-21; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA-2021-0804; Airspace Docket No. 20-AWP-56]

RIN 2120-AA66

**Proposed Modification of Class D and Class E Airspace; China Lake NAWS (Armitage Field) Airport, CA**

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

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

**SUMMARY:** This action proposes to modify the Class D airspace at China Lake NAWS (Armitage Field) Airport, China Lake, CA. This action also proposes to modify the Class E airspace extending upward from 700 feet above the surface. Additionally, this action proposes to remove the China Lake (Navy) TACAN from the Class E5 text header and airspace description. Lastly, this action proposes numerous administrative updates to the Class D and Class E5 text headers and the Class D airspace description. This action would ensure the safety and management of instrument flight rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before November 29, 2021.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590; telephone: 1-800-647-5527, or (202) 366-9826. You must identify FAA Docket No. FAA-2021-0804; Airspace Docket No. 20-AWP-56, at the beginning of your comments. You may also submit comments through the internet at <https://www.regulations.gov>.

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

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

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

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

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2021-0804; Airspace Docket No. 20-AWP-56". The postcard will be date/time stamped and returned to the commenter.

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

### Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at <https://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at [https://www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](https://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198.

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

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

### The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by modifying the Class D airspace at China Lake NAWS (Armitage Field) Airport, China Lake, CA. To properly contain departing IFR aircraft flying toward or over rising terrain, the Class D should be extended to the southwest of the airport.

This action also proposes to modify the Class E airspace extending upward from 700 feet above the surface. This airspace is designed to contain departing IFR aircraft until reaching 1,200 feet above the surface and arriving IFR aircraft descending below 1,500 feet above the surface. New IFR approach procedures to Runway 03 were recently established at China Lake NAWS (Armitage Field) Airport, therefore, additional Class E airspace is necessary to ensure proper containment of the procedures.

Additionally, this action proposes to remove the China Lake (NAVY) TACAN from the Class E5 text header and airspace description. The navigational aid (NAVAID) is not needed to describe

the airspace area, and removal of the NAVAID simplifies the airspace description.

Lastly, this action proposes numerous administrative updates to Class D and Class E5 text headers and the Class D airspace description. The city name in the first line of the text headers should be amended from "China Lake NWC" to "China Lake", to match the FAA database. The airport name in the second line of the text headers should be amended from "China Lake NWC" to "China Lake NAWS (Armitage Field) Airport", to match the FAA database. The geographic coordinates in the third line of the text headers should be updated to "lat. 35°41'09" N, long. 117°41'32" W", to match the FAA database. The term "Airport/Facility Directory" in the last line of the Class D airspace description should be updated to "Chart Supplement."

Class D and Class E5 airspace designations are published in paragraphs 5000, and 6005, respectively, of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

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

### Regulatory Notices and Analyses

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

### Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F,

"Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

*Paragraph 5000 Class D Airspace.*

\* \* \* \* \*

#### AWP CA D China Lake, CA [Amended]

China Lake NAWS (Armitage Field) Airport,  
CA

(Lat. 35°41'09" N, long. 117°41'32" W)

That airspace extending upward from the surface to and including 4,800 feet MSL within a 4.5-mile radius of the airport, and within 1.9 miles each side of the 226° bearing from the airport extending from the 4.5-mile radius to 5.3 miles southwest of the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

\* \* \* \* \*

#### AWP CA E5 China Lake, CA [Amended]

China Lake NAWS (Armitage Field) Airport,  
CA

(Lat. 35°41'09" N, long. 117°41'32" W)

That airspace extending upward from 700 feet above the surface within a 4.5-mile radius of the airport, and within a 7-mile radius of the airport from the 115° bearing from the airport clockwise to the 271° bearing from the airport, and within 2.9 miles each side of the 184° bearing from the airport extending from the 7-mile radius to 9 miles south of the airport.

Issued in Des Moines, Washington, on October 6, 2021.

**B.G. Chew,**

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

[FR Doc. 2021-22195 Filed 10-12-21; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2021-0805; Airspace Docket No. 20-AWP-57]

RIN 2120-AA66

#### Proposed Modification of Class E Airspace; Inyokern Airport, CA

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

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

**SUMMARY:** This action proposes to modify the Class E airspace at Inyokern Airport, Inyokern, CA. This action also proposes two administrative updates to the Class E5 text header. This action would ensure the safety and management of instrument flight rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before November 29, 2021.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590; telephone: 1-800-647-5527, or (202) 366-9826. You must identify FAA Docket No. FAA-2021-0805; Airspace Docket No. 20-AWP-57, at the beginning of your comments. You may also submit comments through the internet at <https://www.regulations.gov>.

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

#### FOR FURTHER INFORMATION CONTACT:

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

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

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

##### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2021-0805; Airspace Docket No. 20-AWP-57". The postcard will be date/time stamped and returned to the commenter.

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

#### Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at <https://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at [https://www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](https://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198.

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

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by modifying the Class E airspace, extending upward from 700 feet above the surface at Inyokern Airport, Inyokern, CA. This airspace is designed to contain departing IFR aircraft until reaching 1,200 feet above the surface and arriving IFR aircraft descending below 1,500 feet above the surface. To properly contain arriving IFR aircraft performing a circling maneuver, the circular radius of the airport should be increased from "2 miles" to "4 miles". To properly contain departing IFR aircraft flying toward or over rising terrain, the airspace southwest of the airport should be widened and lengthened.

This action also proposes two administrative updates to the Class E5 text header. The airport name in the second line of the text header should be amended from "Inyokern Municipal Airport" to "Inyokern Airport", to match the FAA database. The geographic coordinates in the third line of the text header should be updated to

“lat. 35°39’31” N, long. 117°49’46” W”, to match the FAA database.

Class E5 airspace designations are published in paragraph 6005 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

### Regulatory Notices and Analyses

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

### Environmental Review

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

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

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

\* \* \* \* \*

### AWP CA E5 Inyokern, CA [Amended]

Inyokern Airport, CA  
(Lat. 35°39’31” N, long. 117°49’46” W)

That airspace extending upward from 700 feet above the surface within a 4-mile radius of the airport, and within 2.7 miles each side of the 215° bearing from the airport extending from the 4-mile radius to 11.6 miles southwest of Inyokern Airport, excluding that airspace within Restricted Area R-2505 and R-2506.

Issued in Des Moines, Washington, on October 6, 2021.

**B.G. Chew,**

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

[FR Doc. 2021–22193 Filed 10–12–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 8

**RIN 2900–AR29**

### National Service Life Insurance Premium Payment and Loan Amendment

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its National Service Life Insurance regulations to offer Service-Disabled Veterans’ Insurance policyholders the option of remitting premiums for government life insurance coverage only on a monthly or annual basis. VA also proposes to increase the amount that Veteran policyholders are eligible to borrow against the value of their life insurance policies and to adjust the interest rates charged for fixed-rate loans in certain circumstances.

**DATES:** Comments must be received on or before December 13, 2021.

**ADDRESSES:** Comments may be submitted through [www.Regulations.gov](http://www.Regulations.gov). Comments should indicate that they are submitted in response to “RIN 2900–AR29—National Service Life Insurance Premium Payment and Loan

Amendment.” Comments received will be available at [regulations.gov](http://regulations.gov) for public viewing, inspection or copies.

**FOR FURTHER INFORMATION CONTACT:** Paul Weaver, Insurance Specialist, Department of Veterans Affairs Insurance Service (310/290B), 5000 Wissahickon Avenue, Philadelphia, PA 19144, (215) 842–2000, ext. 4263. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Under the authority of 38 U.S.C. 1901–1929, VA currently administers four distinct life insurance programs: National Service Life Insurance (NSLI), Veterans’ Special Life Insurance (VSLI), Veterans’ Reopened Insurance (VRI), and Service-Disabled Veterans’ Insurance (S–DVI). As of January 31, 2021, these life insurance programs are providing insurance coverage under 458,424 policies owned by Veterans.

### 1. Payment of Premiums for Programs Issuing New Policies

Section 1908 of title 38, U.S.C., requires VA to “prescribe the time and method of payment of the premiums on insurance” for those programs by issuing regulations. VA has implemented this authority in 38 CFR 8.2(c). Section 8.2(c) requires Veteran policyholders to pay premiums on a monthly basis, with the option of paying premiums on a quarterly, semi-annual, or annual basis if the premiums are paid in advance. NSLI, VSLI, and VRI are closed to new issues, and VA does not propose to modify any premium paying requirements pertaining to these life insurance programs. However, S–DVI remains open to new issues and is currently providing coverage to Veterans with service-connected disabilities. More than 275,000 Veteran policyholders are insured under S–DVI, and less than 3,000 pay premiums on a quarterly or semi-annual basis. Because very few S–DVI policyholders are paying premiums on a quarterly or semi-annual basis and these payment options add administrative complexity and program costs associated with calculating premiums due for policyholders who elect these payment options, VA proposes to eliminate these two payment options for policyholders receiving future issue of S–DVI. Moreover, research shows that lapsed rates tend to increase with the number of premium payments made each year, with the notable exception of monthly payment modes. *See, e.g.,* Cathy Ho & Nancy Muise, *U.S. Individual Life Persistence: Guaranteed & Simplified Issue—A Joint Study Sponsored by Soc’y of Actuaries & LIMRA* 16 (2013), <https://www.soa.org/globalassets/assets/>

*Files/Research/Exp-Study/research-2013-gisi-study.pdf* (last visited Aug. 5, 2021). Thus, we propose to amend § 8.2(c) to require policyholders receiving future issue of S–DVI to submit premiums on the policy monthly due date or in advance on an annual basis. Veterans who were previously insured under S–DVI will retain the option of paying premiums on a monthly basis or in advance on a quarterly, semi-annual, or annual basis. The proposed amendment is consistent with 38 CFR 8.4, which allows Veteran policyholders to pay premiums by a monthly deduction from disability compensation or certain other payments due from VA. The proposed rule would also apply to Veteran policyholders who become insured under 38 U.S.C. 1922B(a)(1). (On January 1, 2023, VA will begin issuing policies under a new service-disabled Veterans’ insurance program, authorized by section 2004(a)(1) of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020, Pub. L. 116–315, and codified at 38 U.S.C. 1922B.) In addition, we would add a paragraph in § 8.2(c) to make clear that NSLI, VSLI, and VRI policyholders, as well as current S–DVI policyholders, may continue to pay premiums on a monthly basis or in advance on an annual, semi-annual, or quarterly basis.

## 2. Adjust Policy Loan Amounts and Interest Rates

Section 1906 of title 38, U.S.C., provides VA discretion to provide reasonable and practicable provisions pertaining to cash and loan values by publishing regulations. In 38 CFR 8.13(a), VA states that “the United States will lend to the insured . . . any amount which will not exceed 94 percent of the [policy’s] reserve.” Standard insurance industry practice allows policyholders access to the full cash value of their policies. To align with standard insurance industry practice, VA proposes to provide Veteran policyholders with access to the full cash value that policies accrue over the time period in which Veteran policyholders pay premiums for life insurance coverage. Thus, VA proposes to remove from § 8.13(a) the 94 percent limit on the amount that Veteran policyholders may borrow.

In addition, managing multiple loans for a single policyholder is administratively complex and costly. Furthermore, it would be cost prohibitive to modify current technology to support multiple loans for one policyholder. Thus, VA proposes to amend § 8.13(d) to require Veteran policyholders with existing fixed-rate

loans who want to apply for additional loans on their policies to refinance these existing fixed-rate loans into new variable-rate loans subject to a new loan rate equal to variable loan rates available from VA at the time of the loan application. This practice is acceptable within the insurance industry and would allow VA to offer loans against the remaining available cash value of Veterans’ life insurance coverage, and reduce administrative complexity and costs associated with managing multiple loans for a single policyholder.

## Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at [www.regulations.gov](http://www.regulations.gov).

## Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would directly affect only individuals and would not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

## Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and

tribal governments, or on the private sector.

## Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

## Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.030, Life Insurance for Veterans—Face Amount of New Life Insurance Policies Issued, and 64.031-Life Insurance for Veterans—Direct Payments for Insurance.

## List of Subjects in 38 CFR Part 8

Disability benefits, Life insurance, Loan programs—veterans, Military personnel, Veterans.

## Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on September 14, 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.

## Jeffrey M. Martin,

*Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 8 as set forth below:

## PART 8—NATIONAL SERVICE LIFE INSURANCE

- 1. The authority citation for part 8 continues to read as follows:

**Authority:** 38 U.S.C. 501, 1901–1929, 1981–1988.

- 2. Amend § 8.2 by revising paragraph (c)(2) and adding paragraph (c)(3) to read as follows:

### § 8.2 Payment of premiums.

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

(2) Policyholders may pay premiums in advance on an annual basis.

(3) Policyholders insured as of [EFFECTIVE DATE OF THE FINAL RULE] may pay premiums in advance on an annual, semi-annual, or quarterly basis.

\* \* \* \* \*

- 3. Amend § 8.13:

■ a. In paragraph (a), by removing “which will not exceed 94 percent” and adding “policy” before “reserve” in the first sentence; and

■ b. By revising paragraph (d).  
The revision reads as follows:

### § 8.13 Policy loans.

\* \* \* \* \*

(d) Notwithstanding any other provisions of this section, the variable loan rate shall not exceed 12 percent or be lower than 5 percent per annum. For policyholders with an existing fixed-rate loan who subsequently apply for an additional loan on the same policy, the existing fixed-rate loan shall be refinanced into the new variable-rate loan at the prevailing variable rate at the time of the new loan application.

[FR Doc. 2021–22208 Filed 10–12–21; 8:45 am]

BILLING CODE 8320–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2021–0549; FRL–8856–01–R9]

### Second 10-Year Maintenance Plan for the Indian Wells Valley PM<sub>10</sub> Planning Area; California

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the “Indian Wells Valley Second 10-Year PM<sub>10</sub> Maintenance Plan” (“Indian Wells Second Maintenance Plan” or “Plan”) as a revision to the state implementation plan (SIP) for the State of California. The Indian Wells Second Maintenance Plan includes, among other elements, a base year emissions inventory, a maintenance demonstration, contingency provisions, and motor vehicle emissions budgets for use in transportation conformity determinations. The EPA is proposing these actions because the SIP revision meets the applicable statutory and regulatory requirements for such plans and motor vehicle emissions budgets. Lastly, the EPA is beginning the adequacy process for the 2020 and 2025 motor vehicle emissions budgets in the Plan through this proposed rule.

**DATES:** Comments must be received on or before November 12, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0549, at <https://www.regulations.gov>. For comments

submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Ashley Graham, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3877 or by email at [graham.ashleyr@epa.gov](mailto:graham.ashleyr@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” refer to the EPA.

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## I. Background

### A. The PM<sub>10</sub> National Ambient Air Quality Standards

Under section 109 of the Clean Air Act (CAA or “Act”), the EPA established national ambient air quality standards (NAAQS or “standards”) for certain pervasive air pollutants (referred to as “criteria pollutants”) and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. The EPA sets the NAAQS for criteria pollutants at levels required to protect public health and welfare.<sup>1</sup> Particulate matter is one of the ambient pollutants for which the EPA has established NAAQS.<sup>2</sup>

In 1987, the EPA established primary and secondary NAAQS for particles with an aerodynamic diameter less than or equal to a nominal 10 microns in diameter (PM<sub>10</sub>).<sup>3</sup> At that time, the EPA established two PM<sub>10</sub> standards; an annual standard and a 24-hour standard.<sup>4</sup> The annual PM<sub>10</sub> standard was subsequently revoked.<sup>5</sup> More recently, the EPA announced that it was retaining the 24-hour PM<sub>10</sub> NAAQS as a 24-hour standard of 150 micrograms per cubic meter (µg/m<sup>3</sup>).<sup>6</sup> In this document, “PM<sub>10</sub> NAAQS” or “PM<sub>10</sub> standard” refer to the 24-hour PM<sub>10</sub> NAAQS.

An area attains the 24-hour standard of 150 µg/m<sup>3</sup> when the expected number of days per calendar year with a 24-hour

<sup>1</sup> For a given air pollutant, “primary” standards are those determined by the EPA as requisite to protect the public health. “Secondary” standards are those determined by the EPA as requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. CAA section 109(b).

<sup>2</sup> Particulate matter is the generic term for a broad class of chemically and physically diverse substances that exist as discrete particles (liquid droplets or solids) over a wide range of sizes. Particles originate from a variety of anthropogenic stationary and mobile sources as well as from natural sources. Particles may be emitted directly or form in the atmosphere by transformations of gaseous emissions such as sulfur dioxide (SO<sub>2</sub>), oxides of nitrogen (NO<sub>x</sub>), volatile organic compounds (VOC), and ammonia (NH<sub>3</sub>). The chemical and physical properties of particulate matter vary greatly with time, region, meteorology, and source category. SO<sub>2</sub>, NO<sub>x</sub>, VOC, and NH<sub>3</sub> are referred to as PM<sub>10</sub> precursors. As discussed later in this proposed rule, precursors do not contribute significantly to elevated ambient PM<sub>10</sub> concentrations in the Indian Wells Valley planning area. Some California air quality plans use the term reactive organic gases (ROG) instead of VOC. The terms cover essentially the same compounds, and herein we use the term VOC.

<sup>3</sup> 52 FR 24634 (July 1, 1987).

<sup>4</sup> The primary and secondary standards were set at the same level for both the 24-hour and the annual PM<sub>10</sub> standards.

<sup>5</sup> In 2006, the EPA retained the 24-hour PM<sub>10</sub> standards but revoked the annual standards. 71 FR 61144 (October 17, 2006).

<sup>6</sup> 78 FR 3086 (January 15, 2013).



concentration above the standard (referred to as an “exceedance”),<sup>7</sup> averaged over three years, is equal to or less than one. The expected number of exceedances averaged over a three-year period at any given monitor is known as the PM<sub>10</sub> design value. The PM<sub>10</sub> design value for the area is the highest design value within the nonattainment area.<sup>8</sup>

Generally, the EPA determines whether an area’s air quality is meeting the PM<sub>10</sub> NAAQS based on the most recent complete,<sup>9</sup> quality-assured, and certified data measured at established state and local air monitoring stations (SLAMS) in the nonattainment area and entered into the EPA Air Quality System (AQS) database. Data from air monitoring sites operated by state, local, or tribal agencies in compliance with the EPA’s monitoring requirements must be submitted to AQS. These monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, the EPA relies primarily on data in AQS when determining the attainment status of an area.<sup>10</sup> All valid data are reviewed to determine the area’s air quality status in accordance with 40 CFR part 50, appendix K.

#### B. The Indian Wells Valley PM<sub>10</sub> Planning Area

Under section 107 of the CAA, the EPA is required to designate all areas of the country as attainment, nonattainment, or unclassifiable for each of the NAAQS. In response to an area designation of nonattainment, states are required to adopt and submit SIP revisions that, among other things, provide for attainment of the NAAQS within such area. Once a nonattainment area attains the NAAQS and meets certain other prerequisites, the state may

request that the EPA redesignate the area to attainment.

Through its enactment of the CAA Amendments of 1990, Congress designated certain areas of the country as nonattainment areas for the PM<sub>10</sub> NAAQS. The Searles Valley planning area was one of the areas designated as nonattainment.<sup>11</sup> In 1991, the EPA classified the Searles Valley planning area, as a “Moderate” PM<sub>10</sub> nonattainment area.<sup>12</sup>

The Searles Valley planning area included three subregions (Coso Junction, Indian Wells Valley, and Trona) under the planning jurisdiction of different air pollution control agencies. On August 6, 2002, the EPA changed the boundaries of the Searles Valley PM<sub>10</sub> nonattainment area by dividing this area into three separate, newly created PM<sub>10</sub> nonattainment areas, including the Indian Wells Valley planning area.<sup>13</sup> The Indian Wells Valley planning area is under the planning jurisdiction of the Eastern Kern Air Pollution Control District (EKAPCD or “District”). The planning area boundaries include the portion of Kern County contained within the United States Geological Survey Hydrologic Unit #108090205.<sup>14</sup> It covers approximately 300 square miles and is populated by about 30,000 persons, with only one community of significant size, Ridgecrest.

On May 7, 2003, the EPA determined that the Indian Wells Valley planning area had attained the 24-hour PM<sub>10</sub> NAAQS.<sup>15</sup> The determination was based on complete, quality-assured, and certified ambient air monitoring data that showed the area monitored attainment of the PM<sub>10</sub> NAAQS during 1999–2001.<sup>16</sup> Based on the determination, the EPA finalized approval of the maintenance plan and redesignated the Indian Wells Valley planning area to attainment, effective June 6, 2003.<sup>17</sup>

EKAPCD is a monitoring organization within the California Air Resources Board (CARB) Primary Quality Assurance Organization. EKAPCD operates the PM<sub>10</sub> monitoring network in the Indian Wells Valley area. CARB submits annual monitoring network plans to the EPA that cover monitors operated by EKAPCD. These network plans describe the monitoring network

operated by EKAPCD within the Indian Wells Valley area and discuss the status of the air monitoring network, as required under 40 CFR 58.10. The EPA regularly reviews these annual plans for compliance with the applicable reporting requirements in 40 CFR part 58. With respect to PM<sub>10</sub>, the EPA has found that CARB’s network plans meet the applicable reporting requirements for the area under 40 CFR part 58, appendix D.<sup>18</sup> EKAPCD and CARB annually certify that the data they submit to AQS are complete and quality-assured.<sup>19</sup>

EKAPCD operates one PM<sub>10</sub> SLAMS monitoring site, Ridgecrest (AQS ID: 06–029–0018), within the Indian Wells Valley PM<sub>10</sub> planning area.<sup>20</sup> The monitor is located at the northeast corner of Sydnor Avenue and Primavera Street in Ridgecrest, California<sup>21</sup> (see Figure 8 in the Indian Wells Second Maintenance Plan) and was sited to monitor the highest concentration in the area at a neighborhood scale. SLAMS monitors produce data comparable to the NAAQS, and therefore the monitor must be an approved federal reference method, federal equivalent method (FEM), or approved regional method. The Ridgecrest monitor measures hourly PM<sub>10</sub> concentrations on a daily, year-round basis using a method that has been designated as an FEM by the EPA.

Table 1 shows the maximum monitored 24-hour PM<sub>10</sub> concentrations at the Ridgecrest monitoring site for 2002–2020. The table reflects that values for the Indian Wells Valley area are typically well below the PM<sub>10</sub> NAAQS of 150 µg/m<sup>3</sup>.

<sup>7</sup> An exceedance is defined as a daily value that is above the level of the 24-hour standard (*i.e.*, 150 µg/m<sup>3</sup>) after rounding to the nearest 10 µg/m<sup>3</sup> (*i.e.*, values ending in five or greater are to be rounded up). Thus, a recorded value of 154 µg/m<sup>3</sup> would not be an exceedance because it would be rounded to 150 µg/m<sup>3</sup>. A recorded value of 155 µg/m<sup>3</sup> would be an exceedance because it would be rounded to 160 µg/m<sup>3</sup>. 40 CFR part 50, Appendix K, section 1.0.

<sup>8</sup> 40 CFR 50.6 and 40 CFR part 50, appendix K. The comparison with the allowable expected exceedance rate of one per year is made in terms of a number rounded to the nearest tenth (fractional values equal to or greater than 0.05 are to be rounded up; *e.g.*, an exceedance rate of 1.05 would be rounded to 1.1, which is the lowest rate for nonattainment). 40 CFR part 50, appendix K, section 2.1(b).

<sup>9</sup> For PM<sub>10</sub>, a complete year of air quality data includes all four calendar quarters with each quarter containing a minimum of 75 percent of the scheduled PM<sub>10</sub> sampling days. 40 CFR part 50, Appendix K, section 2.3(a).

<sup>10</sup> 40 CFR 50.6; 40 CFR part 50, appendix J; 40 CFR part 53; and 40 CFR part 58, appendices A, C, D, and E.

<sup>11</sup> CAA section 107(d)(4)(B)(i) and 52 FR 29383 (August 7, 1987).

<sup>12</sup> 56 FR 56694 (November 6, 1991).

<sup>13</sup> 67 FR 50805.

<sup>14</sup> For the definition of the Indian Wells Valley planning area, see 40 CFR 81.305.

<sup>15</sup> 68 FR 24368.

<sup>16</sup> 67 FR 77196 (December 17, 2002).

<sup>17</sup> 68 FR 24368.

<sup>18</sup> For example, see letter dated November 5, 2020, from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Ravi Ramalingam, Chief, Consumer Products and Air Quality Assessment Branch, Air Quality Planning and Science Division, CARB.

<sup>19</sup> For example, see letter dated June 21, 2021, from Sylvia Vanderspek, Chief, Air Quality Planning Branch, CARB, to Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region 9.

<sup>20</sup> The EPA approved the relocation of the Ridgecrest monitor from the California Ave (06–029–0015) site to the Ward Ave site (06–029–0018) on June 27, 2018. See letter dated June 27, 2018, from Gwen Yoshimura, Manager, Air Quality Analysis Office, Air Division, EPA Region IX, to Glen E. Stephens, P.E., Air Pollution Control Officer, EKAPCD.

<sup>21</sup> Monitoring site address is 2051 Ward Ave., Ridgecrest, CA 93555.

TABLE 1—INDIAN WELLS VALLEY PM<sub>10</sub> MAXIMUM 24-HOUR VALUES

[Ridgecrest monitor, AQS identification number 06–029–0015/06–029–0018]

Year	Maximum value (µg/m <sup>3</sup> )
2002	84
2003	162
2004	47
2005	55
2006	65
2007	72
2008	57
2009	46
2010	52
2011	143
2012	43
2013	56
2014	51
2015	44
2016	66
2017	60
2018	107
2019	177
2020	401

Sources: EPA Air Quality System Quicklook Report 2001–2021, accessed February 8, 2021, and EPA Air Quality System Maximum Values Report 2019–2020, accessed August 10, 2021.

Table 2 shows the estimated number of exceedances for the Indian Wells Valley PM<sub>10</sub> area for the three-year design value periods starting in 2002 and ending in 2020. As shown in Table 1, one exceedance of the PM<sub>10</sub> NAAQS was recorded in 2003 at the Ridgecrest monitor. The District attributed the February 2, 2003 exceedance to transport of windblown dust from the Owens Lake area, citing high PM<sub>10</sub> concentration readings at several nearby sites.<sup>22</sup> Because the monitor operated on a one-in-six day sampling schedule during that time, the resulting estimated number of exceedances (*i.e.*, 24-hour design values) for the 2001–2003, 2002–2004, and 2003–2005 periods are 2.0 at the Ridgecrest monitor. Since that time, the Indian Wells Valley has attained the PM<sub>10</sub> NAAQS.

<sup>22</sup> Email dated August 20, 2021, from Jeremiah Cravens, EKAPCD, to Ashley Graham, EPA Region IX. See also EPA Air Quality System Raw Data Qualifier Report 2003, accessed August 10, 2021. The report shows that the District flagged the February 2, 2003 exceedance with the “High Winds” qualifier with a request to exclude the data as an exceptional event. The State did not submit documentation and a request for the EPA to concur on the exceedance as an exceptional event pursuant to 40 CFR 50.14.

TABLE 2—INDIAN WELLS VALLEY PM<sub>10</sub> DESIGN VALUES

[Ridgecrest monitor, AQS identification number 06–029–0015/06–029–0018]

Design value period	Design value (µg/m <sup>3</sup> )
2000–2002	0.0
2001–2003	2.0
2002–2004	2.0
2003–2005	2.0
2004–2006	<sup>a</sup> 0.0
2005–2007	<sup>a</sup> 0.0
2006–2008	<sup>a</sup> 0.0
2007–2009	0.0
2008–2010	0.0
2009–2011	0.0
2010–2012	0.0
2011–2013	0.0
2012–2014	0.0
2013–2015	0.0
2014–2016	0.0
2015–2017	0.0
2016–2018	0.0
2017–2019	0.3
2018–2020	0.7

Sources: EPA Air Quality System Design Value Report 2001–2021, accessed February 8, 2021 and EPA Air Quality System Design Value Report 2020, accessed August 10, 2021.

<sup>a</sup>Invalid design value due to incomplete data in data years 2004, 2005, and 2006.

In California, CARB is the state agency responsible for the adoption and submission to the EPA of California SIPs and SIP revisions, and it has broad authority to establish emissions standards and other requirements for mobile sources. Local and regional air pollution control districts in California are responsible for the regulation of stationary sources and are generally responsible for the development of air quality plans. In the eastern portion of Kern County, EKAPCD develops and adopts air quality plans to address CAA planning requirements applicable to the Indian Wells Valley planning area. Such plans are then submitted to CARB for adoption and submittal to the EPA as revisions to the California SIP.

On July 30, 2020, CARB submitted the “Revised PM<sub>10</sub> Maintenance Plan for Indian Wells Valley Attainment/Maintenance Area” (“Indian Wells Second Maintenance Plan”) for the 24-hour PM<sub>10</sub> NAAQS.<sup>23</sup>

**II. Procedural Requirements for Adoption and Submittal of State Implementation Plan Revisions**

CAA sections 110(a)(1) and (2) and section 110(l) require states to provide

<sup>23</sup> The submittal package included the following two documents that make up the Indian Wells Second Maintenance Plan: “Revised PM<sub>10</sub> Maintenance Plan for Indian Wells Valley Attainment/Maintenance Area” and “Indian Wells Valley Condensable PM<sub>10</sub> Emission Inventory.”

reasonable notice and opportunity for public hearing prior to adoption and submission of a SIP or SIP revision. To meet these procedural requirements, every SIP submission should include evidence that the state provided adequate public notice and an opportunity for a public hearing consistent with the EPA’s implementing regulations in 40 CFR 51.102.

CARB’s July 30, 2020 SIP submittal package includes documentation of the public processes used by the District and CARB to adopt the Indian Wells Second Maintenance Plan. As documented in the submittal package, on April 1, 2020, the District published a notice in the Bakersfield Californian, a newspaper of general circulation in Kern County, that a public hearing to consider adoption of the Plan would be held on May 7, 2020. As documented in EKAPCD Resolution No. 2020–003–05 included in the SIP revision submittal package, the Air Pollution Control Board of the EKAPCD adopted the Indian Wells Second Maintenance Plan on May 7, 2020, following the public hearing. On May 22, 2020, CARB published on its website a notice of public hearing to be held on June 25, 2020, to consider adoption of the Plan. As evidenced by CARB Resolution 20–18, CARB adopted the Indian Wells Second Maintenance Plan on June 25, 2020, following a public hearing. Based on documentation included in the July 30, 2020 SIP revision submittal package, we find that both the District and CARB have satisfied the applicable statutory and regulatory requirements for reasonable public notice and hearing prior to adoption and submission of the Plan. Therefore, we find that the submission of the Indian Wells Second Maintenance Plan meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l) and in 40 CFR 51.102.<sup>24</sup>

**III. Requirements for Second 10-Year Maintenance Plans**

Section 175A of the CAA provides the general framework for maintenance plans. The initial 10-year maintenance plan must provide for maintenance of the NAAQS for at least 10 years after redesignation, including any additional control measures necessary to ensure such maintenance. In addition, maintenance plans are to contain contingency provisions necessary to ensure the prompt correction of a violation of the NAAQS that occurs after redesignation. The contingency

<sup>24</sup> On January 30, 2021, the Indian Wells Second Maintenance Plan was deemed complete by operation of law under CAA section 110(k)(1)(B).

measures must include, at a minimum, a requirement that the state will implement all control measures contained in the nonattainment SIP prior to redesignation.

Section 175A(b) of the CAA requires states to submit a subsequent maintenance plan revision (“second 10-year maintenance plan”) eight years after redesignation. The Act requires only that this second 10-year maintenance plan maintain the applicable NAAQS for 10 years after the expiration of the first 10-year maintenance plan. Beyond these provisions, section 175A of the CAA does not define the content of a second 10-year maintenance plan.

The primary guidance on maintenance plans and redesignation requests is a September 4, 1992 memorandum from John Calcagni, titled “Procedures for Processing Requests to Redesignate Areas to Attainment” (“Calcagni Memo”).<sup>25</sup> The Calcagni Memo outlines the key elements of a maintenance plan, which include an attainment emissions inventory, maintenance demonstration, monitoring and verification of continued attainment, and a contingency plan.

Maintenance plan submittals are SIP revisions, and as such, the EPA is obligated under CAA section 110(k) to approve them or disapprove them depending upon whether they meet the applicable CAA requirements for such plans.

**IV. Evaluation of the Indian Wells Second Maintenance Plan**

*A. Emissions Inventories*

A maintenance plan for the PM<sub>10</sub> NAAQS should include an inventory of direct PM<sub>10</sub> emissions in the area.<sup>26</sup> The inventory should be consistent with the EPA’s most recent guidance on emissions inventories for nonattainment areas available at the time; must be comprehensive, including emissions from stationary point sources, area sources, and mobile sources; and must be based on actual emissions during the appropriate season, if applicable.<sup>27</sup>

The specific PM<sub>10</sub> emissions inventory requirements are set forth in the Air Emissions Reporting Requirements rule,<sup>28</sup> which requires that emissions inventories report filterable and condensable components, as applicable.<sup>29</sup> The EPA has provided additional guidance for developing PM<sub>10</sub> emissions inventories in “PM<sub>10</sub> Emissions Inventory Requirements,” EPA-454/R-94-033 (September 1994) and “Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations” (May 2017).

The Indian Wells Second Maintenance Plan includes inventories for total primary PM<sub>10</sub> and for the PM<sub>10</sub> precursors NO<sub>x</sub>, SO<sub>x</sub>, and ammonia for the years 2013 (the final year of the first maintenance period) through 2025 (the

final year of the second maintenance period).<sup>30</sup> The 2017 emissions inventory represents current emissions and was used to project emissions through 2025, as discussed further in section IV.B of this document. The emissions inventories in the Plan include estimates from all relevant source categories that the Plan divides among fuel combustion, waste disposal, cleaning and surface coatings, industrial processes, miscellaneous processes, on-road motor vehicles, and off-road motor vehicles.<sup>31</sup> CARB and the District developed the emissions inventories based on the methods and assumptions presented in detail in Appendix D (“IWV Precursor Emission Inventories 2002–2025”).<sup>32</sup> The direct PM<sub>10</sub> and PM<sub>10</sub> precursor emissions are presented in tables 2 and 3 and Appendix D of the Plan, and the specific filterable and condensable components of the direct PM<sub>10</sub> emissions estimates are identified in the accompanying document titled “Indian Wells Valley Condensable PM<sub>10</sub> Emission Inventory.” Table 3 provides a summary of the 2017 direct PM<sub>10</sub> base year emissions inventory in tons per day (tpd) for the Indian Wells Valley area. Because the Indian Wells Second Maintenance Plan depends on direct PM<sub>10</sub> emissions to demonstrate compliance, the EPA reviewed those direct PM<sub>10</sub> emissions estimates and not the District’s emissions estimates for PM<sub>10</sub> precursor emissions.

TABLE 3—INDIAN WELLS PM<sub>10</sub> BASE YEAR (2017) EMISSIONS INVENTORY  
[Annual average, tpd]

Source category	Subcategory	PM <sub>10</sub>
Stationary Point Sources .....	Fuel Combustion .....	0.031
	Waste Disposal .....	0.002
	Cleaning & Surface Coatings .....	0.001
	Industrial Processes .....	0.019
Areawide Sources .....	Miscellaneous Processes .....	1.199
Mobile Sources .....	On-Road Motor Vehicles .....	0.039
	Off-Road Motor Vehicles .....	1.172
Total .....	All Stationary, Areawide, and Mobile Sources .....	2.462

Source: Indian Wells Second Maintenance Plan, Table 3 and Appendix D.

<sup>a</sup>Emissions inventories are required to include direct PM<sub>10</sub> emissions, separately reported as PM<sub>10</sub> filterable and condensable emissions. 40 CFR 51.15(a)(1)(vii). The accompanying document titled “Indian Wells Valley Condensable PM<sub>10</sub> Emission Inventory” provides this information. Totals may not add up due to rounding.

<sup>25</sup> Memorandum dated September 4, 1992, from John Calcagni, Director, EPA Air Quality Management Division, to Regional Office Air Division Directors, Subject: Procedures for Processing Requests to Redesignate Areas to Attainment.

<sup>26</sup> PM<sub>10</sub> precursor emissions should also be included depending upon the contribution of secondary particulate matter to high ambient PM<sub>10</sub> concentrations in the area. In this instance, an inventory of PM<sub>10</sub> precursor emissions is not required because PM<sub>10</sub> precursor controls were not

relied upon to achieve attainment of the PM<sub>10</sub> NAAQS in the Indian Wells Valley planning area nor are they relied upon to demonstrate maintenance of the NAAQS (see Indian Wells Second Maintenance Plan, section IV, and 67 FR 77196, 77201 (December 17, 2002)). While not required, the Indian Wells Second Maintenance Plan includes inventories of NO<sub>x</sub>, SO<sub>x</sub>, and ammonia in appendix D (“IWV Precursor Emission Inventories”).

<sup>27</sup> CAA section 172(c)(3).

<sup>28</sup> 40 CFR part 51, subpart A.

<sup>29</sup> 40 CFR 51.15(a)(1)(vii).

<sup>30</sup> Indian Wells Second Maintenance Plan, sections IV.B and IV.D, and Appendix D.

<sup>31</sup> Indian Wells Second Maintenance Plan, sections IV.B and IV.D.

<sup>32</sup> While Appendix D is titled “IWV Precursor Emission Inventories 2002–2005,” the appendix presents the full emissions inventory documentation for direct PM<sub>10</sub> in addition to PM<sub>10</sub> precursors.

As discussed in Appendix D of the Indian Wells Second Maintenance Plan, direct PM<sub>10</sub> emissions estimates for stationary point sources reflect actual emissions reported to the District in 2017 by owners or operators of industrial point sources in the Indian Wells Valley planning area. Areawide sources, such as consumer products and agricultural burning, occur over a wide geographic area. Emissions for these categories are estimated by both CARB and the District using various models and methodologies.

Emissions from on-road mobile sources, which include passenger vehicles, buses, and trucks, were estimated using outputs from CARB's EMFAC2017 model.<sup>33</sup> These emissions were calculated by applying EMFAC2017 emissions factors to the transportation activity data provided by the Kern Council of Governments (KCOG) from their 2018 Regional Transportation Plan/2019 Federal Transportation Improvement Program (2018 RTP/2019 FTIP).<sup>34</sup> KCOG is the metropolitan planning organization representing Kern County and the 11 incorporated cities within Kern County.

Emissions from off-road mobile sources (e.g., cargo handling equipment, pleasure craft, recreational vehicles, and locomotives) were estimated using a suite of category-specific models or, where a new model was not available, the OFFROAD2007 model. Many of the newer models were developed to support recent regulations, including in-use off-road equipment.

Based on the estimates for the year 2017 in Table 3, areawide and off-road mobile sources account for a majority (approximately 96 percent) of total PM<sub>10</sub> emissions in the Indian Wells Valley planning area.<sup>35</sup> Fugitive windblown dust and unpaved road dust account for a majority of the areawide emissions (54 percent and 17 percent, respectively), whereas aircraft account for a majority

of the off-road mobile source emissions (98 percent).

The EPA considers the selection of the 2017 base year inventory to be appropriate given that it is the most recent emissions inventory associated with the triennial reporting schedule required under the Air Emissions Reporting Requirements rule. Moreover, preparation of an annual average daily inventory, as opposed to a seasonal or episodic inventory, is appropriate given that elevated PM<sub>10</sub> concentrations in the Indian Wells Valley do not exhibit a clear seasonal or episodic pattern. Based on our review of the documentation provided with the plan, we find that the 2017 emissions inventory for direct PM<sub>10</sub> is based on reasonable assumptions and methodologies, and that the inventory is comprehensive, current, accurate, and consistent with applicable CAA provisions and the Calcagni Memo.

#### B. Maintenance Demonstration

Section 175A(a) of the CAA requires that the maintenance plan "provide for the maintenance of the national primary ambient air quality standard for such air pollutant in the area concerned for at least 10 years after the redesignation." A state may generally demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by conducting modeling that shows that the future mix of sources and emissions rates will not cause a violation of the NAAQS.<sup>36</sup> Projected emissions inventories for future years must account for, among other things, the ongoing effects of economic growth and adopted emissions control requirements, and the inventories are expected to be the best available representation of future emissions. The plan submission should include documentation explaining how the state calculated the emissions data for the base year and projected inventories.

The Indian Wells Second Maintenance Plan demonstrates continued maintenance of the PM<sub>10</sub> NAAQS by projecting the direct PM<sub>10</sub> emissions in the area through 2025 and showing that future emissions of PM<sub>10</sub>

will not exceed the level of the attainment inventory. As discussed in section IV.A, the Plan includes emissions inventories representing actual emissions in 2013 (the final year of the first maintenance period) through 2017 (the Plan's base year inventory), and projected emissions for 2018 through 2025 (the final year of the second maintenance period) for sources in the Indian Wells Valley planning area.<sup>37</sup>

Projected inventories are derived by applying expected growth trends for each source category and are based on data that reflect historical trends, current conditions, and recent economic and demographic forecasts with expected emissions reductions resulting from adopted control measures to the base year inventory. For the Indian Wells Second Maintenance Plan, emissions projections for 2018 through 2025 were generated by applying growth and control profiles to the 2017 base year inventory. Growth forecasts for most point and areawide sources were developed by CARB. Mobile sources were forecast using total vehicle miles traveled projections provided by KCOG. Off-road sources were forecast using various growth surrogates as shown in Table 7 of Appendix D of the Plan. Appendix D documents the methods and assumptions used to develop the emissions projections upon which the maintenance demonstration relies and presents the detailed source-category-specific estimates for each of the analysis years.

Table 4 presents a summary of the Indian Wells Second Maintenance Plan's estimates of direct PM<sub>10</sub> emissions in an interim year (2020) and the horizon year (2025) along with the corresponding emissions estimates for the year 2013 (the final year of the first maintenance period) and the 2017 base year. For simplicity, Table 4 shows emissions for just one of the interim years (i.e., 2020) between the base year and the horizon year, but as discussed above, the Plan provides emissions estimates for each year from 2013 through 2025.<sup>38</sup>

<sup>37</sup> Indian Wells Second Maintenance Plan, sections IV.B and IV.D, and Appendix D.

<sup>38</sup> Id. at Table 2 and Table 3.

<sup>33</sup> EMFAC is short for Emission FACTor. The EPA approved EMFAC2017 for SIP development and transportation conformity purposes in California on August 15, 2019. 84 FR 41717. EMFAC2017 was the most recently approved version of the EMFAC model that was available at the time of preparation of the Indian Wells Second Maintenance Plan.

<sup>34</sup> The Kern Council of Governments Board of Directors adopted the 2018 RTP/2019 FTIP on August 16, 2018.

<sup>35</sup> Indian Wells Second Maintenance Plan, Appendix C.

<sup>36</sup> Calcagni Memo, 9–11.

TABLE 4—INDIAN WELLS PM<sub>10</sub> EMISSIONS INVENTORY, 2013, 2017, 2020, AND 2025  
[Annual average, tpd]

Source category	Subcategory	2013	2017	2020	2025
Stationary Point Sources .....	Fuel Combustion .....	0.018	0.031	0.027	0.018
	Waste Disposal .....	0.000	0.002	0.002	0.002
	Cleaning & Surface Coatings .....	0.000	0.001	0.001	0.001
	Industrial Processes .....	0.009	0.019	0.020	0.021
Areawide Sources .....	Miscellaneous Processes .....	1.424	1.199	1.193	1.262
Mobile Sources .....	On-Road Motor Vehicles .....	0.051	0.039	0.037	0.036
	Off-Road Motor Vehicles .....	1.228	1.172	1.167	1.161
Total .....	All Stationary, Areawide, and Mobile Sources.	2.679	2.462	2.446	2.501

Source: Indian Wells Second Maintenance Plan, Table 2 and Table 3.  
Totals may not add up due to rounding.

The emissions estimates in the Plan predict a gradual change in direct PM<sub>10</sub> emissions within the Indian Wells Valley planning area over time, with slight decreases in certain categories (e.g., fuel combustion, on-road motor vehicles, off-road motor vehicles) nearly offsetting slight increases in certain other source categories (i.e., industrial processes, miscellaneous processes) relative to the 2017 base year emissions. By 2025, overall direct PM<sub>10</sub> emissions are estimated to be approximately 0.039 tpd (1.6 percent) higher than in the 2017 base year. However, despite the expected growth in the area, the Plan's projected PM<sub>10</sub> emissions through 2025 are approximately 0.178 tpd (6.6 percent) lower than emissions in 2013, the final year of the first maintenance period and a year in which there were no recorded exceedances of the PM<sub>10</sub> NAAQS.

Based on our review, we find that the projected emissions inventories for direct PM<sub>10</sub> for years 2018 through 2025 are based on reasonable methods, growth factors, and assumptions, and are based on the most current and accurate information available to CARB and EKAPCD at the time the Plan and its inventories were being developed. Given that the projections of direct PM<sub>10</sub> emissions show future emissions increases through 2025 are within 1.6 percent of those in 2017 and below those in 2013 (both of which reflect attainment conditions), we find that the Indian Wells Second Maintenance Plan provides an adequate basis to demonstrate maintenance of the PM<sub>10</sub> NAAQS within the Indian Wells Valley planning area through 2025. Lastly, we find that by providing emissions projections through 2025, the Plan demonstrates maintenance of the PM<sub>10</sub> NAAQS for more than 10 years after the expiration of the first 10-year maintenance plan (i.e., 2023) in

accordance with section 175A(b) of the CAA.

#### C. Verification of Continued Attainment

Once an area has been redesignated, the state should continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area.<sup>39</sup> Data collected by the monitoring network are also needed to implement the contingency provisions of the maintenance plan.

As discussed in section I.B, EKAPCD monitors ambient concentrations of PM<sub>10</sub> in the Indian Wells Valley planning area at the Ridgecrest monitoring station. In section V.A ("Tracking") of the Indian Wells Second Maintenance Plan, the District commits to continue to operate and maintain a PM<sub>10</sub> air quality monitor in Ridgecrest in accordance with 40 CFR part 58. We find that the Indian Wells Second Maintenance Plan contains adequate provisions for continued ambient PM<sub>10</sub> monitoring to verify continued attainment through the maintenance period.

The EPA also recommends that the state verify continued attainment through methods in addition to the ambient air monitoring program, e.g., through periodic review of the factors used in development of the attainment inventory to show no significant change.<sup>40</sup> In the Indian Wells Second Maintenance Plan, EKAPCD commits to perform periodic reviews of the air monitoring data and emissions inventory, to review the inputs and assumptions used to develop the emissions inventory on an annual basis, and, if the District finds that these inputs have changed significantly, to request that CARB update the existing inventory and to compare the revised

inventory with the inventories in the Indian Wells Second Maintenance Plan.<sup>41</sup> We find that the District's commitment to verify continued attainment of the PM<sub>10</sub> NAAQS through continued ambient air monitoring and annual review of the inputs and assumptions used to develop the emissions inventories in the Indian Wells Second Maintenance Plan are acceptable.

#### D. Contingency Provisions

Section 175A(d) of the CAA requires that maintenance plans include contingency provisions, as the EPA deems necessary, to promptly correct any violations of the NAAQS that occur after redesignation of the area. Such provisions must include a requirement that the state will implement all measures with respect to the control of the relevant air pollutants that were contained in the SIP for the area before redesignation of the area as an attainment area. These contingency provisions are distinguished from contingency measures required for nonattainment areas under CAA section 172(c)(9) in that they are not required to be fully adopted measures that will take effect without further action by the state for the maintenance plan to be approved. However, the contingency provisions of a maintenance plan are considered to be an enforceable part of the SIP and should ensure that contingency measures are adopted expeditiously once they are triggered. The maintenance plan should clearly identify the measures to be adopted, include a schedule and procedure for adoption and implementation of the measures, and contain a specific timeline for action by the state. In addition, the state should identify the specific indicators or triggers that will

<sup>39</sup> Calcagni Memo, 11.

<sup>40</sup> Id.

<sup>41</sup> Indian Wells Second Maintenance Plan, section VI ("Subsequent Maintenance Plan Revisions").

be used to determine when the contingency measures need to be implemented.

The District has adopted a contingency plan to address possible future PM<sub>10</sub> air quality problems in the Indian Wells Valley planning area. The contingency plan is included in section V of the Plan.

As noted by the District in the Indian Wells Second Maintenance Plan, contingency provisions are typically implemented when air quality deteriorates beyond a specified level, such as a certain number of exceedances of the standard or a violation of the standard. In this case, the contingency provisions will be triggered when the number of exceedances at the monitor, averaged over three years, is greater than 1.05. However, the contingency plan also includes a screening process that allows the District and CARB, subject to EPA review, to exclude exceedances from the trigger calculation if the agencies collectively determine that information developed by the District is sufficient to support exclusion. The purpose of the screening process is to differentiate between exceedances that are not within the District or State control (*i.e.*, exceedances that occur despite the implementation of reasonable measures), and exceedances that are within the District's or State's control and should be included in the trigger calculation. It is important to note that, should the District or State exclude an exceedance from the contingency trigger calculation using this process, it would not constitute the EPA's concurrence that the exceedance was caused by an exceptional event. The exceedance will therefore continue to be included in design value calculations for the Indian Wells Valley planning area unless CARB, following opportunity for public comment, submits a request for the EPA to concur on the exceedance as an exceptional event pursuant to 40 CFR 50.14, and the EPA reviews the submittal and formally concurs.

Under the contingency trigger screening process, within 60 days of the end of each calendar quarter, the District will complete the following: Provide a list of exceedances that occurred during that previous quarter to CARB, identify those exceedances that the District believes to be exceedances that are not within the District's or State's control, and flag the relevant data and provide an initial description in AQS. The State then has 60 days to review the information, during which time it may request additional information from the District to supplement the District's analysis.

Following CARB's review, CARB will transmit the information to the EPA, including information for those exceedances the District believes should be excluded from the contingency plan trigger calculation.

The Indian Wells Second Maintenance Plan anticipates that the EPA will review the submitted information, notify the District if the submitted information is insufficient to support exclusion from the contingency plan trigger calculation, include such exceedances in calculating the trigger for the contingency plan, and notify the District if the contingency plan has been triggered. The EPA intends to notify the District, within 60 days of receipt, whether submitted information is sufficient or insufficient to support the exclusion of a given exceedance from the contingency plan trigger calculation and to take the other actions described in the plan. If the submitted information is not sufficient, the EPA will include the exceedance in the calculation to determine if the contingency plan has been triggered. If the State or District subsequently provide additional information sufficient to support the conclusion that the exceedance meets the criteria for exclusion from the trigger calculation, the EPA will notify the District that the calculation will be adjusted.

Under the contingency plan, if the EPA determines that contingency provisions have been triggered, (*i.e.*, the number of exceedances, averaged over three years, is greater than 1.05 excluding those exceedances identified through the screening process), EKAPCD commits to the following steps:

(1) Within six months of EPA notification, EKAPCD will complete an analysis of the exceedances and available contingency measures. During this time, the District will determine the possible cause of the exceedances and will consult with community and local industry members to determine if any voluntary or incentive measures could be implemented to reduce the magnitude of or eliminate the source of emissions. If voluntary and incentive-based measures do not adequately address the problem, the EKAPCD will evaluate its fugitive dust rules (402, 402.2, and 419), or other rules as appropriate, to determine where such rules could be improved or expanded to achieve additional emissions reductions. The measures that EKAPCD would consider and analyze include but are not limited to those listed in Table 5.

(2) Within 12 months of completing its analysis, the District will adopt and implement the new contingency measures.

TABLE 5—EMISSIONS SOURCES AND ASSOCIATED CONTROL MEASURES; RULES TO REVISE IF CONTINGENCY TRIGGERED

Emissions source	Rule
Construction and Earthmoving Activities .....	402
Storage Piles/Bulk Materials .....	402
Track-out/Carry-out .....	402
Agricultural Operations .....	402.2
Paved and Unpaved Roads .....	402 & 402.2
Nuisance .....	419
Open Areas .....	402 & 419

Source: Indian Wells Second Maintenance Plan, Table 7.

Based on our review of the Indian Wells Second Maintenance Plan, as summarized herein, we propose to find that the contingency provisions of the Plan clearly identify specific contingency measures, contain a triggering mechanism to determine when contingency measures are needed, contain a description of the process of recommending and implementing contingency measures, and contain specific and appropriate timelines for action. We also propose to find that the contingency trigger screening process, including the associated EPA review, is reasonably designed to distinguish between exceedances that are not within the District or State control, and exceedances that are within the District's or State's control and for which new or tightened control measures might be effective. Thus, we propose to conclude that the contingency plan in the Indian Wells Second Maintenance Plan is adequate to ensure correction of any violation of the PM<sub>10</sub> NAAQS that occurs after redesignation, as required by section 175A(d) of the CAA.

*E. Motor Vehicle Emissions Budgets for Transportation Conformity*

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to conform to the SIP's goals of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of the standards. Conformity to the SIP's goals means that such actions will not: (1) Cause or contribute to violations of the NAAQS, (2) worsen the severity of an existing violation, or (3) delay timely attainment of any NAAQS or any interim milestone.

Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the EPA's transportation conformity rule, codified

at 40 CFR part 93, subpart A. Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state and local air quality and transportation agencies, the EPA, FHWA, and FTA to demonstrate that an area's regional transportation plans and transportation improvement programs conform to the applicable SIP. This demonstration is typically done by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets ("budgets") contained in submitted or approved control strategy SIPs and maintenance plans.<sup>42</sup>

These control strategy SIPs and maintenance plans typically set budgets for criteria pollutants and/or their precursors to address pollution from cars and trucks. Budgets are generally established for specific years and specific pollutants or precursors. PM<sub>10</sub>

maintenance plan submittals should identify budgets for transportation-related PM<sub>10</sub> emissions in the last year of the maintenance period.<sup>43</sup>

For budgets in a maintenance plan to be approvable, they must meet, at a minimum, the EPA's adequacy criteria.<sup>44</sup> To meet these requirements, the budgets must be consistent, when considered with emissions from all other sources, with maintenance of the NAAQS and reflect all the motor vehicle control measures relied upon for the maintenance demonstration.

The EPA's process for determining adequacy of a budget consists of three basic steps: (1) Notifying the public of a SIP submittal, (2) providing the public the opportunity to comment on the budget during a public comment period, and (3) making a finding of adequacy or inadequacy. The process for determining the adequacy of a submitted budget is codified at 40 CFR 93.118(f). The EPA can notify the public

by either posting an announcement that the EPA has received SIP budgets on the EPA's adequacy website,<sup>45</sup> or via a **Federal Register** notice of proposed rulemaking when the EPA reviews the adequacy of a maintenance plan budget simultaneously with its review and action on the SIP submittal itself.<sup>46</sup>

The Indian Wells Second Maintenance Plan includes budgets for direct PM<sub>10</sub> for the last year of the maintenance Plan (2025) and an interim year (2020). The applicable source categories included in the budgets include vehicle emissions (including exhaust, brake wear, and tire wear), entrained dust from vehicle travel over paved and unpaved roads, and road construction dust. To develop the budgets, the District also rounded up the motor vehicle emissions estimates to the nearest tenth of a ton and included a safety margin.<sup>47</sup> The 2020 and 2025 annual average day conformity budgets for PM<sub>10</sub> are provided in Table 6.

TABLE 6—TRANSPORTATION CONFORMITY BUDGETS FOR THE INDIAN WELLS VALLEY PM<sub>10</sub> AREA  
[PM<sub>10</sub> tpd, annual average]

Source category	2020	2025
Vehicular Exhaust, Tire, and Brake Wear <sup>a</sup>	0.04	0.04
SAFE Rule Adjustment	0.00	0.00
Re-Entrained Paved Road Dust	0.11	0.12
Re-Entrained Unpaved Road Dust	0.13	0.13
Road Construction Dust	0.03	0.10
Safety Margin	0.0	0.10
Total <sup>b</sup>	0.31	0.49
Motor Vehicle Emissions Budget <sup>c</sup>	0.40	0.50

<sup>a</sup> This reflects the adjustment factor for the Safer Affordable Fuel-Efficient (SAFE) Vehicle Rule part one (84 FR 51310, September 27, 2019) using EMFAC2017.

<sup>b</sup> Values from California Emissions Projection Analysis Model v1.00 may not add up due to rounding.

<sup>c</sup> Motor vehicle emissions budgets calculated are rounded up to the nearest tenth of a tpd.

Source: Indian Wells Second Maintenance Plan, Table 5.

CARB developed the on-road mobile portion of the emissions inventory for the maintenance plan using California's on-road mobile source emissions projection model, EMFAC2017, and vehicle activity data provided by the KCOG from its 2019 Federal Transportation Improvement Program, as amended July 2019. The EMFAC2017 model calculated tire wear, brake wear, and exhaust emissions. Paved road dust emissions were estimated using AP-42 with California-specific silt loading

data.<sup>48</sup> The unpaved road dust emissions were estimated using CARB's methodology 7.10, updated in 2012 for non-farm roads. The road construction dust emissions were estimated based on road miles constructed according to data from KCOG.

As discussed in the March 10, 2006 final transportation conformity rulemaking, unlike the exception for paved and unpaved road dust emissions in PM<sub>2.5</sub> analyses in 40 CFR 93.102(b)(3), the conformity rule does

not include an exception for PM<sub>10</sub> for paved and unpaved road dust emissions to be determined significant. The EPA intends for road dust emissions to be included in all conformity analyses of direct PM<sub>10</sub> emissions because fugitive dust from roadways and other sources dominate PM<sub>10</sub> emissions inventories. The budgets in the Indian Wells Second Maintenance Plan, therefore, include paved and unpaved road emissions.

Regional PM<sub>10</sub> emissions analyses for transportation conformity

<sup>42</sup> Control strategy SIPs refer to reasonable further progress and attainment demonstration SIPs. 40 CFR 93.101.

<sup>43</sup> Transportation-related emissions of VOC and NO<sub>x</sub> must also be specified in PM<sub>10</sub> maintenance plans if the EPA or the state find that transportation-related emissions of one or both of these precursors within the nonattainment area are a significant contributor to the PM<sub>10</sub> nonattainment problem and has so notified the MPO and the U.S. Department of Transportation (DOT), or the

applicable SIP (or SIP revision submission) establishes an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment, or maintenance strategy. 40 CFR 93.102(b)(2)(iii). Neither of these conditions apply to the Indian Wells PM<sub>10</sub> maintenance area.

<sup>44</sup> 40 CFR 93.118(e)(4).

<sup>45</sup> 40 CFR 93.118(f)(1).

<sup>46</sup> 40 CFR 93.118(f)(2).

<sup>47</sup> The text of the Plan identifies the safety margin for VOC in 2020 only. However, Table 5 in the Plan

indicates that the safety margin is for PM<sub>10</sub> emissions. CARB confirmed via email that the reference to VOC in the text is a typographic error and that the safety margin is for PM<sub>10</sub> emissions. See email dated February 4, 2021, from Nesamani Kalandiyur, CARB, to Karina O'Connor, EPA Region IX, Subject: "RE: Question Regarding Indian Wells 2nd Maintenance Plan."

<sup>48</sup> AP-42 is an EPA document that includes a compilation of emissions factors.

determinations in PM<sub>10</sub> nonattainment and maintenance areas must account for highway and transit project construction-related fugitive PM<sub>10</sub> emissions if the control strategy or maintenance plan identifies such emissions as a contributor to the air quality problem, but it is not required if such emissions are not identified as a contributor to the air quality problem.<sup>49</sup> Emissions estimates developed for the Indian Wells Second Maintenance Plan show that fugitive PM<sub>10</sub> emissions from highway and transit project construction represent approximately 1.2 percent and 4.0 percent of the total annual-average daily PM<sub>10</sub> emissions in 2020 and 2025, respectively.<sup>50</sup> Based on these emissions estimates, the Indian Wells Second Maintenance Plan concludes that fugitive PM<sub>10</sub> emissions from highways and transit project construction are significant and must be accounted for in regional emissions analyses for transportation conformity determinations made for the Indian Wells Valley planning area. Consequently, the budgets in the Indian Wells Second Maintenance Plan reflect highway and transit project construction-related fugitive dust.

We evaluated the budgets against our adequacy criteria in 40 CFR 93.118(e)(4) and (5) as part of our review of the budget's approvability and expect to complete the adequacy review of the budgets concurrent with our final action on the Indian Wells Second Maintenance Plan. The EPA is not required under its transportation conformity rule to find budgets adequate prior to proposing approval of them.<sup>51</sup> In this document, the EPA is announcing that the adequacy process for these budgets begins, and the public has 30 days to comment on their adequacy, per the transportation conformity rule at 40 CFR 93.118(f)(2)(i) and (ii).

As documented in the separate memorandum included in the docket for this rulemaking, we preliminarily conclude that the budgets in the Indian Wells Second Maintenance Plan meet each adequacy criterion.<sup>52</sup> While adequacy and approval are two separate

actions, reviewing the budgets in terms of the adequacy criteria informs the EPA's decision to propose to approve the budgets. We have completed our detailed review of the Indian Wells Second Maintenance Plan and are proposing herein to approve the Plan including the demonstration of maintenance of the PM<sub>10</sub> NAAQS in the area through the year 2025. We have also reviewed the budgets in the Indian Wells Second Maintenance Plan and found that they are consistent with the maintenance demonstration for which we are proposing approval, are clearly identified and precisely quantified, are based on control measures that have already been adopted and implemented, and meet all other applicable statutory and regulatory requirements including the adequacy criteria in 40 CFR 93.118(e)(4) and (5). For these reasons, the EPA proposes to approve the 2020 and 2025 motor vehicle emissions budgets in the Indian Wells Second Maintenance Plan. At the point when we either finalize the adequacy process or approve the budgets as proposed (whichever occurs first, although they could also occur concurrently),<sup>53</sup> the budgets must be used by KCOG (*i.e.*, the MPO for this area) for transportation conformity determinations for the Indian Wells Valley planning area.

#### V. Proposed Action and Request for Public Comment

Under CAA section 110(k)(3), and for the reasons set forth in this document, the EPA is proposing to approve the Indian Wells Second Maintenance Plan submitted by CARB by letter on July 30, 2020, as a revision to the California SIP. We are proposing to approve the maintenance demonstration and contingency provisions as meeting all of the applicable requirements for maintenance plans and related contingency provisions in CAA section 175A, and the motor vehicle emissions budgets for 2020 and 2025 (shown in Table 6) for transportation conformity purposes because we find they meet all applicable criteria for such budgets including the adequacy criteria under 40 CFR 93.118(e).

We are soliciting comments on these proposed actions. We will accept comments from the public for 30 days following publication of this proposal in the **Federal Register** and will consider any relevant comments before taking final action.

#### VI. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
  - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
  - Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
  - Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, there are no areas of Indian country within the Indian Wells Valley planning area, and the State plan for which the EPA is proposing approval does not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has

<sup>49</sup> 40 CFR 93.122(e).

<sup>50</sup> Indian Wells Second Maintenance Plan, Table 4.

<sup>51</sup> Under the transportation conformity rule, the EPA may review the adequacy of submitted budgets simultaneously with the EPA's approval or disapproval of the submitted control strategy or maintenance plan. 40 CFR 93.118(f)(2).

<sup>52</sup> Memorandum dated February 4, 2021, from Karina O'Connor, EPA, to Rulemaking Docket ID EPA-R09-OAR-0549, Subject: "Adequacy Documentation for Plan Motor Vehicle Emissions Budgets in the Indian Wells Second PM<sub>10</sub> Maintenance Plan."

<sup>53</sup> 40 CFR 93.118(f)(2)(iii).



demonstrated that a tribe has jurisdiction. In those areas of Indian country, this proposed action does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### List of Subjects in 40 CFR Part 52

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

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

Dated: October 5, 2021.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2021-22168 Filed 10-12-21; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 217

[Docket No. 210924-0196]

RIN 0648-BK69

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy Construction at Naval Station Newport in Newport, Rhode Island

**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 U.S. Navy (Navy) for authorization to take marine mammals incidental to construction activities for bulkhead replacement and repairs at Naval Station Newport (NAVSTA Newport) over the course of five years (2022–2027). As required by the Marine Mammal Protection Act (MMPA), NMFS is proposing regulations to govern that take, and requests comments on the proposed regulations. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

**DATES:** Comments and information must be received no later than November 12, 2021.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2021–0096, by the following method:

- **Electronic submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2021–0096 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, 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](https://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:** Stephanie Egger, Office of Protected Resources, NMFS, (301) 427–8401.

#### SUPPLEMENTARY INFORMATION:

##### Availability

A copy of the Navy’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/action/incidental-take-authorization-us-navy-construction-naval-station-newport-rhode-island>. 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 Navy’s construction activities for bulkhead replacement and repairs at NAVSTA Newport.

We received an application from the Navy requesting five-year regulations and authorization to take multiple species of marine mammals. Take would occur by Level A and Level B harassment incidental to impact and vibratory pile driving. Please see Background 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 five years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity and other means of effecting the “least practicable adverse impact” on the affected species or stocks and their habitat (see the discussion below in the Proposed Mitigation section), as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart R provide the legal basis for issuing this proposed rule containing five-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 Navy construction activities. These measures include:

- Required monitoring of the construction areas to detect the presence of marine mammals before beginning construction activities;
- Shutdown of construction activities under certain circumstances to avoid injury of marine mammals; and
- Soft start for impact pile driving to allow marine mammals the opportunity to leave the area prior to beginning impact pile driving at full power.

#### Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs 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), and if the permissible methods of taking 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.

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, sheltering, nursing, breeding, feeding, or shattering (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 promulgation of regulations and subsequent issuance of an incidental take authorization) 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 NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified

any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of this proposed rule qualifies to be categorically excluded from further NEPA review.

Information in the Navy’s application and this document 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 document prior to concluding our NEPA process or making a final decision on the request for incidental take authorization.

**Summary of Request**

In July 2020, NMFS received a request from the Navy requesting authorization to take small numbers of seven species of marine mammals incidental to construction activities including bulkhead replacement and repairs at NAVSTA Newport. The Navy has requested regulations that would establish a process for authorizing such take via a LOA. NMFS reviewed the Navy’s application, and the Navy provided responses addressing NMFS’ questions and comments on February 22, 2021. The application was deemed adequate and complete and published for public review and comment on May 19, 2021 (86 FR 27069). We did not receive substantive comments on that notice and request for comments and information.

The Navy requests authorization to take a small number of seven species of marine mammals by Level A and B harassment. Neither the Navy nor NMFS expects serious injury or mortality to result from this activity. The proposed

regulations would be valid for five years (2022–2027).

**Description of Proposed Activity**

*Overview*

The Navy proposes to replace or repair several sections of deteriorating, unstable, hazardous, and eroding bulkhead, sheet pile, and revetment (approximately 2,730 total linear feet (ft)) along the Coddington Cove waterfront of NAVSTA Newport. Over time, the existing storm sewer systems and bulkheads along the Coddington Cove waterfront have severely degraded due to erosion from under-capacity stormwater system piping and aging infrastructure. This impacts the ability of the installation to minimize shoreline erosion and minimize safety risks from associated upland subsidence, while also maintaining potential berthing space. The Navy plans to conduct necessary work, including impact and vibratory pile driving, to repair and replace bulkheads over five years.

*Dates and Duration*

The proposed regulations would be valid for a period of five years (2022–2027). The specified activities may occur at any time during the 5-year period of validity of the proposed regulations. The Navy expects pile driving to occur on approximately 222 non-consecutive in-water pile driving days over the five-year duration. Pile driving activities are anticipated to be completed within 4 years. However, because the proposed construction is dependent on the allocation of funding, the Navy is requesting that the LOA be issued for the entire 5-year construction period to ensure flexibility in the project schedule. Table 1 provides the anticipated construction schedule for the proposed activities.

TABLE 1—CODDINGTON COVE BULKHEAD REPLACEMENT AND REPAIR SUMMARY SCHEDULE

Section ID	Bulkhead replacement (lf)	Revetment replacement (lf)	Outfalls replaced	Dredging area (ft <sup>2</sup> )	Dredging volume (cy)	Construction start date
S45 .....	310 .....	250	Yes (3) .....	8,400	650	May 15, 2022.
S366 .....	90 .....	0	Yes (1) .....	1,350	100	October 15, 2023.
Pier 1 .....	100 .....	0	No .....	1,500	120	October 15, 2023.
LNG .....	650 .....	0	Yes (2) .....	9,750	760	October 15, 2024.
S499/Pier 2 .....	510 .....	90	Yes (5) .....	9,000	700	October 15, 2025.
S50 .....	730 (repair) ....	0	Yes (2) .....	0	0	October 15, 2026.

Source: NAVFAC Mid-Atlantic 2018.

*Specific Geographic Region*

NAVSTA Newport, encompasses 1,399 acres extending 6–7 mi along the western shore of Aquidneck Island in the towns of Portsmouth, Rhode Island,

and Middletown, Rhode Island, and the City of Newport, Rhode Island. The base footprint also includes the northern third of Gould Island in the town of Jamestown, Rhode Island. The base is located in the southern part of the state

near where Narragansett Bay adjoins the Atlantic Ocean. The locations of the proposed bulkhead repairs at Coddington Cove are identified in Figure 1.

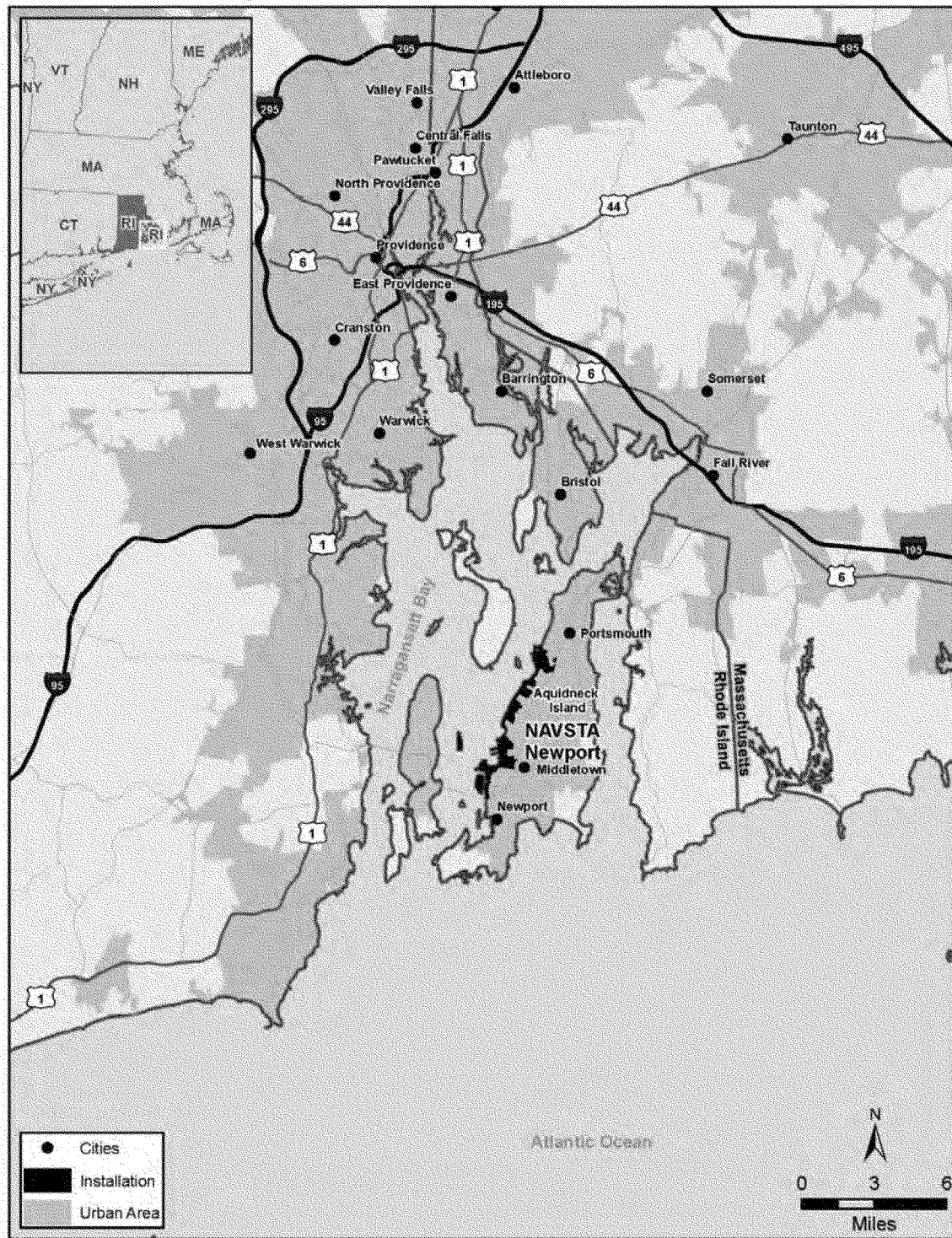
Narragansett Bay is one of Rhode Island's principle water features. Narragansett Bay is approximately 22 nautical miles (nmi) (40 kilometers (km)) long and 7 nmi (16 km) wide. The average depth of Narragansett Bay is 29 ft. The Narragansett Bay's most prominent bathymetric feature is a submarine valley that runs between Conanicut and Aquidneck Islands to Rhode Island Sound, and defines the East Passage of Narragansett Bay. The shipping channel in the East Passage serves as the primary shipping channel

for the rest of Narragansett Bay and is generally 100 ft deep. The shipping channel from the lower East Passage splits just south of Gould Island with the western shipping channel heading to Quonset Point and the eastern shipping channel heading to Providence and Fall River (Navy, 2008).

Coddington Cove is located on the western side of Aquidneck Island and is a protected embayment formed by Coddington Point to the south and a 4,000 ft long rubble-mound breakwater to the north. It covers an area of 1.6

square nmi with water depths up to 50 ft. The area is a Restricted Area and is closed to all commercial and recreational vessel traffic, unless authorized by the appropriate personnel (Navy, 2008). According to a 2015 bathymetric survey of Coddington Cove, water depths in the proposed project area are less than 34 ft mean lower low water. Water depths in the pier are artificially deep to accommodate the berthing of large ships (NAVFAC, 2015).

**BILLING CODE 3510-22-P**



**Figure 1-- Project Location**

**BILLING CODE 3510-22-C**

*Detailed Description of Specific Activity*

The proposed project is the replacement or repair of several sections of deteriorating, unstable, hazardous, and eroding bulkhead along the Coddington Cove waterfront of

NAVSTA Newport. As part of the replacement/repairs, existing stormwater outfalls in the repair areas would also be replaced or improved. Improvements would include changing outfall pipe material and/or changing outfall pipe diameter. Stormwater

outfall improvements would reduce flooding and improve conveyance, as well as minimize shoreline erosion and associated sedimentation of adjacent receiving waters. The specific sections proposed for bulkhead repair and replacement are described from north to

south in the following paragraphs and are summarized in Table 2 at the end of this section.

*Section S499/Pier 2:* Currently, this section of bulkhead is in serious condition and has a high priority for replacement/repair because the steel sheet pile has widespread moderate-to-advanced corrosion across multiple zones. There are also significant section losses of steel sheet pile and timber planking occurring at multiple locations. In addition, the protective coatings have separated and failed along the bulkhead.

Replacement and repair of Section S499/Pier 2 includes the demolition of the existing north marginal wharf; excavation and replacement of approximately 310 ft of existing steel bulkhead underneath and north of Pier 2; and replacement of approximately 90 ft of rip rap revetment north of Pier 2. Demolition of the marginal wharf would include the removal of approximately 8,500 square ft (ft<sup>2</sup>) of concrete decking and the demolition of 80 (36-inch (in) diameter) concrete encased piles.

The existing bulkhead structure would be replaced with a new combined wall system (see Figure 1–3 of the application). Because of the proximity of important buildings, a deadman and tie rod anchoring system cannot be installed at this location. Approximately 140 (70 pairs) (31.5-in) sheet piles; 35 (42-in) steel pipe piles; and 79 (14-in) H-piles would be installed approximately 12 in seaward of the existing bulkhead using a vibratory and impact hammer, as necessary. The existing bulkhead would be excavated landside and cut off approximately 5 ft below ground level. The interstitial space would be backfilled with stone.

*Section S366:* In its current condition, this section of bulkhead is in a serious condition with a high priority for replacement/repair because the steel sheet piling exhibits heavy corrosion with numerous areas that exhibit 100 percent loss of section, as well as separation of the protective coating, vegetation growth through the structure, and rust pack. The timber planking protecting the concrete encasement has rotted at the waterline in some areas.

Replacement of Section S366 would include the demolition and replacement of approximately 90 ft of existing steel sheet pile bulkhead just north of Pier 1. The existing bulkhead would then be

replaced with a new deadman anchored king pile system. The system would consist of approximately 28 (14 pairs) (22.5-in) Z-shaped sheet piles; 15 (30-in) steel pipe piles; and 14 (14-in) H-piles. These piles would be installed approximately 1ft in front of the existing bulkhead using a combination of vibratory and impact hammers, as necessary. The existing steel sheet pile wall would be excavated landside to a depth of approximately 8–10 ft and cut off at the limit of excavation. An 8-ft high concrete deadman anchor system would be installed approximately 50 ft behind the new bulkhead and would be connected to the bulkhead by tie rods (see Figure 1–6 of the application). Stone would be used as the backfill material to allow a rapid drop down of the water at the back of the bulkhead after a severe storm.

*Section Pier 1:* Pier 1 was not accessible during the condition assessment and is assumed to be in similar condition as S366. The waterside inspection was limited due to the presence of vessels and other obstacles that would not allow the inspection vessel to pass (NAVFAC Mid-Atlantic, 2018).

Section Pier 1 includes demolition and replacement of approximately 100 ft of existing steel sheet pile bulkhead underneath Pier 1 (see Figure 1–7 of the application). In order to access the bulkhead underneath the pier, partial demolition of Pier 1 would occur. Demolition would involve the removal of concrete decking, but the removal of support piles is not anticipated.

Should demolition of the underlying support piles be required to perform bulkhead replacement/repair, the use of impact or vibratory hammers would not be required. Piles would be cut off at mudline or extracted with a sling (*i.e.*, dead pull). The existing steel sheet pile wall would be excavated landside to a depth of approximately 13 ft below ground surface and cut off at the limit of excavation. The existing bulkhead would then be replaced with a new deadman and tie rod anchored sheet pile system. The system would consist of approximately 54 (27 pairs) (22.5-in) Z-shaped sheet piles and approximately 26 (14-in) H-piles. These piles would be installed approximately 1ft in front of the existing bulkhead using a combination of vibratory and impact hammers, as necessary. Bulkhead

replacement would include shoreline dredging to a depth of approximately 14 ft at the toe of the existing bulkhead to ensure proper installation of the new bulkhead.

*Section S45:* In its current condition, this section of bulkhead is in serious condition with a high priority for replacement/repair because the steel sheet piles and cap exhibit heavy corrosion with numerous areas that exhibit 100 percent loss of section resulting in extensive landside erosion.

Replacement of Section S45 would include the demolition and replacement of approximately 310 ft of existing steel sheet pile bulkhead just south of Pier 1. The existing bulkhead would then be replaced with a new deadman anchored king pile system. The system would consist of approximately 4 (30-in) steel pipe piles; 160 (80 pairs) (22.5-in) Z-shaped sheet piles; and approximately 76 (14-in) H-piles. These piles would be installed approximately 1ft in front of the existing bulkhead using a combination of vibratory and impact hammers, as necessary. The existing steel sheet pile wall would be excavated landside to a depth of approximately 10 ft below ground surface and cut off at the limit of excavation (see Figure 1–8 of the application).

*Section LNG:* In its current condition, this section of bulkhead is in serious condition with high priority for replacement/repair due to heavy corrosion with numerous areas that exhibit 100 percent loss of section. Where the steel sheet piling is in poor condition, there is extensive landside erosion.

Section LNG includes excavation and replacement of approximately 650 ft of existing steel bulkhead south of the T-Pier. The existing bulkhead would be replaced with a new deadman anchored sheet pile system. The system would be similar to the system installed at Pier 1 and would consist of approximately 346 (173 pairs) (22.5-in) Z-shaped sheet piles; and approximately 164 (14-in) H-piles. These piles would be installed approximately 1ft in front of the existing bulkhead using a combination of vibratory and impact hammers. The existing steel sheet pile wall would be excavated landside to a depth of approximately 13ft below ground surface and cut off at the limit of excavation.

TABLE 2—BULKHEAD PILE INSTALLATION ACTIVITY

Facility	Method of pile driving	Pile type	Pile Size	Number of sheets (pairs)/piles	Strikes per pile	Vibratory driving minutes per pile	Maximum number of piles installed per day	Maximum number of pile driving days
S45	Vibratory/Impact	Z-shaped Steel Sheet Pile.	3.75 ft per pair/22.5-in each.	80 pair	530	13	10	27
	Impact	Steel Pipe Pile	30-in	4	530	NA	2	4
S366	Vibratory	Steel H-pile	14-in	76	NA	10	12	13
	Vibratory/Impact	Z-shaped Steel Sheet Pile.	3.75 ft per pair/22.5-in each.	14 pair	530	13	10	5
S499/Pier 2	Impact	Steel pipe pile	30-in diameter	15	530	NA	2	15
	Vibratory	Steel H-pile	14-in	14	NA	10	12	3
LNG	Vibratory/Impact	Z-shaped Steel Sheet Pile.	5.25 ft per pair/31.5-in each.	70 pair	530	13	8	23
	Impact	Steel Pipe Pile	42-in	35	530	NA	4	18
Pier 01	Vibratory	Steel H-pile	14-in	79	NA	10	12	14
	Vibratory/Impact	Z-shaped Steel Sheet Pile.	3.75 ft per pair/22.5-in each.	173 pair	530	13	10	58
Total sheet piles pairs/pipe and H-piles installed.	Vibratory	Steel H-pile	14-in	164	NA	10	12	28
	Vibratory/Impact	Z-shaped Steel Sheet Pile.	3.75 ft per pair/22.5-in each.	27 pair	530	13	10	9
Total days pile driving.	Vibratory	Steel H-pile	14-in	26	NA	10	12	5

Legend: NA = not applicable, ft = foot; Start date of in-water work and duration are to be determined.

Pile installation would occur using land-based or barge-mounted cranes, as appropriate. Cranes would be equipped with both vibratory and impact hammers. Piles would be installed initially using vibratory means and then finished with impact hammers, as necessary. Impact hammers would also be used where obstructions or sediment conditions do not permit the efficient use of vibratory hammers. Impact hammers would utilize soft start techniques to minimize noise impacts in the water column. The Navy does not yet know what type/size of hammers would be used to complete the work. For purposes of this analysis, underwater noise was modeled without accounting for potential noise minimization measures.

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 Navy’s application summarize available

information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS’s Stock Assessment Reports (SARs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about these species (e.g., physical and behavioral descriptions) may be found on NMFS’s website (<https://www.fisheries.noaa.gov/find-species>).

Table 3 lists all species or stocks for which take is expected and proposed for authorization, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2021). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach

or maintain its optimum sustainable population (as described in NMFS’ SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS’ stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS’s U.S. Atlantic and Gulf of Mexico SARs (e.g., Hayes et al. 2021). All values presented in Table 3 are the most recent available at the time of publication and are available in the 2020 SARs (Hayes et al. 2021).

TABLE 3—MARINE MAMMAL SPECIES LIKELY TO OCCUR NEAR THE PROJECT AREA

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) <sup>1</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>2</sup>	PBR	Annual M/SI <sup>3</sup>
<b>Superfamily Odontoceti (toothed whales, dolphins, and porpoises)</b>						
<b>Family Delphinidae:</b>						
Atlantic white-sided dolphin	<i>Lagenorhynchus acutus</i> .....	Western North Atlantic .....	-, -, N	93,233 (0.71; 54,443; 2016).	544	26
Common dolphin .....	<i>Delphinus delphis</i> .....	Western North Atlantic .....	-, -, N	172,974 (0.21; 145,216; 2016).	1,452	399
<b>Family Phocoenidae (porpoises):</b>						
Harbor porpoise .....	<i>Phocoena phocoena</i> .....	Gulf of Maine/Bay of Fundy .....	-, -, N	95,543 (0.31; 74,034; 2016).	851	217
<b>Order Carnivora—Superfamily Pinnipedia</b>						
<b>Family Phocidae (earless seals):</b>						
Harbor seal .....	<i>Phoca vitulina</i> .....	Western North Atlantic .....	-, -, N	75,834 (0.15; 66,884, 2012).	2,006	350
Gray seal .....	<i>Halichoerus grypus</i> .....	Western North Atlantic .....	-, -, N	27,131 (0.19, 23,158, 2016) <sup>4</sup> .	1,389	4,729
Harp seal .....	<i>Pagophilus groenlandicus</i> .....	Western North Atlantic .....	-, -, N	7,400,000 .....	unknown	232,422
Hooded seal .....	<i>Cystophora cristata</i> .....	Western North Atlantic .....	-, -, N	593,500 .....	unknown	1,680

<sup>1</sup> Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

<sup>2</sup> NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>. CV is coefficient of variation; N<sub>min</sub> is the minimum estimate of stock abundance. In some cases, CV is not applicable.

<sup>3</sup> These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual 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.

<sup>4</sup> This abundance value and the associated PBR value reflect the U.S. population only. Estimated abundance for the entire Western North Atlantic stock, including animals in Canada, is 451,131. The annual M/SI estimate is for the entire stock.

As indicated above, all seven species in Table 3 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have proposed authorizing take. Several depleted species of whales occur seasonally in the waters off Rhode Island including Humpback (*Megaptera novaeangliae*), Fin (*Balaenoptera physalus*), Sei (*Balaenoptera borealis*), Sperm (*Physeter macrocephalus*) and North Atlantic Right whales (*Eubaleana glacialis*). These whales are seasonally present in New England waters; however, due to the depths of Narragansett Bay and near shore location of the project area, these listed marine mammals are unlikely to occur. Therefore, no takes were requested and none are anticipated or proposed for authorization by NMFS and they are not discussed further.

*Atlantic White-Sided Dolphin*

Atlantic white-sided dolphins are found in the temperate waters of the North Atlantic and specifically off the coast of North Carolina to Maine in U.S. waters (NOAA Fisheries, 2020a). The Gulf of Maine population of white-sided dolphin primarily occurs in continental shelf waters from Hudson Canyon to Georges Bank, and in the Gulf of Maine and lower Bay of Fundy. From January

to May they occur in low numbers from Georges Bank to Jeffreys Ledge (off New Hampshire). They are most common from June through September from Georges Bank to lower Bay of Fundy, with densities declining from October through December (Hayes *et al.*, 2019).

Since stranding recordings for the Atlantic white-sided dolphin began in Rhode Island in the late 1960s, this species has become the third most frequently recorded small cetacean. There are occasional unconfirmed opportunistic reports of white-sided dolphins in Narragansett Bay, typically in fall and winter. Atlantic white-sided dolphins in Rhode Island are inhabitants of the continental shelf, with a slight tendency to occur in shallower water in the spring when they are most common (approximately 64 percent of records). Seasonal occurrence of Atlantic white-sided dolphins decreases significantly following spring with 21 percent of records in summer, 10 percent in winter, and 7.6 percent in fall (Kenny and Vigness-Raposa, 2010).

*Common Dolphin*

The common dolphin is one of the most widely distributed species of cetaceans, found world-wide in temperate and subtropical seas. In the North Atlantic, they are common along

the shoreline of Massachusetts and at sea sightings have been concentrated over the continental shelf between the 100-meter (m) and 2000-m isobaths over prominent underwater topography and east to the mid-Atlantic Ridge. The common dolphin can be found from Cape Hatteras northeast to Georges Bank from mid-January to May and in Gulf of Maine from mid-summer to autumn (Hayes *et al.*, 2019).

Common dolphins occur in the Rhode Island waters (encompassing Narragansett Bay, Block Island Sound, Rhode Island Sound, and nearby coastal and continental shelf areas) year-round. They occur across much of the shelf but most commonly in waters deeper than approximately 60 m. Seasonality is not particularly strong, but sightings are more common in spring at approximately 35 percent of records followed by 26 percent in summer, 22 percent in winter, and 18 percent in fall (Kenny and Vigness-Raposa, 2010).

Strandings occur year-round. In the stranding record for Rhode Island, common dolphins are the second most frequently stranded cetacean (exceeded only by harbor porpoises) and the most common delphinid. There were 23 strandings in Rhode Island between 1972 and 2005 (Kenny and Vigness-Raposa, 2010). A common dolphin was

most recently recorded in Narragansett Bay in October of 2016 (Hayes *et al.*, 2019). There are no recent records of common dolphins far up rivers, however such occurrences would only show up in the stranding database if the stranding network responded, and there is no centralized clearinghouse for opportunistic sightings of that type. In Rhode Island, there are occasional opportunistic reports of common dolphins in Narragansett Bay up as far as the Providence River, usually in winter.

#### Harbor Porpoise

Harbor porpoises are found in northern temperate and subarctic coastal and offshore waters in both the Atlantic and Pacific Oceans. In the western North Atlantic, harbor porpoises are found in the northern Gulf of Maine and southern Bay of Fundy region in waters generally less than 150 m deep, primarily during the summer (July to September). During fall (October to December) and spring (April to June), harbor porpoises are widely dispersed between New Jersey and Maine. Lower densities of harbor porpoises occur during the winter (January to March) in waters off New York to New Brunswick, Canada (Hayes *et al.*, 2019).

#### Harbor Seal

Harbor seals occur in all nearshore waters of the North Atlantic and North Pacific Oceans and adjoining seas above approximately 30°N (Burns, 2009). They are year-round residents in the coastal waters of eastern Canada and Maine, occurring seasonally from southern New England to New Jersey from September through late May. Harbor seals' northern movement occurs prior to pupping season that takes place from May through June along the Maine coast. In autumn to early winter, harbor seals move southward from the Bay of Fundy to southern New England (Hayes *et al.*, 2019). Overall, there are five recognized subspecies of harbor seal, two of which occur in the Atlantic Ocean. The western Atlantic harbor seal is the subspecies likely to occur in the proposed project area. There is some uncertainty about the overall population stock structure of harbor seals in the western North Atlantic Ocean. However, it is theorized that harbor seals along the eastern U.S. and Canada are all from a single population (Temte *et al.*, 1991).

Harbor seals are regularly observed around all coastal areas throughout Rhode Island, and occasionally well inland up bays, rivers, and streams. In general, rough estimates indicate that approximately 100,000 harbor seals can be found in New England waters

(DeAngelis, 2020). It should be noted for all the seals that the available data are strongly dominated by stranding records, which comprised 446 out of 507 total records for harbor seals (88 percent) (Kenny and Vigness-Raposa, 2010). Seals are very difficult to detect during surveys, since they tend to be solitary and the usual sighting cue is only the seal's head above the surface. Of the available records, 52.5 percent are in spring, 31.2 percent in winter, 9.5 percent in summer, and 6.9 percent in fall. In Rhode Island, there are no records offshore of the 90-m isobath. Based on seasonal monitoring in Rhode Island, seals begin to arrive in Narragansett Bay in September, with numbers slowly increasing in March before dropping off sharply in April. By May, seals have left Narragansett Bay (DeAngelis, 2020).

Seasonal nearshore marine mammal surveys were conducted at NAVSTA Newport between May 2016 and February 2017. The surveys were conducted along the western shoreline of Coasters Harbor Island northward to Coggeshall Point and eastward to include Gould Island. The only species that was sighted during the survey was harbor seal. During the spring survey, one harbor seal was sighted on 12 May 2016. The seal was observed near the surface of the water and engaged in several small dives during the encounter. A group of three harbor seals was sighted on 1 February 2017, during the winter survey. All three of the harbor seals were at the surface and watched the vessel pass. One dead harbor seal carcass was observed in the 12 May 2016 survey and reported to the Mystic Aquarium Stranding Network (Moll *et al.*, 2016, 2017; Navy, 2017b).

In Rhode Island waters, harbor seals prefer to haul out on well-isolated intertidal rock ledges and outcrops. Numerous Naval Station employees have reported seals hauled out on an intertidal rock ledge north-northwest of Coddington Point named "The Sisters" that is 0.9 miles from the project area (see Figure 4–1 of the application) (NUWC Division, 2011). This haulout has been studied by the NUWC Division Newport since 2011 and has demonstrated a steady increase in use during winter months when harbor seals are present in the bay. Harbor seals are rarely observed at The Sisters haulout in the early fall (September–October) but consistent numbers in mid-November (0–10 animals) are regularly observed with a gradual increase of 20+ animals until peak numbers in the upper 40s occur during March, typically at low tide. The number of harbor seals begins to drop off in April, and by mid-May

they are not observed hauled out at all (DeAngelis, 2020). Haulout spaces at The Sisters haulout site is primarily influenced by tide level, swell, and wind direction (splashing the haul out) (Moll *et al.*, 2017; DeAngelis, 2020).

Including The Sisters haulout, there are 22 haul out sites in Narragansett Bay (see Figure 4–1 of the application); however, none of these 22 other haulouts are within the project area. During a one-day Narragansett Bay-wide count in 2018, there were at least 423 seals observed, and all 22 haulout sites were represented. Preliminary results from the bay-wide count for 2019 recorded 572 harbor seals; this count also included counts from Block Island (DeAngelis, 2020).

#### Gray Seal

The Western North Atlantic stock of gray seal occurs in the project area. The western North Atlantic stock is centered in Canadian waters, including the Gulf of St. Lawrence and the Atlantic coasts of Nova Scotia, Newfoundland, and Labrador, Canada, and the northeast U.S. continental shelf (Hayes *et al.*, 2017). In general, this species can be found year-round in the coastal waters of the Gulf of Maine (Hayes *et al.*, 2019).

Gray seal occurrences in Rhode Island are mostly represented by stranding records—155 of 193 total records (80 percent). Gray seal records in the region are primarily from the spring (approximately 87 percent), with much smaller numbers in all other seasons (5.7 percent in winter, 5.2 percent in summer, and 2.1 percent in fall). Strandings were broadly distributed along ocean-facing beaches in Long Island and Rhode Island, with a few spring records in Connecticut (Kenny and Vigness-Raposa, 2010). As with other seals, habitat use by gray seals in Rhode Island is poorly known. They are seen mainly when stranded or hauled out and infrequently at sea. There are very few observations of gray seals in Rhode Island other than strandings. The annual numbers of gray seal strandings in the Rhode Island study area since 1993 have fluctuated markedly, from a low of 1 in 1999 to a high of 24 in 2011 (Kenney, 2020). The very strong seasonality observed in gray seal occurrence in Rhode Island between March and June is clearly related to the timing of pupping in January–February. Most stranded individuals encountered in Rhode Island area appear to be post-weaning juveniles and starved or starving juveniles (Nawojchik, 2002; Kenney, 2005). Annual informal surveys conducted since 1994 observed a small number of gray seals in Narragansett Bay in 2016 (ecoRI News, 2016).



*Harp Seal*

The harp seal is a highly migratory species, and its range can extend from the Canadian Arctic to New Jersey. In U.S. waters, the species has an increasing presence in the coastal waters between Maine and New Jersey and are considered members of the western North Atlantic stock with general presence from January through May (Hayes *et al.*, 2019).

Harp seals in Rhode Island are known almost exclusively from strandings (approximately 98 percent). Strandings are widespread on ocean-facing beaches throughout Long Island and Rhode Island and the records are almost entirely from spring (approximately 68 percent) and winter (approximately 30 percent). Harp seals are nearly absent in summer and fall. Harp seals also make occasional appearances well inland up rivers (Kenny and Vigness-Raposa, 2010). During late winter of 2020, a healthy harp seal was observed hauled out and resting near “The Sisters” haulout site (DeAngelis, 2020).

*Hooded Seal*

The hooded seal is a highly migratory species, and its range can extend from the Canadian Arctic to as far south as Puerto Rico (Mignucci-Giannoni and Odell, 2001 as cited in Hayes *et al.*, 2019). In U.S. waters, the species has an increasing presence in the coastal waters between Maine and Florida. Hooded seals in the U.S. are considered members of the western North Atlantic

stock and generally occur in New England waters from January through May and further south off the southeast U.S. coast and in the Caribbean in the summer and fall seasons (McAlpine *et al.* 1999; Harris *et al.* 2001; and Mignucci-Giannoni and Odell, 2001 as cited in Hayes *et al.*, 2019).

Hooded seal occurrences in Rhode Island are predominantly from stranding records (approximately 99 percent). They are rare in summer and fall but most common in the area during spring and winter (45 percent and 36 percent of all records, respectively) (Kenney, 2005; Kenny and Vigness-Raposa, 2010). Hooded seal strandings are broadly distributed across ocean-facing beaches in Rhode Island and they occasionally occur well up rivers, but less often than harp seals. Hooded seals have been recorded in Narragansett Bay but are considered occasional visitors and are expected to be the least encountered seal species in the bay (RICRMC, 2010).

*Unusual Mortality Events*

An unusual mortality event (UME) is defined under Section 410(6) of the MMPA as a stranding that is unexpected; involves a significant die-off of any marine mammal population; and demands immediate response. There are no active UME investigations for species affected in the project area.

*Marine Mammal Hearing*

Hearing is the most important sensory modality for marine mammals

underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.*, Richardson *et al.* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.*, low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 4.

TABLE 4—MARINE MAMMAL HEARING GROUPS [NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i> ).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

\* Represents the generalized hearing range for the entire group as a composite (*i.e.*, all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.* 2006; Kastelein *et al.* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Seven marine

mammal species (three cetacean and four phocid pinniped species) have the reasonable potential to co-occur with the proposed construction activities. Please refer to Table 3. Of the cetacean species that may be present, two are classified as a mid-frequency cetacean (*i.e.*, dolphins), and one is classified as a high-frequency cetacean (*i.e.*, harbor porpoise).

**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 effects on marine mammals during the specified activity can occur from vibratory and impact pile driving. The effects of underwater noise from the Navy's proposed activities have the potential to result in Level A and Level B harassment of marine mammals in the action area.

#### *Description of Sound Sources*

The marine soundscape is comprised of both ambient and anthropogenic sounds. Ambient sound is defined as the all-encompassing background sound in a given place and is usually a composite of sound from many sources both near and far. The sound level of an area is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.*, waves, wind, precipitation, earthquakes, ice, atmospheric sound), biological (*e.g.*, sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.*, vessels, dredging, aircraft, construction).

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ambient sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

In-water construction activities associated with the project would include impact pile driving and vibratory pile driving. The sounds produced by these activities fall into one of two general sound types: Impulsive and non-impulsive.

Impulsive sounds (*e.g.*, explosions, gunshots, sonic booms, impact pile driving) are typically transient, brief (less than 1 second), broadband, and consist of high peak sound pressure with rapid rise time and rapid decay (ANSI 1986; NIOSH 1998; ANSI 2005; NMFS 2018a). Non-impulsive sounds (*e.g.*, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems) can be broadband, narrowband or tonal, brief or prolonged (continuous or intermittent), and typically do not have the high peak sound pressure with rapid rise/decay time that impulsive sounds do (ANSI 1995; NIOSH 1998; NMFS 2018a). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.*, Ward 1997 in Southall *et al.* 2007).

Two types of pile hammers would be used on this project: Impact and vibratory. Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak sound pressure levels (SPLs) may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.* 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards 2002; Carlson *et al.* 2005).

The likely or possible impacts of the Navy's proposed activity on marine mammals could involve both non-acoustic and acoustic stressors. Potential non-acoustic stressors could result from the physical presence of the equipment and personnel. However, any impacts to marine mammals are expected to primarily be acoustic in nature. Acoustic stressors include effects of heavy equipment operation during pile driving.

#### *Acoustic Impacts*

The introduction of anthropogenic noise into the aquatic environment from pile driving is the primary means by which marine mammals may be harassed from the Navy's specified activity. In general, animals exposed to natural or anthropogenic sound may experience physical and psychological

effects, ranging in magnitude from none to severe (Southall *et al.* 2007). In general, exposure to pile driving noise has the potential to result in auditory threshold shifts and behavioral reactions (*e.g.*, avoidance, temporary cessation of foraging and vocalizing, changes in dive behavior). Exposure to anthropogenic noise can also lead to non-observable physiological responses such as an increase in stress hormones. Additional noise in a marine mammal's habitat can mask acoustic cues used by marine mammals to carry out daily functions such as communication and predator and prey detection. The effects of pile driving noise on marine mammals are dependent on several factors, including, but not limited to, sound type (*e.g.*, impulsive vs. non-impulsive), the species, age and sex class (*e.g.*, adult male vs. mom with calf), duration of exposure, the distance between the pile and the animal, received levels, behavior at time of exposure, and previous history with exposure (Wartzok *et al.* 2004; Southall *et al.* 2007). Here we discuss physical auditory effects (threshold shifts), followed by behavioral effects and potential impacts on habitat.

NMFS defines a noise-induced threshold shift (TS) as a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2018). The amount of threshold shift is customarily expressed in dB. A TS can be permanent or temporary. As described in NMFS (2018), there are numerous factors to consider when examining the consequence of TS, including, but not limited to, the signal temporal pattern (*e.g.*, impulsive or non-impulsive), the likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, the time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (*i.e.*, spectral content), the hearing and vocalization frequency range of the exposed species relative to the signal's frequency spectrum (*i.e.*, how an animal uses sound within the frequency band of the signal; *e.g.*, Kastelein *et al.* 2014), and the overlap between the animal and the source (*e.g.*, spatial, temporal, and spectral).

*Permanent Threshold Shift (PTS)*—NMFS defines PTS as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2018). Available data from humans and other terrestrial mammals

indicate that a 40 dB threshold shift approximates PTS onset (see Ward *et al.* 1958, 1959; Ward 1960; Kryter *et al.* 1966; Miller 1974; Ahroon *et al.* 1996; Henderson *et al.* 2008). PTS levels for marine mammals are estimates, and, with the exception of a single study unintentionally inducing PTS in a harbor seal (Kastak *et al.* 2008), there are no empirical data measuring PTS in marine mammals, largely due to the fact that, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing PTS are not typically pursued or authorized (NMFS 2018).

**Temporary Threshold Shift (TTS)**—TTS is a temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2018). Based on data from cetacean TTS measurements (see Southall *et al.* 2007), a TTS of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Schlundt *et al.* 2000; Finneran *et al.* 2000, 2002). As described in Finneran (2015), marine mammal studies have shown the amount of TTS increases with cumulative sound exposure level (SELcum) in an accelerating fashion: At low exposures with lower SELcum, the amount of TTS is typically small and the growth curves have shallow slopes. At exposures with higher SELcum, the growth curves become steeper and approach linear relationships with the noise SEL.

Depending on the degree (elevation of threshold in dB), duration (*i.e.*, recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during a time when communication is critical for successful mother/calf interactions could have more serious impacts. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.* 2007), so we can infer that strategies exist for coping with this condition to

some degree, though likely not without cost.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiakororientalis*)) and five species of pinnipeds exposed to a limited number of sound sources (*i.e.*, mostly tones and octave-band noise) in laboratory settings (Finneran 2015). TTS was not observed in trained spotted (*Phoca largha*) and ringed (*Pusa hispida*) seals exposed to impulsive noise at levels matching previous predictions of TTS onset (Reichmuth *et al.* 2016). In general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species (Finneran 2015). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. No data are available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), Finneran (2015), and Table 5 in NMFS (2018). Installing piles requires a combination of impact pile driving and vibratory pile driving. For this project, these activities would not occur at the same time and there would be pauses in activities producing the sound during each day. Given these pauses and that many marine mammals are likely moving through the ensonified area and not remaining for extended periods of time, the potential for TS declines.

**Behavioral Harassment**—Exposure to noise from pile driving and removal also has the potential to behaviorally disturb marine mammals. Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound 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 a sound source displaces 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; NRC 2005).

Disturbance may result in changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities;

changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located. Pinnipeds may increase their haulout time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.*, species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.*, Richardson *et al.* 1995; Wartzok *et al.* 2003; Southall *et al.* 2007; Weilgart 2007; Archer *et al.* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.* 2012), and can vary depending on characteristics associated with the sound source (*e.g.*, whether it is moving or stationary, number of sources, distance from the source). In general, pinnipeds seem more tolerant of, or at least habituate more quickly to, potentially disturbing underwater sound than do cetaceans, and generally seem to be less responsive to exposure to industrial sound than most cetaceans. Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.*, bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.*, Croll *et al.* 2001; Nowacek *et al.* 2004; Madsen *et al.* 2006; Yazvenko *et al.* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

**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 is a state of distress, and it 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 stress responses 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, similar projects in the area.

**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). 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., pile driving, shipping, sonar, seismic exploration) 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. Masking of natural sounds can result when human activities produce high levels of background sound at frequencies important to marine mammals. Conversely, if the background level of underwater sound is high (e.g., on a day with strong wind and high waves), an anthropogenic sound source would not be detectable as far away as would be possible under quieter conditions and would itself be masked.

**Airborne Acoustic Effects**—Although pinnipeds are known to haul out regularly in Narraganset Bay and some in the vicinity of the project area, we believe that incidents of take resulting solely from airborne sound are unlikely. There is a possibility that an animal could surface in-water, but with head out, within the area in which airborne sound exceeds relevant thresholds and thereby be exposed to levels of airborne sound that NMFS associates with harassment, but any such occurrence would likely be accounted for in our

estimation of incidental take from underwater sound. Therefore, authorization of incidental take resulting from airborne sound for pinnipeds is not warranted, and airborne sound is not discussed further here. Cetaceans are not expected to be exposed to airborne sounds that would result in harassment as defined under the MMPA.

#### *Marine Mammal Habitat Effects*

The Navy's construction activities could have localized, temporary impacts on marine mammal habitat by increasing in-water sound pressure levels and slightly decreasing water quality. Construction activities are of short duration and would likely have temporary impacts on marine mammal habitat through increases in underwater sound. Increased noise levels may affect acoustic habitat (see masking discussion above) and adversely affect marine mammal prey in the vicinity of the project area (see discussion below). During impact and vibratory pile driving, elevated levels of underwater noise would ensonify the project area where both fish and mammals may occur and could affect foraging success. Additionally, marine mammals may avoid the area during construction, however, displacement due to noise is expected to be temporary and is not expected to result in long-term effects to the individuals or populations.

A temporary and localized increase in turbidity near the seafloor would occur in the immediate area surrounding the area where piles are installed. The sediments on the sea floor will be disturbed during pile driving; however, suspension will be brief and localized and is unlikely to measurably affect marine mammals or their prey in the area. In general, turbidity associated with pile installation is localized to about a 25-ft (7.6-m) radius around the pile (Everitt *et al.* 1980). Cetaceans are not expected to be close enough to the pile driving areas to experience effects of turbidity, and any pinnipeds could avoid localized areas of turbidity. Therefore, we expect the impact from increased turbidity levels to be discountable to marine mammals and do not discuss it further.

#### *In-Water Construction Effects on Potential Foraging Habitat*

The proposed activities would not result in permanent impacts to habitats used directly by marine mammals except for the actual footprint of the project. The total seafloor area affected by pile installation is a very small area compared to the vast foraging area

available to marine mammals in the surrounding area.

Avoidance by potential prey (*i.e.*, fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish avoidance of this area after pile driving stops is unknown, but we anticipate a rapid return to normal recruitment, distribution and behavior. Any behavioral avoidance by fish of the disturbed area would still leave large areas of fish and marine mammal foraging habitat in the nearby vicinity in the project area.

#### *Effects on Potential Prey*

Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (*e.g.*, fish). Marine mammal prey varies by species, season, and location. Here, we describe studies regarding the effects of noise on known marine mammal prey.

Fish utilize the soundscape and components of sound in their environment to perform important functions such as foraging, predator avoidance, mating, and spawning (*e.g.*, Zelick *et al.* 1999; Fay, 2009). Depending on their hearing anatomy and peripheral sensory structures, which vary among species, fishes hear sounds using pressure and particle motion sensitivity capabilities and detect the motion of surrounding water (Fay *et al.* 2008). The potential effects of noise on fishes depends on the overlapping frequency range, distance from the sound source, water depth of exposure, and species-specific hearing sensitivity, anatomy, and physiology. Key impacts to fishes may include behavioral responses, hearing damage, barotrauma (pressure-related injuries), and mortality.

Fish react to sounds which are especially strong and/or intermittent low-frequency sounds, and behavioral responses such as flight or avoidance are the most likely effects. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. The reaction of fish to noise depends on the physiological state of the fish, past exposures, motivation (*e.g.*, feeding, spawning, migration), and other environmental factors. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.*, Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Several studies have demonstrated that

impulse sounds might affect the distribution and behavior of some fishes, potentially impacting foraging opportunities or increasing energetic costs (*e.g.*, Fewtrell and McCauley, 2012; Pearson *et al.* 1992; Skalski *et al.* 1992; Santulli *et al.* 1999; Paxton *et al.* 2017). However, some studies have shown no or slight reaction to impulse sounds (*e.g.*, Pena *et al.* 2013; Wardle *et al.* 2001; Jorgenson and Gyselman, 2009; Cott *et al.* 2012).

SPLs of sufficient strength have been known to cause injury to fish and fish mortality. However, in most fish species, hair cells in the ear continuously regenerate and loss of auditory function likely is restored when damaged cells are replaced with new cells. Halvorsen *et al.* (2012a) showed that a TTS of 4–6 dB was recoverable within 24 hours for one species. Impacts would be most severe when the individual fish is close to the source and when the duration of exposure is long. Injury caused by barotrauma can range from slight to severe and can cause death, and is most likely for fish with swim bladders. Barotrauma injuries have been documented during controlled exposure to impact pile driving (Halvorsen *et al.* 2012b; Casper *et al.* 2013).

The most likely impact to fish from pile driving activities at the project areas would be temporary behavioral avoidance of the area. The duration of fish avoidance of an area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated.

The area impacted by the project is relatively small compared to the available habitat in the remainder of the project area and surrounding waters, and there are no areas of particular importance that would be impacted by this project. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity. As described in the preceding paragraphs, the potential for the Navy's construction to affect the availability of prey to marine mammals or to meaningfully impact the quality of physical or acoustic habitat is considered to be insignificant.

#### **Estimated Take**

This section provides an estimate of the number of incidental takes proposed for authorization, 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 A and B harassment, in the form of disruption of behavioral patterns and potential TTS and PTS for individual marine mammals resulting from exposure to pile driving and removal. As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensounded above these levels in a day; (3) the density or occurrence of marine mammals within these ensounded areas; and (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.*, previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimate.

#### *Acoustic Thresholds*

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

*Level B Harassment*—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.*, frequency, predictability, duty cycle), the environment (*e.g.*, bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.* 2007, Ellison *et al.* 2012). Based on what the available

science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) (reference pressure microPascal, root mean square) for continuous (e.g., vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (e.g., seismic airguns) or intermittent (e.g., scientific sonar) sources.

The Navy's construction includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the level of 120 and 160 dB re 1 μPa (rms) is applicable.

*Level A harassment*—NMFS' *Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing* (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise. The technical guidance identifies the received levels, or thresholds, above which individual marine mammals are predicted to experience changes in their hearing sensitivity for all underwater anthropogenic sound sources, and reflects the best available science on the potential for noise to affect auditory sensitivity. The technical guidance does this by identifying thresholds in the follow manner:

- Dividing sound sources into two groups (i.e., impulsive and non-impulsive) based on their potential to affect hearing sensitivity;

- Choosing metrics that best address the impacts of noise on hearing sensitivity, i.e., sound pressure level (peak SPL) and sound exposure level (SEL) (also accounting for duration of exposure); and

- Dividing marine mammals into hearing groups and developing auditory weighting functions based on the science supporting the fact that not all marine mammals hear and use sound in the same manner.

These thresholds were developed by compiling and synthesizing the best available science, and are provided in Table 5 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at <https://www.fisheries.noaa.gov/national/marine-mammal-protection>.

The Navy's proposed construction includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving) sources.

TABLE 5—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans .....	Cell 1: $L_{pk,flat}$ : 219 dB; $L_{E,LF,24h}$ : 183 dB .....	Cell 2: $L_{E,LF,24h}$ : 199 dB.
Mid-Frequency (MF) Cetaceans .....	Cell 3: $L_{pk,flat}$ : 230 dB; $L_{E,MF,24h}$ : 185 dB .....	Cell 4: $L_{E,MF,24h}$ : 198 dB.
High-Frequency (HF) Cetaceans .....	Cell 5: $L_{pk,flat}$ : 202 dB; $L_{E,HF,24h}$ : 155 dB .....	Cell 6: $L_{E,HF,24h}$ : 173 dB.
Phocid Pinnipeds (PW) (Underwater) .....	Cell 7: $L_{pk,flat}$ : 217 dB; $L_{E,PW,24h}$ : 185 dB .....	Cell 8: $L_{E,PW,24h}$ : 201 dB.
Otariid Pinnipeds (OW) (Underwater) .....	Cell 9: $L_{pk,flat}$ : 232 dB; $L_{E,OW,24h}$ : 203 dB .....	Cell 10: $L_{E,OW,24h}$ : 219 dB.

\*Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

**Note:** Peak sound pressure ( $L_{pk}$ ) has a reference value of 1 μPa, and cumulative sound exposure level ( $L_E$ ) has a reference value of 1μPa<sup>2</sup>s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

*Ensonified Area*

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels transmission loss coefficient.

*Sound Propagation*

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \log_{10}(R_1/R_2),$$

where

B = transmission loss coefficient (assumed to be 15)

R<sub>1</sub> = the distance of the modeled SPL from the driven pile, and

R<sub>2</sub> = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions, including in-water structures and sediments. Spherical spreading occurs in a perfectly

unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20\*log(range)). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10\*log(range)). As is common practice in coastal waters, here we assume practical spreading (4.5 dB reduction in sound level for each doubling of distance). Practical spreading is a compromise that is often used under conditions where water depth increases as the receiver moves away from the shoreline, resulting in an

expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading was used to determine sound propagation for this project.

*Sound source levels*

The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. There are sound source level (SSL) measurements available for certain pile types and sizes from the

similar environments from other Navy pile driving projects that were evaluated and used as proxy sound source levels to determine reasonable sound source levels likely to result from the pile driving and removal activities (Table 6). Some of the proxy source levels are expected to be conservative, as the values are from larger pile sizes.

TABLE 6—UNDERWATER NOISE SOUND SOURCE LEVELS MODELED FOR IMPACT AND VIBRATORY PILE DRIVING

Pile size, type	Method	Sound pressure levels (SPL) or sound exposure level (SEL) at 10 m distance		
		Peak SPL	RMS SPL	SELL
42-in Diameter Steel Pipe <sup>1</sup>	Impact	211	196	181
30-in Diameter Steel Pipe <sup>2</sup>	Impact	211	196	181
14-in Steel H-pile <sup>3</sup>	Vibratory	NA	158	158
31.5-in Z-shaped Steel Sheet <sup>4</sup>	Impact	211	196	181
31.5-in Z-shaped Steel Sheet <sup>5</sup>	Vibratory	NA	163	163
22.5-in Z-shaped Steel Sheet <sup>3</sup>	Impact	205	190	180
22.5-in Z-shaped Steel Sheet <sup>5</sup>	Vibratory	NA	163	163

Legend: All sound pressure levels (SPLs) are unattenuated; dB = decibels; rms = root mean square, SEL = sound exposure level; NA = Not applicable; NR = Not reported.

**Notes:**

<sup>1</sup> = Navy pers comm. 2021.

<sup>2</sup> = Navy San Diego Bay Acoustic Compendium (NAVFAC SW 2020).

<sup>3</sup> = Caltrans 2015.

<sup>4</sup> = A proxy value for 31-in sheet piles could not be found for impact driving so the proxy for a 30-in steel pipe pile has been used from NAVFAC SW (2020). This value was also used for Z-shaped steel sheets for the Navy's Dry Dock 1 Modification and Expansion, Portsmouth Naval Shipyard, Kittery, Maine 2021 IHA (86 FR 14598; March 17, 2021).

<sup>5</sup> = For vibratory driving of 31-in sheet piles and 22.5-in Z-shaped steel sheet piles, 163 dB SPL was used based on measurements conducted by the Naval Facilities Engineering Command Mid-Atlantic (NAVFAC Mid-Atlantic) in the Technical Memorandum Nearshore Marine Mammal Surveys, Portsmouth Naval Shipyard (2018).

For 42-in steel piles, a SSL of 181 db SEL was used for impact driving and is similar to SSL of 180 db SEL for 36-in piles in CALTRANS (2015). There are no SSL values for 42-in piles in CALTRANS, the nearest values are for 36-in and 60-in steel pipe piles. For 30-in steel pipe piles, a SSL of 181 dB SEL was used for impact pile driving as a proxy from the Navy's San Diego Bay Acoustic Compendium (NAVFAC SW 2020) (the median value from the greatest sound levels recorded for 30-in steel piles). The SSL used for 30-in steel piles during impact pile driving is also more conservative than the SSL of 177 dB SEL for 30-in steel piles in CALTRANS (2015). For 31.5-in sheet piles, a SSL of 181 dB SEL was used for impact pile driving as a proxy from 30-in steel pipe piles (NAVFAC SW 2020), which is also slightly more conservative than a SSL of 180 dB SEL for 24-in piles in CALTRANS (2015) (no larger sheet piles are described in CALTRANS 2015). During vibratory pile driving of 31.5-in sheet piles, the Navy used a SSL of 163 dB SPL, which is also more

conservative than a SSL of 160 dB SPL for 24-in sheet piles in CALTRANS (2015) (no large sheet piles are described in CALTRANS 2015). For 22.5-in Z-shaped steel sheet piles, a SSL of 180 dB SEL was used for impact pile driving and is also equivalent to 24-in sheet piles in CALTRANS (2015). During vibratory pile driving, a SSL of 163 dB SPL is a proxy from NAVFAC Mid-Atlantic (2018) and is also more conservative than 24-in sheet piles in CALTRANS (2015) where the SSL is 160 dB SPL for 24-in sheet piles (no larger sheet piles are described in CALTRANS (2015). For 14-in steel H-piles, a SSL of 158 dB SPL was used from CALTRANS (2015).

Level A Harassment

In conjunction with the NMFS Technical Guidance (2018), in recognition of the fact that ensouffied area/volume could be more technically challenging to predict because of the duration component in the new thresholds, NMFS developed a User Spreadsheet that includes tools to help

predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that, because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimation of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources (such as from impact and vibratory pile driving), the NMFS User Spreadsheet (2020) predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. Inputs used in the User Spreadsheet (Tables 7 and 8), and the resulting isopleths are reported below (Table 9).

TABLE 7—NMFS TECHNICAL GUIDANCE (2020) USER SPREADSHEET INPUT TO CALCULATE PTS ISOPLETHS FOR VIBRATORY PILE DRIVING

[User spreadsheet input—Vibratory Pile Driving Spreadsheet Tab A.1 Vibratory Pile Driving Used.]

	14-in steel H-pile	22.5-in Z-shaped sheet piles	31.5-in Z-shaped sheet piles
Source Level (RMS SPL) .....	158	163	163
Weighting Factor Adjustment (kHz) .....	2.5	2.5	2.5
Number of piles within 24-hr period .....	12	10	8
Duration to drive a single pile (min) .....	10	13	13
Propagation (xLogR) .....	15	15	15
Distance of source level measurement (m) .....	10	10	10

TABLE 8—NMFS TECHNICAL GUIDANCE (2020) USER SPREADSHEET INPUT TO CALCULATE PTS ISOPLETHS FOR IMPACT PILE DRIVING

[User spreadsheet input—Impact Pile Driving Spreadsheet Tab E.1 Impact Pile Driving Used.]

	22-in Z-shaped piles	31.5-in Z-shaped piles	30-in pile	42-in pile
Source Level (Single Strike/shot SEL) .....	180	181	181	181
Weighting Factor Adjustment (kHz) .....	2	2	2	2
Number of strikes per pile .....	530	530	530	530
Number of piles per day .....	10	8	2	4
Propagation (xLogR) .....	15	15	15	15
Distance of source level measurement (m) .....	10	10	10	10

TABLE 9—NMFS TECHNICAL GUIDANCE (2020) USER SPREADSHEET OUTPUTS TO CALCULATE LEVEL A HARASSMENT PTS ISOPLETHS

[User spreadsheet output]

Activity	Sound source level at 10 m	PTS isopleths (m)				
		Level A harassment				
		Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid	Otariid
<b>Vibratory Pile Driving/Removal</b>						
14-inch H-pile .....	158 SPL .....	6.8	0.6	10.1	4.2	0.3
22.5-in Z-shaped sheet piles .....	163 SPL .....	15.5	1.4	23.0	9.4	0.7
31.5-in Z-shaped sheet piles .....	163 SPL .....	13.4	1.2	19.8	8.1	0.6
<b>Impact Pile Driving</b>						
22.5-in Z-shaped sheet piles .....	180 SEL/190 SPL	1,915.4	68.1	2,281.5	1,025.0	74.6
31.5-in Z-shaped sheet piles .....	181 SEL/196 SPL	1,942.5	68.4	2,292.4	1,029.9	75.0
30-in pile .....	181 SEL/196 SPL	763.7	27.2	909.7	408.7	29.8
42-in pile .....	181 SEL/196 SPL	1,212	43.1	1,444.1	648.8	47.2

Level B Harassment

Utilizing the practical spreading model, NMFS determined underwater noise will fall below the behavioral effects threshold of 120 dB rms for marine mammals at the distances shown in Table 10 for vibratory pile driving. With these radial distances, the largest

Level B harassment zone calculated was 7,356 m for sheet piles. However, this distance would be truncated due to the presence of intersecting land masses. For calculating the Level B harassment zone for impact driving, the practical spreading loss model was used with a behavioral threshold of 160 dB rms. The

maximum radial distance of the Level B harassment zone for impact piling equaled 2,512 m for 30-in piles, 42-in piles and 31.5-in sheet piles. Table 10 below provides all Level B harassment radial distances (m) and ensonified areas (km<sup>2</sup>) during the Navy's proposed activities.



TABLE 10—DISTANCES TO RELEVANT BEHAVIORAL ISOPLETHS AND ENSONIFIED AREAS

Year (section)	Activity	Received level at 10 m	Level B harassment zone (m/km <sup>2</sup> )*
<b>Vibratory Pile Driving</b>			
Year 1 (S45)	14-in H-piles	158 SPL	3,415 m/5.6 km <sup>2</sup>
Year 2 (S366), Year 2 (Pier 1)	14-in H-piles	158 SPL	3,415 m/5.8 km <sup>2</sup>
Year 3 (LNG)	14-in H-piles	158 SPL	3,415 m/5.8 km <sup>2</sup>
Year 4 (S499/Pier 2)	14-in H-piles	158 SPL	3,415 m/5.7 km <sup>2</sup>
Year 1 (S45)	22.5-in Z-shaped sheet piles	163 SPL	7,356 m/7.9 km <sup>2</sup>
Year 2 (S366), Year 2 (Pier 1)	22.5-in Z-shaped sheet piles	163 SPL	7,356 m/8.3 km <sup>2</sup>
Year 3 (LNG)	22.5-in Z-shaped sheet piles	163 SPL	7,356 m/7.5 km <sup>2</sup>
Year 4 (S499/Pier 2)	22.5-in Z-shaped sheet piles	163 SPL	7,356 m/7.5 km <sup>2</sup>
Year 4 (S499/Pier 2)	31.5-in Z-shaped sheet piles	163 SPL	7,356 m/9.5 km <sup>2</sup>
<b>Impact Pile Driving</b>			
Year 1 (S45)	22.5-in Z-shaped sheet piles	180 SEL/190 SPL	1,000 m/1.1 km <sup>2</sup>
Year 2 (S366), Year 2 (Pier 1)	22.5-in Z-shaped sheet piles	180 SEL/190 SPL	1,000 m/1.3 km <sup>2</sup>
Year 3 (LNG)	22.5-in Z-shaped sheet piles	180 SEL/190 SPL	1,000 m/0.7 km <sup>2</sup>
Year 4 (S499/Pier 2)	31.5-in Z-shaped sheet piles	181 SEL/196 SPL	2,512 m/3.8 km <sup>2</sup>
Year 1 (S45)	30-in piles	181 SEL/196 SPL	2,512 m/3.8 km <sup>2</sup>
Year 2 (S366)	30-in piles	181 SEL/196 SPL	2,512 m/4.0 km <sup>2</sup>
Year 4 (S499/Pier 2)	42-in piles	181 SEL/196 SPL	2,512 m/3.8 km <sup>2</sup>

\* **Note:** Distances to the Level B harassment zone may vary slightly of the same pile size, due to the section of work being conducted and how the produced sound would be directed (see Figures 6–1 through 6–4 of the Navy’s application).

*Marine Mammal Occurrence and Take Calculation and Estimation*

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Potential exposures to impact pile and vibratory pile driving noise for each acoustic threshold were estimated using marine mammal density estimates (N) from the Navy Marine Species Density Database NMSDD (Navy 2017) for which data of monthly densities of species were evaluated in terms of minimum, maximum, and average annual densities within Narragansett Bay and multiplied by the zone of influence (ZOI) and the maximum days of pile driving (take estimate = N × ZOI × days of pile driving). The pile type, size, and installation method that produce the largest ZOI were used to estimate exposure of marine mammals to noise

impacts. We describe how the information provided above is brought together to produce a quantitative take estimate in the species sections below.

**Atlantic White-Sided Dolphins**

Atlantic white-sided dolphins occur seasonally, occurring primarily along the continental shelf with occasional unconfirmed opportunistic sightings in Narragansett Bay in fall and winter. The most recent observation of a pod of dolphins in Narragansett Bay was in October 2007 (NUWC Division, 2011). Construction activity could occur at any time of year and would be short-term and intermittent. Therefore, the average species density was determined to be appropriate for estimating takes of Atlantic white-sided dolphin. Based on density data for Narragansett Bay (Navy 2017), the average density of Atlantic white-sided dolphin was determined to be 0.003/km<sup>2</sup>. This density was used to

estimate abundance of animals that could be present in the area for exposure. Using this information, 1 take was calculated for Years 1, 3, and 4 and 0 takes in Year 2 (Table 11). However, the annual take by Level B harassment proposed for Atlantic white-sided dolphins has been increased to the average group size (16) (NAVSEA NUWC 2017) for Years 1, 3, and 4, because the calculated annual take is below the average group size. Therefore, the Navy requested and NMFS proposes 16 takes annually in Years 1, 3, and 4 (0 in Year 2) for a total of 48 takes by Level B harassment of Atlantic white-sided dolphin (Table 11). No takes by Level A harassment of Atlantic white-sided dolphin are anticipated. Because this species’ regular occurrence is in much deeper waters than the extent of the ZOI (Hayes *et al.*, 2019), expected takes of this species are extremely low.

TABLE 11—PROPOSED TAKE FOR ATLANTIC WHITE-SIDED DOLPHIN

Construction year	Calculated Level B harassment	Proposed Level B harassment
Year 1 (S45)	1	16
Year 2 (S366 and Pier 01)	0	0
Year 3 (LNG)	1	16
Year 4 (S499/Pier 2)	1	16
<b>Total</b>	<b>3</b>	<b>48</b>

Common Dolphin

Common dolphins are the most likely dolphin species to be spotted in Narragansett Bay, and usually occur in late fall or winter (Kenney, 2013). The most recent sighting of a common dolphin recorded in Narragansett Bay was in October of 2016 (Hayes *et al.*, 2019). Construction activity could occur at any time of year and would be short-term and intermittent. Based on density data for Narragansett Bay (NMSDD, Navy, 2017), the average density of

common dolphin was determined to be 0.011/km<sup>2</sup>. Using this information, 3 takes by Level B harassment were calculated for Years 1 and 4, 2 takes for Year 2 and 6 takes for Year 3 (Table 12). Because the calculated annual take is below the average group size, the annual take by Level B harassment proposed for common dolphin has been increased to the average group size (28) (NAVSEA NUWC 2017). Therefore, the Navy requested and NMFS proposes 28 takes annually (with the exception of Year 2,

for which it was doubled to 56 takes as a conservative approach to account for more vibratory and impact pile driving activities that occur during that year in two sections (S366 and Pier 1)) for a total of 140 takes by Level B harassment of common dolphin (Table 12). No takes by Level A harassment of common dolphin are anticipated. Because this species' regular occurrence is in much deeper waters than the extent of the ZOI (Hayes *et al.*, 2019), takes of this species are expected to be extremely low.

TABLE 12—PROPOSED TAKE FOR COMMON DOLPHIN

Construction year	Calculated Level B harassment	Proposed Level B harassment
Year 1 (S45) .....	3	28
Year 2 (S366 and Pier 01) .....	2	56
Year 3 (LNG) .....	6	28
Year 4 (S499/Pier 2) .....	3	28
<b>Total</b> .....	<b>14</b>	<b>140</b>

Harbor Porpoise

Harbor porpoise are not common to Narragansett Bay but may occur, especially in winter and spring months (Kinney 2013). Harbor porpoise is the most stranded cetacean in Rhode Island, with a strong seasonal occurrence in the spring. Construction activity could occur at any time of year and would be short-term and intermittent. Therefore, the average species density was determined to be appropriate for

estimating takes of harbor porpoise. Based on density data for Narragansett Bay (NMSDD, Navy 2017), the average density of harbor porpoise was determined to be 0.012/km<sup>2</sup>. Using this information, 4 takes by Level B harassment were calculated for Years 1 and 4, 2 takes for Year 2, and 7 takes for Year 3 (Table 13). Because the calculated take in Year 2 was less than the group size, the annual take by Level B harassment proposed for harbor porpoise has been increased to the

average group size (3) and multiplied by two for 6 takes (NAVSEA NUWC 2017) as a conservative approach to account for more vibratory and impact pile driving activities that occur during that year in two sections (S366 and Pier 1)). Therefore, the Navy requested and NMFS proposes 4 takes in Years 1 and 4, 6 takes in Year 2, and 7 takes in Year 3, and a total of 21 takes by Level B harassment of harbor porpoise (Table 13). Level A harassment could occur during years 1, 3 and 4 (Table 13).

TABLE 13—PROPOSED TAKE FOR HARBOR PORPOISE

Construction year	Proposed Level A harassment	Calculated Level B harassment	Proposed Level B harassment
Year 1 (S45) .....	1	4	4
Year 2 (S366 and Pier 01) .....	0	2	6
Year 3 (LNG) .....	2	7	7
Year 4 (S499/Pier 2) .....	1	4	4
<b>Total</b> .....	<b>4</b>	<b>17</b>	<b>21</b>

Harbor Seal

Harbor seals are the most common seal in Narragansett Bay, which is a well-known winter feeding ground for the species (Moll *et al.*, 2017). Seals are commonly observed from late September through April (Moll *et al.*, 2017; DeAngelis, 2020). Of the 22 known haulouts within Narragansett Bay, The Sisters is the nearest haulout to the project area (0.9 mi). Harbor seals are rarely observed at The Sisters haulout in the early fall (September–October) but consistent numbers are

regularly observed in mid-November (0–10 animals). These numbers gradually increase with peak numbers in the upper 40s occurring in March, typically at low tide (DeAngelis, 2020). The NMSDD (Navy, 2017a) models harbor and gray seals as a guild due to the difficulty in distinguishing these species at sea. Harbor seal is expected to be the most common pinniped in Narragansett Bay with year-round occurrence (Kenney and Vigness-Raposa, 2010). Therefore, the maximum species density for the harbor-gray seal guild was

determined to be appropriate for estimating takes of harbor seal. Based on density data for Narragansett Bay (Navy, 2017a), the maximum density of seals was determined to be 0.623/km<sup>2</sup>. This density value is for all seals (harbor and gray seals as a guild); therefore, this density value results in some degree of overestimation when applied to harbor seals only. The Navy requested and NMFS proposes a high of 25 takes by Level A harassment and 353 takes by Level B harassment during Year 3, and a low of 13 takes by Level A harassment

and 138 takes by Level B harassment during Year 2 (Table 14).

TABLE 14—PROPOSED TAKE FOR HARBOR SEAL

Construction year	Proposed Level A harassment	Calculated/proposed Level B harassment
Year 1 (S45) .....	15	188
Year 2 (S366 and Pier 01) .....	13	138
Year 3 (LNG) .....	25	353
Year 4 (S499/Pier 2) .....	25	221
Total .....	78	900

Gray Seal

Based on stranding records, gray seals are seasonally present in Rhode Island with the largest populations occurring from February through June with a sharp peak in March and April. The NMSDD (Navy, 2017a) provides combined densities for harbor seal and gray seal (as discussed above). Gray seals are the second most likely seal to be observed in Rhode Island waters, next to harbor seals, and more of an occasional visitor (Kenney, 2020); therefore, the average species density for the harbor-gray seal guild was

determined to be appropriate for determining takes of gray seal. Based on density data for Narragansett Bay (Navy, 2017a), the average density of seals was determined to be 0.131/km<sup>2</sup>. This density value is for all seals (harbor and gray seals as a guild); therefore, it results in some degree of overestimation when applied to gray seals only. Calculated takes by Level A harassment and Level B harassment may occur each construction year with up to 5 takes by Level A harassment and 74 takes by Level B harassment during Year 3. Fewer annual takes were calculated for Year 2 and 3 by Level A harassment and

28 takes by Level B (Table 15). Because the calculated annual take is below the average group size, the annual take by Level B harassment proposed for gray seal has been increased to the average group size (50 gray seals) (NAVSEA NUWC 2017) and conservatively doubled for Year 1, 2, and 4, during which years calculated takes were less than group size. Therefore, the Navy requested and NMFS proposes 100 takes of gray seals in Years 1, 2 and 4, and 74 takes in Year 3, and a total of 374 takes by Level B harassment of gray seals. A total of 17 takes of gray seals by Level A harassment is also proposed.

TABLE 15—PROPOSED TAKE FOR GRAY SEAL

Construction year	Proposed Level A harassment	Calculated Level B harassment	Proposed Level B harassment
Year 1 (S45) .....	3	40	100
Year 2 (S366 and Pier 01) .....	3	28	100
Year 3 (LNG) .....	5	74	74
Year 4 (S499/Pier 2) .....	6	41	100
Total .....	17	183	374

Harp Seal

Harp seals may be present in the project vicinity January through May. In general, harp seals are much rarer than the harbor seal and gray seal in Narragansett Bay and are rarely observed in the bay (Kenney, 2015).

Therefore, the minimum species density was determined to be appropriate for determining takes of harp seal. Based on density data for Narragansett Bay obtained from the NMSDD (Navy 2017), the minimum density of harp seal was determined to be 0.050/km<sup>2</sup>. The Navy requested and NMFS proposes that 2

takes by Level A harassment could occur in Year 3, and 1 take by Level A harassment in Years 1, 2, and 4, for a total of 5 takes (Table 16). Calculated takes by Level B harassment range from 11 to 29 and total 72 takes over the project (Table 16).

TABLE 16—PROPOSED TAKE FOR HARP SEAL

Construction year	Proposed Level A harassment	Calculated/proposed Level B harassment
Year 1 (S45) .....	1	16
Year 2 (S366 and Pier 1) .....	1	11
Year 3 (LNG) .....	2	29
Year 4 (S499/Pier 2) .....	2	18
Total .....	6	74

Hooded Seal

Hooded seals may be present in the project vicinity from January through May, although their exact seasonal densities are unknown. In general, hooded seals are much rarer than the harbor seal and gray seal in Narragansett Bay and are rarely observed in the Bay (Kenney, 2005). Based on density data for Narragansett Bay obtained from the NMSDD, the minimum density of hooded seal was determined to be 0.001/km<sup>2</sup>. Hooded seals have the potential to occur but are considered the least likely seal to be present in Narragansett Bay. No Level A (PTS

onset) or Level B (behavioral) takes are anticipated during any construction year. However, in order to guard against unauthorized take, the Navy is requesting and NMFS is proposing 1 Level B (behavioral) take of hooded seal per month of construction when this species may occur (Jan through May) for each construction year for a total of 20 takes by Level B harassment (Table 17). No take by Level A harassment is anticipated or proposed for authorization for this species.

TABLE 17—PROPOSED TAKE FOR HOODED SEAL

Construction year	Proposed Level B harassment
Year 1 (S45) .....	5
Year 2 (S366 and Pier 1) .....	5
Year 3 (LNG) .....	5
Year 4 (S499/Pier 2) .....	5
<b>Total .....</b>	<b>20</b>

Table 18 below summarizes the proposed authorized take for all the species described above as a percentage of stock abundance.

TABLE 18—TAKE ESTIMATES AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock (N <sub>EST</sub> )	Level A harassment	Level B harassment	Percent of stock
Atlantic White-sided Dolphin .....	Western North Atlantic (93,233) .....	0	48	Less than 1 percent.
Common Dolphin .....	Western North Atlantic (172,974) .....	0	140	Less than 1 percent.
Harbor Porpoise .....	Gulf of Maine/Bay of Fundy (95,543) ...	4	21	Less than 1 percent.
Harbor Seal .....	Western North Atlantic (75,834) .....	78	900	Less than 2 percent.
Gray Seal .....	Western North Atlantic (451,131) .....	17	374	Less than 1 percent.
Harp Seal .....	Western North Atlantic (unknown) .....	6	74	Less than 1 percent.
Hooded Seal .....	Western North Atlantic (unknown) .....	0	20	Less than 1 percent.

**Proposed Mitigation**

Under section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable adverse impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the

likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

The following mitigation measures are proposed for the Navy’s in-water construction activities.

*General*

The Navy will follow mitigation procedures as described below. In general, if poor environmental conditions restrict full visibility of the shutdown zone, pile driving activities would be delayed.

*Training*

The Navy will ensure that construction supervisors and crews, the monitoring team, and relevant Navy staff are trained and prior to the start of construction activity subject to this rule, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. New personnel joining

during the project will be trained prior to commencing work.

*Avoiding Direct Physical Interaction*

The Navy will avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations will cease and vessels will reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary to avoid direct physical interaction.

*Shutdown Zones*

The Navy will establish shutdown zones for all pile driving activities. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones will vary based on the activity type and marine mammal hearing group (Table 19). For those activities with larger Level A (PTS onset) harassment zones, the shutdown zone would be limited to 150 m from the point of noise generation to ensure adequate monitoring for each bulkhead section and the remaining area would be considered part of the “disturbance zone.” A take will be recorded if a marine mammal enters the disturbance zone but does not approach or enter the shutdown zone. The disturbance zone is the Level B harassment zone and, where

present, the Level A harassment zone (PTS onset) beyond 150 m from the point of noise generation (see Figures 6–1 through 6–4 of the Navy’s application). For activities where the Level A (PTS onset) harassment zones

are smaller, the disturbance zone would include the entire region of influence (ROI) and is the full extent of potential underwater noise impact (Level A and Level B calculated harassment zones). Work will be allowed to proceed

without cessation while marine mammals are in the disturbance zone and marine mammal behavior within the disturbance zone will be monitored and documented.

TABLE 19—PILE DRIVING SHUTDOWN ZONE AND DISTURBANCE ZONES DURING PROJECT ACTIVITIES

Pile type	Installation method	Pile diameter	Shut down zone for cetaceans	Shut down zone for pinnipeds	Disturbance zone
Steel pipe .....	Impact	30-in	150 m	150 m	2,500 m
	Impact	42-in	150 m	50 m	2,500 m
Steel H .....	Vibratory	14-in	10 m	10 m	ROI
	Vibratory	22.5-in	30 m	10 m	ROI
Z-Shaped Steel Sheet .....	Impact	22.5-in	150 m	150 m	2,500 m
	Vibratory	31.5-in	20 m	10 m	ROI
	Impact	31.5-in	150 m	150 m	2,500 m

\* ROI = region of influence and is the full extent of potential underwater noise impact (Level A and Level B calculated harassment zones).

*Soft Start*

The Navy will use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of three strikes from the hammer at reduced energy, followed by a 30-second waiting period. Then two subsequent reduced-energy strike sets would occur. A soft start will be implemented at the start of each day’s impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer. Soft start is not required during vibratory pile driving activities.

Based on our evaluation of the applicant’s proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the 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.

**Proposed Monitoring and Reporting**

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as for ensuring that the most value is obtained from the required monitoring.

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

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (e.g., presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (e.g., source characterization, propagation, ambient noise); (2) affected species (e.g., life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (e.g., age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (e.g., marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

The Navy will submit a Marine Mammal Monitoring Plan to NMFS for approval in advance of the start of construction.

*Monitoring Zones*

The Navy will conduct monitoring to include the area within the Level B harassment zones (areas where SPLs are equal to or exceed the 160 dB rms threshold for impact driving and the 120 dB rms threshold during vibratory pile driving) (see Disturbance Zones in Table 19). These disturbance zones provide utility for monitoring conducted for mitigation purposes (i.e., shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of the disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area, but outside the shutdown zone, and thus prepare for potential shutdowns of activity.

*Visual Monitoring*

Monitoring must take place from 30 minutes (min) prior to initiation of pile driving activity (i.e., pre-start clearance monitoring) through 30 min post-completion of pile driving activity. If a marine mammal is observed entering or within the shutdown zones, pile driving will be delayed or halted. If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 min have passed without re-detection of the animal. Pile driving activity will be halted upon observation 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, entering or within the disturbance zone.

### *PSO Monitoring Requirements and Locations*

PSOs will be responsible for monitoring, the shutdown zones, the disturbance zones and the pre-clearance zones, as well as effectively documenting Level A and B harassment take. As described in more detail in the Reporting section below, they will also (1) document the frequency at which marine mammals are present in the project area, (2) document behavior and group composition, (3) record all construction activities, and (4) document observed reactions (changes in behavior or movement) of marine mammals during each sighting. The PSOs will monitor for marine mammals during all in-water pile activities associated with the project. The Navy will monitor the project area to the extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions. Visual monitoring will be conducted by, at a minimum, by two PSOs. It is assumed that two to three PSOs would be sufficient to monitor the respective ROIs given the abundance of suitable vantage points. Any activity that would result in threshold exceedance at or more than 1,000 m would require a minimum of three PSOs to effectively monitor the entire ROI. However, additional monitors may be added if warranted by site conditions and/or the level of marine mammal activity in the area. Trained PSOs will be placed at the best vantage point(s) practicable such as on nearby breakwaters, Gould Island, Coddington Point, or Taylor Point (see Figure 11–1 of the Navy's application) to monitor for marine mammals and implement shutdown/delay procedures when applicable. The PSOs must record all observations of marine mammals, regardless of distance from the pile being driven.

In addition, PSOs will work in shifts lasting no longer than 4 hrs with at least a 1-hr break between shifts, and will not perform duties as a PSO for more than 12 hrs in a 24-hr period (to reduce PSO fatigue).

Monitoring of pile driving will be conducted by qualified, NMFS-approved PSOs. The Navy shall adhere to the following conditions when selecting PSOs:

- PSOs must be independent (*i.e.*, not construction personnel) and have no other assigned tasks during monitoring periods;
- At least one PSO must have prior experience performing the duties of a PSO during construction activities

pursuant to a NMFS-issued incidental take authorization;

- Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training;
- Where a team of three PSOs are required, a lead observer or monitoring coordinator shall be designated. The lead observer must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization; and
- PSOs must be approved by NMFS prior to beginning any activity subject to this proposed rule.

The Navy will ensure that the PSOs have the following additional qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
- Experience and ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

### *Acoustic Monitoring*

The Navy intends to conduct a sound source verification (SSV) study for all pile types and will follow accepted methodological standards to achieve their objectives. The Navy will submit an acoustic monitoring plan to NMFS for approval prior to the start of construction.

### *Reporting*

The Navy would submit a draft report to NMFS within 90 workdays of the completion of required monitoring for each portion of the project as well as a

comprehensive summary report at the end of the project. The report will detail the monitoring protocol and summarize the data recorded during monitoring. Final annual reports (each portion of the project and comprehensive) must be prepared and submitted within 30 days following resolution of any NMFS comments on the draft report. If no comments are received from NMFS within 30 days of receipt of the draft report, the report shall be considered final. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments. All draft and final marine mammal monitoring reports must be submitted to

*PR.ITP.MonitoringReports@noaa.gov* and *ITP.Egger@noaa.gov*. The reports must contain the following informational elements, at minimum, (and be included in the Marine Mammal Monitoring Plan), including:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including:
  - How many and what type of piles were driven and by what method (*e.g.*, impact or vibratory); and
  - Total duration of driving time for each pile (vibratory driving) and number of strikes for each pile (impact driving);
  - 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 observation of a marine mammal, the following information:
    - PSO who sighted the animal and PSO location and activity at time of sighting;
    - Time of sighting;
    - Identification of the animal (*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 to the pile being driven for each sighting (if pile driving was occurring at time of sighting);
    - Estimated number of animals (minimum/maximum/best);
    - 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 to the activity (*e.g.*, no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);

- Detailed information about implementation of any mitigation (*e.g.*, shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal, if any; and

- All PSO datasheets and/or raw sightings data.

#### *Reporting of Injured or Dead Marine Mammals*

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the Navy must report the incident to NMFS Office of Protected Resources (OPR) (*PR.ITP.MonitoringReports@noaa.gov*), NMFS (301-427-8401) and to the Greater Atlantic Region New England/Mid-Atlantic Stranding Coordinator (866-755-6622) as soon as feasible. If the death or injury was clearly caused by the specified activity, the Navy must immediately cease the specified activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of this rule. The Navy will 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' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, this introductory discussion of our analyses applies to all of the species listed in Table 3, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks in anticipated individual responses to activities, impacts of expected take on the population due to differences in population status, or impacts on habitat, they are described independently in the analysis below.

Pile driving activities associated with the project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level A and Level B harassment from underwater sounds generated by pile driving. Potential takes could occur if marine mammals are present in zones ensounded above the thresholds for Level A and Level B harassment, identified above, while activities are underway.

No serious injury or mortality would be expected even in the absence of the proposed mitigation measures. During all impact driving, implementation of soft start procedures and monitoring of established shutdown zones will be required, significantly reducing the possibility of injury. Given sufficient notice through use of soft start (for

impact driving), marine mammals are expected to move away from an irritating sound source prior to it becoming potentially injurious. In addition, PSOs will be stationed within the action area whenever pile driving activities are underway. Depending on the activity, the Navy will employ the use of at least two and up to three PSOs to ensure all monitoring and shutdown zones are properly observed. For Atlantic white-sided dolphins, common dolphins and hooded seals, no Level A harassment is anticipated. Atlantic white-sided dolphin and common dolphin are both species in which regular occurrence is in much deeper waters than the project area, and, given the small Level A harassment zone sizes for mid-frequency cetaceans, we do not anticipate take by Level A harassment. For hooded seals, with the absence of any major rookeries and only one pinniped haulout (The Sisters) within the project area, and being a rare species in Narragansett Bay, we do not anticipate any take by Level A harassment.

The Navy's proposed pile driving activities and associated impacts will occur within a limited portion of the confluence of the Narragansett Bay area. Exposures to elevated sound levels produced during pile driving activities may cause behavioral disturbance of some individuals, but they are expected to be mild and temporary. However, as described previously, the mitigation and monitoring measures are expected to further reduce the likelihood of injury as well as reduce behavioral disturbances.

Effects on individuals that are taken by Level B harassment, as enumerated in the Estimated Take section, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.*, Thorson and Reyff 2006). Most likely, individual animals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted along both Atlantic and Pacific coasts, which have taken place with no known long-term adverse consequences from behavioral harassment. These reactions and behavioral changes are expected to subside quickly when the exposures cease. Level B harassment will be

minimized through use of mitigation measures described herein, and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring, particularly as the project is located on a waterfront with vessel traffic from both Navy and non-Navy activities.

The project is also not expected to have significant adverse effects on any marine mammal habitat. The project activities will not modify existing marine mammal habitat since the project will occur within the same footprint as existing marine infrastructure. Impacts to the immediate substrate during installation and removal of piles are anticipated, but these would be limited to minor, temporary suspension of sediments, which could impact water quality and visibility for a short amount of time, but which would not be expected to have any effects on individual marine mammals. The nearshore and intertidal habitat where the project will occur is an area of consistent vessel traffic from Navy and non-Navy vessels, and some local individuals would likely be somewhat habituated to the level of activity in the area, further reducing the likelihood of more severe impacts. The closest pinniped haulout, The Sisters, is used by harbor seals and is less than a mile from the project area; however, for the reasons described immediately above (including the nature of expected responses and the duration of the project), impacts to reproduction or survival of individuals is not anticipated, much less effects on the species or stock. There are no other biologically important areas for marine mammals near the project area.

In addition, impacts to marine mammal prey species are expected to be minor and temporary. Overall, the area impacted by the project is very small compared to the available habitat in Narragansett Bay. The most likely impact to prey will be temporary behavioral avoidance of the immediate area. During pile driving activities, it is expected that some fish and marine mammals would temporarily leave the area of disturbance, thus impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

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 Level A harassment is anticipated or authorized for Atlantic white-sided dolphins, Short-beaked common dolphins, and hooded seals;
- Anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior;
- The required mitigation measures (*i.e.*, shutdown zones) are expected to be effective in reducing the effects of the specified activity;
- Minimal impacts to marine mammal habitat/prey are expected;
- The action area is located within an active marine waterfront area, and
- There are no known biologically important areas in the vicinity of the project, with the exception of one harbor seal haulout (The Sisters)—however, as described above, exposure to the work conducted in the vicinity of the haulout is not expected to impact the reproduction or survival of any individual seals.

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, 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.

Take of five of the marine mammal stocks authorized will comprise at most approximately 2 percent or less of the stock abundance (Table 18). There are

no official stock abundance for harp seals or hooded seals; however, we believe for the abundance information that is available for Canada (N = 7+million for harp seals and N = 593,500 for hooded seals) combined with the fact they are highly migratory species and would be rare in the project area, the estimated takes are likely very small percentages of the stock abundance. The number of animals authorized to be taken from these stocks would be considered small relative to the relevant stock's abundances even if each estimated take occurred to a new individual, which is an unlikely scenario.

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 Navy construction activities would contain an adaptive management component. The reporting requirements associated with this rule are designed to provide NMFS with monitoring data from completed projects 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 Navy regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to marine mammals and if the measures are practicable.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) Results from monitoring reports, as required by MMPA authorizations; (2) results from general marine mammal 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

Section 7(a)(2) of the ESA (16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensure 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 incidental take authorizations, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. 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 Navy 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 proposed rule 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 Navy is the sole entity that would be subject to the requirements in these proposed regulations, and the Navy is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. Because of this certification, a regulatory flexibility analysis is not required and none has been prepared.

This proposed rule does not contain a collection-of-information requirement subject to the provisions of the

Paperwork Reduction Act (PRA) because the applicant is a federal agency.

### List of Subjects in 50 CFR Part 217

Administrative practice and procedure, Alaska, Endangered and threatened species, Exports, Fish, Imports, Indians, Labeling, Marine mammals, Oil and gas exploration, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation, Wildlife.

Dated: September 28, 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 ACTIVITIES

■ 1. The authority citation for part 217 continues to read as follows:

**Authority:** 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

■ 2. Add subpart R to part 217 to read as follows:

#### Subpart R—Taking and Importing Marine Mammals Incidental to U.S. Navy Construction at Naval Station Newport in Newport, Rhode Island

Sec.

217.70 Specified activity and geographical region.

217.71 Effective dates.

217.72 Permissible methods of taking.

217.73 Prohibitions.

217.74 Mitigation requirements.

217.75 Requirements for monitoring and reporting.

217.76 Letters of Authorization.

217.77 Renewals and modifications of Letters of Authorization.

217.78–217.79 [Reserved]

#### Subpart R—Taking and Importing Marine Mammals Incidental to U.S. Navy Construction at Naval Station Newport in Newport, Rhode Island

##### § 217.70 Specified activity and geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy (Navy) 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 construction activities including for bulkhead replacement and repairs at Naval Station (NAVSTA) Newport, Rhode Island.

(b) The taking of marine mammals by the Navy may be authorized in a Letter of Authorization (LOA) only if it occurs at NAVSTA Newport, Rhode Island.

##### § 217.71 Effective dates.

Regulations in this subpart are effective from [EFFECTIVE DATE OF THE FINAL RULE] to [DATE 5 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE].

##### § 217.72 Permissible methods of taking.

Under an LOA issued pursuant to §§ 216.106 of this chapter and 217.76, the Holder of the LOA (hereinafter “Navy”) may incidentally, but not intentionally, take marine mammals within the area described in § 217.70 (b) by harassment associated with construction activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the applicable LOA.

##### § 217.73 Prohibitions.

(a) Except for the takings contemplated in § 217.72 and authorized by a LOA issued under §§ 216.106 of this chapter and 217.76, it is unlawful for any person to do any of the following in connection with the activities described in § 217.70:

(1) 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 217.76;

(2) Take any marine mammal not specified in such LOA;

(3) Take any marine mammal specified in such LOA in any manner other than as specified;

(4) Take a marine mammal specified in such LOA if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(5) Take a marine mammal specified in such LOA if NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses.

(b) [Reserved]

##### § 217.74 Mitigation requirements.

(a) When conducting the activities identified in § 217.71(a), the mitigation measures contained in any LOA issued under §§ 216.106 of this chapter and 217.76 must be implemented. These mitigation measures must include but are not limited to:

(1) A copy of any issued LOA must be in the possession of the Navy, its designees, and work crew personnel operating under the authority of the issued LOA.

(2) The Navy will follow mitigation procedures as described in this section. In general, if poor environmental conditions restrict full visibility of the shutdown zone, pile driving activities would be delayed.

(3) The Navy will ensure that construction supervisors and crews, the monitoring team, and relevant Navy staff are trained prior to the start of construction activity subject to this rule, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. New personnel joining during the project will be trained prior to commencing work.

(4) The Navy will avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations will cease and vessels will reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary, to avoid direct physical interaction.

(5) For all pile driving activity, the Navy must implement shutdown zones with radial distances as identified in a LOA issued under §§ 216.106 of this chapter and 217.76. If a marine mammal comes within or approaches the shutdown zone, such operations must cease.

(6) The Navy will use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of three strikes from the hammer at reduced energy, followed by a 30-second waiting period. Then two subsequent reduced-energy strike sets would occur. A soft start will be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer. Soft start is not required during vibratory pile driving activities.

(7) The Navy must deploy protected species observers (observers) as indicated in its Marine Mammal Monitoring Plan approved by NMFS.

(8) For all pile driving activities, a minimum of two protected species observers (observers) must be stationed at the best vantage points practicable to monitor for marine mammals and implement shutdown/delay procedures. However, additional monitors will be added if warranted by site conditions and/or the level of marine mammal activity in the area. Any activity that would result in threshold exceedance at or more than 1,000 m would require a minimum of three PSOs to effectively monitor the entire region of influence (the full extent of potential underwater

noise impact (Level A and Level B calculated harassment zones)).

(9) Monitoring must take place from 30 minutes prior to initiation of pile driving activity (*i.e.*, pre-start clearance monitoring) through 30 minutes post-completion of pile driving activity. Pre-activity monitoring must be conducted for 30 minutes to ensure that the shutdown zone is clear of marine mammals, and pile driving may commence when observers have declared the shutdown zone clear of marine mammals. In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animals must be allowed to remain in the shutdown zone (*i.e.*, must leave of their own volition) and their behavior must be monitored and documented. If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 15 minutes. Monitoring must occur throughout the time required to drive a pile. If work ceases for more than 30 minutes, the pre-activity monitoring of the shutdown zones must commence. A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.*, the entire shutdown zone and surrounding waters must be visible to the naked eye).

(10) If a marine mammal approaches or enters the shutdown zone, all pile driving activities at that location must be halted. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal.

(11) Pile driving activity must be halted upon observation of either a species entering or within the harassment zone, 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.

(12) Should environmental conditions deteriorate such that marine mammals within the entire shutdown zone would not be visible (*e.g.*, fog, heavy rain), the Navy must delay pile driving and pile removal until observers are confident marine mammals within the shutdown zone could be detected.

(13) Monitoring must be conducted by trained observers, who must have no other assigned tasks during monitoring periods. Trained observers must be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or

delay procedures when applicable through communication with the equipment operator. The Navy must adhere to the following additional observer qualifications:

(i) Independent observers are required;

(ii) At least one observer 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;

(iv) Where a team of three or more observers are required, one observer must be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and

(v) PSOs must be approved by NMFS prior to beginning any activity subject to this proposed rule.

(b) [Reserved]

#### **§ 217.75 Requirements for monitoring and reporting.**

(a) The Navy must submit a Marine Mammal Monitoring Plan to NMFS for approval in advance of construction.

(b) The Navy must deploy observers as indicated in its approved Marine Mammal Monitoring Plan.

(c) Observers must be trained in marine mammal identification and behaviors. Observers must have no other construction-related tasks while conducting monitoring.

(d) For all pile driving activities, a minimum of two observers must be stationed at the active pile driving site or in reasonable proximity in order to monitor the shutdown zone.

(e) The Navy must monitor the Level B harassment zones (areas where SPLs are equal to or exceed the 160 dB rms threshold for impact driving and the 120 dB rms threshold during vibratory pile driving) to the extent practicable and the shutdown zones. For those activities with larger Level A (PTS onset) harassment zones, the shutdown zone would be limited to 150 m from the point of noise generation to ensure adequate monitoring for each bulkhead section and the remaining area would be considered part of the disturbance zone. The Navy must monitor the disturbance zone, which is the Level B harassment zone and, where present, the Level A harassment zone (PTS onset) beyond 150 m from the point of noise generation. The Navy must monitor at least a portion of the Level B harassment zone on all pile driving days.

(f) The Navy must conduct hydroacoustic data collection (sound source verification and propagation loss) in accordance with a hydroacoustic monitoring plan that

must be approved by NMFS in advance of construction.

(g) The Navy must submit a draft monitoring report to NMFS within 90 work days of the completion of required monitoring for each portion of the project as well as a comprehensive summary report at the end of the project. The report will detail the monitoring protocol and summarize the data recorded during monitoring. Final annual reports (each portion of the project and comprehensive) must be prepared and submitted within 30 days following resolution of any NMFS comments on the draft report. If no comments are received from NMFS within 30 days of receipt of the draft report, the report must be considered final. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments. The reports must contain the informational elements described at minimum below (and be included in the Marine Mammal Monitoring Plan), including:

(1) Dates and times (begin and end) of all marine mammal monitoring;

(2) Construction activities occurring during each daily observation period, including how many and what type of piles were driven or removed and by what method (*i.e.*, impact or vibratory) and the total duration of driving time for each pile (vibratory driving) and number of strikes for each pile (impact driving);

(3) Environmental conditions during monitoring periods (at beginning and end of observer 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 (if less than the harassment zone distance);

(4) Upon observation of a marine mammal, the following information should be collected:

(i) Observer who sighted the animal and observer location and activity at time of sighting;

(ii) Time of sighting;

(iii) Identification of the animal (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified), observer confidence in identification, and the composition of the group if there is a mix of species;

(iv) Distances and bearings of each marine mammal observed in relation to the pile being driven for each sighting (if pile driving was occurring at time of sighting);

(v) Estimated number of animals (min/max/best);

(vi) Estimated number of animals by cohort (adults, juveniles, neonates, group composition etc.);

(vii) Animal's closest point of approach and estimated time spent within the harassment zone; and

(viii) Description of any marine mammal behavioral observations (*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses to the activity (*e.g.*, no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);

(5) Detailed information about any implementation of any mitigation (*e.g.*, shutdowns and delays), a description of specific actions that ensued, and resulting changes in the behavior of the animal, if any; and

(6) All observer datasheets and/or raw sightings data.

(h) The Navy must report the hydroacoustic data collected as required by a LOA issued under §§ 216.106 of this chapter and 217.76.

(i) In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the Navy must report the incident to NMFS Office of Protected Resources (OPR), and to the Greater Atlantic Region New England/Mid-Atlantic Stranding Coordinator, as soon as feasible. If the death or injury was clearly caused by the specified activity, the Navy must immediately cease the specified activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of this rule *and the LOA issued under §§ 216.106 of this chapter and 217.76*. The Navy will not resume their activities until notified by NMFS. The report must include the following information:

(1) Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

(2) Species identification (if known) or description of the animal(s) involved;

(3) Condition of the animal(s) (including carcass condition if the animal is dead);

(4) Observed behaviors of the animal(s), if alive;

(5) If available, photographs or video footage of the animal(s); and

(6) General circumstances under which the animal was discovered.

#### § 217.76 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the Navy 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 Navy 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 Navy must apply for and obtain a modification of the LOA as described in § 217.77.

(e) The LOA will set forth the following information:

(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 will 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 will be published in the **Federal Register** within 30 days of a determination.

#### § 217.77 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 217.76 for the activity identified in § 217.70(a) may 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; 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 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) A LOA issued under §§ 216.106 of this chapter and 217.76 for the activity identified in § 217.70 (a) may be

modified by NMFS under the following circumstances:

(1) NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Navy 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 a LOA:

(A) Results from Navy's monitoring from previous years;

(B) Results from other marine mammal and/or sound research or studies; and

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs; and

(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) 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 a LOA issued pursuant to §§ 216.106 of this chapter and 217.76, a LOA may be modified without prior notice or opportunity for public comment. Notification would be published in the **Federal Register** within 30 days of the action.

**§§ 217.78—217.79 [Reserved]**

[FR Doc. 2021-21426 Filed 10-12-21; 8:45 am]

**BILLING CODE 3510-22-P**

# Notices

Federal Register

Vol. 86, No. 195

Wednesday, October 13, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

[Docket No. RHS–21–Admin–0018]

#### Notice of Request for Approval of a New Information Collection

**AGENCY:** Rural Housing Service, Rural Business-Cooperative Service, and Rural Utilities Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Rural Business-Cooperative Service, Rural Housing Service, and the Rural Utilities Service, agencies of the Rural Development mission area within the U.S. Department of Agriculture (USDA), hereinafter collectively referred to as the Agency to request approval for a new information collection in support of compliance with applicable acts for planning and performing construction and other development work.

**DATES:** Comments on this notice must be received by December 13, 2021.

**ADDRESSES:** Comments may be submitted by the following method:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to <http://www.regulations.gov>. Follow the on-line instructions at that site for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Thomas P. Dickson, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, South Building, Washington, DC 20250–1522. Telephone: (202)690–4492. Email [thomas.dickson@usda.gov](mailto:thomas.dickson@usda.gov).

**SUPPLEMENTARY INFORMATION:** The Office of Management and Budget’s (OMB) regulation (5 CFR 1320) implementing

provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that Rural Development is submitting to OMB for a new collection.

Comments are invited on: (a) 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; (b) 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; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on 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.

Comments may be sent by the Federal eRulemaking Portal: Go to <http://www.regulations.gov> and, in the lower “Search Regulations and Federal Actions” box, select “RHS” from the agency drop-down menu, then click on “Submit.” In the Docket ID column, select RHS–21–Admin–0018 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site’s “User Tips” link.

**Title:** 7 CFR 1924—Common Forms Package for Rural Development Construction Forms.

**OMB Number:** 0575–New.

**Expiration Date of Approval:** Three years from approval date.

**Type of Request:** New information collection.

**Abstract:** The information collection under OMB Number 0575–New will enable the Agencies to effectively administer the policies, methods, and responsibilities in the planning and performing of construction and other development work for the related construction programs.

The Rural Housing Service (RHS) is authorized under various sections of Title V of the Housing Act of 1949, as amended, to provide financial assistance to construct, improve, alter, repair, replace, or rehabilitate dwellings, which will provide modest, decent, safe, and sanitary housing to eligible individuals in rural areas. The Consolidated Farm and Rural Development Act, as amended, authorizes the credit programs of the RHS, RBCS and RUS to provide financial assistance for essential community facilities such as construction of community facilities and water and waste systems; and the improvement, development, and financing of businesses, industries, and employment.

In several sections of both acts, loan limitations are established as percentages of development costs, requiring careful monitoring of those costs. Also, the Secretary is authorized to prescribe regulations to ensure that Federal funds are not wasted or dissipated and that construction will be undertaken economically and will not be of elaborate or extravagant design or materials. The collection of information covered by the forms allows for the planning and performing of construction and other development work.

Information for the RD forms and their usage in this collection package are included in this supporting statement.

The Agencies provide forms and/or guidelines to assist in the collection and submission of information; however, most of the information may be collected and submitted in the form and content which is accepted and typically used in normal conduct of planning and performing development work in private industry when a private lender is financing the activity. The information is usually submitted via hand delivery or U.S. Postal Service to the appropriate Agency office. Electronic submittal of information is also possible through email or USDA’s Service Center eForms website.

If the information were not collected and submitted, the Agencies would not have control over the type and quality of construction and development work planned and performed with Federal funds. The Agencies would not be assured that the security provided for loans is adequate, nor would the

Agencies be certain that decent, safe, and sanitary dwelling or other adequate structures were being provided to rural residents as required by the different acts.

*Estimate of Burden:* RD is requesting approval for one respondent and a one-hour place holder in order for OMB to issue a control number for these forms. The burden for each of the forms will be accounted for within the individual Rural Development program collection packages using the form(s).

*Respondents:* Individuals or private entities; businesses or other for profit; not-for profit; small businesses; Federal, state, local or tribal governments; institutions of higher education or other research organizations and others.

*Estimated Number of Responses per Respondent per Form in Package:*

Form No.	Responses per Respondent
1924-1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 19 and 25 .....	1
1924-13 .....	1.25
1924-18 .....	1.75

Comments from interested parties are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

**Chadwick Parker,**

*Acting Administrator, Rural Housing Service.*

[FR Doc. 2021-22215 Filed 10-12-21; 8:45 am]

**BILLING CODE 3410-XV-P**

**COMMISSION ON CIVIL RIGHTS**

**Agenda and Notice of a Public Meeting of the Maine Advisory Committee**

**AGENCY:** Commission on Civil Rights.

**ACTION:** Announcement of a public meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that the Maine State Advisory Committee to the Commission will hold a virtual meeting on Thursday, October 14, 2021, at 10:00 a.m. (ET) for the Committee to review and vote on a statement of concern regarding the use of General Assistance Funds.

**DATES:** October 14, 2021, Thursday at 10:00 a.m. (ET).

**ADDRESSES:**

- *To join by web conference:* <https://bit.ly/2Yjk7RN>.
- *To join by phone only, dial 1-800-360-9505; Access code: 2764 156 5198#.*

**FOR FURTHER INFORMATION CONTACT:**

Barbara de La Viez at [bdelaviez@usccr.gov](mailto:bdelaviez@usccr.gov) or by phone at (202) 539-8246.

**SUPPLEMENTARY INFORMATION:** These meetings are available to the public through the WebEx link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing, may also follow the proceedings by first calling the Federal Relay Service at 1-800-877-8339 and providing the Service with the call-in number found through registering at the web link provided for these meetings.

Members of the public are entitled to make comments during the open period at the end of the meetings. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Barbara de La Viez at [bdelaviez@usccr.gov](mailto:bdelaviez@usccr.gov). Persons who desire additional information may contact the Regional Programs Unit at (202) 539-

8246. Records and documents discussed during the meetings will be available for public viewing as they become available at [www.facadatabase.gov](http://www.facadatabase.gov). Persons interested in the work of this advisory committee are advised to go to the Commission's website, [www.usccr.gov](http://www.usccr.gov), or to contact the Regional Programs Unit at the above phone number or email address.

**Agenda**

*Thursday, October 14, 2021, at 10:00 a.m. (ET)*

- I. Roll Call
- II. Review and Vote on Statement of Concern
- III. Open Comment
- IV. Adjourn

Dated: October 7, 2021.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2021-22256 Filed 10-12-21; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF COMMERCE**

**Economic Development Administration**

**Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance**

**AGENCY:** Economic Development Administration, Department of Commerce.

**ACTION:** Notice and opportunity for public comment.

**SUMMARY:** The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below.

Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

**SUPPLEMENTARY INFORMATION:**

## LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[9/24/2021 through 10/4/2021]

Firm name	Firm address	Date accepted for investigation	Product(s)
R.B. Woodcraft, Inc .....	1860 Erie Boulevard East, Syracuse, NY 13210.	9/30/2021	The firm manufactures architectural mill-work.
Sears Manufacturing Co .....	1718 South Concord Street, Davenport, IA 52802.	10/1/2021	The firm manufactures motor vehicle seating.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.8 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

**Bryan Borlik,**  
*Director.*

[FR Doc. 2021-22169 Filed 10-12-21; 8:45 am]

**BILLING CODE 3510-WH-P**

**DEPARTMENT OF COMMERCE****Foreign-Trade Zones Board**

[S-120-2021]

**Approval of Subzone Status; Mercedes Benz USA, LLC, Vance, Alabama**

On August 10, 2021, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the City of Birmingham, Alabama, grantee of FTZ 98, requesting subzone status subject to the existing activation limit of FTZ 98, on behalf of Mercedes Benz USA, LLC, in Vance, Alabama.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (86 FR 45703, August 16, 2021). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish

Subzone 98G was approved on October 6, 2021, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 98's 612-acre activation limit.

Dated: October 6, 2021.

**Andrew McGilvray,**  
*Executive Secretary.*

[FR Doc. 2021-22214 Filed 10-12-21; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-570-506]

**Porcelain-on-Steel Cooking Ware From the People's Republic of China: Final Results of Fifth Sunset Review and Revocation of Order**

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

**SUMMARY:** On July 1, 2021, the Department of Commerce (Commerce) initiated the fifth sunset review of the antidumping duty (AD) order on porcelain-on-steel cooking ware from the People's Republic of China (China). Because no domestic interested party responded to the sunset review notice of initiation by the application deadline, Commerce is revoking the AD order on porcelain-on-steel cooking ware from China.

**DATES:** Applicable August 11, 2021.

**FOR FURTHER INFORMATION CONTACT:** Kabir Archuletta, 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) 482-2593.

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

On December 2, 1986, Commerce issued the AD order on porcelain-on-steel cooking ware from China.<sup>1</sup> On

<sup>1</sup> See *Antidumping Duty Order; Porcelain-on-Steel Cooking Ware from the People's Republic of China*, 51 FR 43414 (December 2, 1986) (*Order*).

August 11, 2016, Commerce published the most recent continuation of the AD order on porcelain-on-steel cooking ware from China.<sup>2</sup> On July 1, 2021, Commerce initiated the current sunset review of the *Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>3</sup>

We did not receive a notice to participate in this sunset review from any domestic interested party, pursuant to 19 CFR 351.218(d)(1)(i). As a result, in accordance with 19 CFR 351.218(d)(1)(iii)(A), Commerce has determined that no domestic interested party intends to participate in the sunset review. On July 21, 2021, Commerce notified the ITC in writing that we intend to revoke the AD order on porcelain-on-steel cooking ware from China, consistent with 19 CFR 351.218(d)(1)(iii)(B).<sup>4</sup>

**Scope of the Order**

The merchandise covered by the *Order* is porcelain-on-steel cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. The merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 7323.94.00. The HTSUS subheading is provided for convenience and customs purposes. The written description of the scope remains dispositive.

**Revocation**

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.218(d)(1)(iii)(B)(3), if no domestic interested party responds to a notice of initiation, Commerce shall, within 90 days after the initiation of review, revoke the order. Because no

<sup>2</sup> See *Porcelain-on-Steel Cooking Ware from the People's Republic of China: Continuation of Antidumping Duty Order*, 81 FR 53120 (August 11, 2016) (*2016 Continuation Notice*).

<sup>3</sup> See *Initiation of Five-Year (Sunset) Reviews*, 86 FR 35070 (July 1, 2021).

<sup>4</sup> See Commerce's Letter, "Sunset Reviews for July 1, 2021," dated July 21, 2021.

domestic interested party filed a notice of intent to participate in this sunset review, we determine that no domestic interested party is participating in this sunset review. Therefore, we are revoking the AD order on porcelain-on-steel cooking ware from China.

#### Effective Date of Revocation

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.222(i)(2)(i), Commerce intends to instruct CBP to terminate the suspension of liquidation of the merchandise subject to this order entered, or withdrawn from the warehouse, on or after August 11, 2021, the fifth anniversary of the date of publication of the last continuation notice.<sup>5</sup> Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and AD deposit requirements. Commerce will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

#### Administrative Protective Order

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

#### Notifications to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), and 777(i)(1) of the Act, and 19 CFR 351.218(d)(1)(iii)(B)(3) and 19CFR 351.222(i)(1)(1).

Dated: September 29, 2021.

#### Christian Marsh,

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2021-22250 Filed 10-12-21; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Swiss-U.S. Privacy Shield; Invitation for Applications for Inclusion on the Supplemental List of Arbitrators

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on July 28, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

*Agency:* International Trade Administration, Department of Commerce.

*Title:* Swiss-U.S. Privacy Shield; Invitation for Applications for Inclusion on the Supplemental List of Arbitrators.

*OMB Control Number:* 0625-0278.

*Form Number(s):* None.

*Type of Request:* Extension of a current information collection.

*Number of Respondents:* 20.

*Average Hours per Response:* 240 minutes.

*Burden Hours:* 80 hours.

*Needs and Uses:* As described in Annex I of the Swiss-U.S. Privacy Shield Framework, the Department of Commerce (the Department) and the Swiss Administration committed to implement an arbitration mechanism to provide Swiss individuals with the ability to invoke binding arbitration to determine, for residual claims, whether an organization has violated its obligations under the Privacy Shield. Organizations voluntarily self-certify to the Swiss-U.S. Privacy Shield Framework and, upon certification, the commitments the organization has made to comply with the Swiss-U.S. Privacy Shield Framework become legally enforceable under U.S. law. Organizations that self-certify to the Swiss-U.S. Privacy Shield Framework commit to binding arbitration of residual claims if a Swiss individual chooses to exercise that option. Under the arbitration option, a Privacy Shield

Panel (consisting of one or three arbitrators, as agreed by the parties) has the authority to impose individual-specific, non-monetary equitable relief (such as access, correction, deletion, or return of the Swiss individual's data in question) necessary to remedy the violation of the Swiss-U.S. Privacy Shield Framework only with respect to the individual. The Department and the Swiss Administration will seek to maintain a list of up to five arbitrators chosen on the basis of independence, integrity, and expertise from which the parties will select the arbitrators, which will supplement the list of arbitrators developed under the EU-U.S. Privacy Shield Framework. The arbitral mechanism outlined in Annex I of the EU-U.S. Privacy Shield Framework and Swiss-U.S. Privacy Shield Framework is a critical component of the Privacy Shield frameworks. Publishing this notice to collect information from individuals applying for inclusion on the list of arbitrators is a necessary step to maintain the arbitral mechanism. The Department previously requested and obtained approval of this information collection (OMB Control No. 0625-0278) and now seeks renewal of this information collection. Although the Department is not currently seeking additional applications, it may do so in the future as appropriate.

*Affected Public:* Private individuals.

*Frequency:* Recurrent, depending on the number of arbitrators required to retain an active list of 5 arbitrators.

*Respondent's Obligation:* Required to obtain or retain benefits.

*Legal Authority:* The Department's statutory authority to foster, promote, and develop the foreign and domestic commerce of the United States (15 U.S.C. 1512).

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

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

<sup>5</sup> See 2016 Continuation Notice.



entering either the title of the collection or the OMB Control Number 0625–0278.

**Sheleen Dumas,**

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

[FR Doc. 2021–22235 Filed 10–12–21; 8:45 am]

BILLING CODE 3510–DS–P

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A–580–836]

**Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2019–2020**

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

**SUMMARY:** The Department of Commerce (Commerce) determines that certain cut-to-length carbon-quality steel plate products (CTL plate) from the Republic of Korea (Korea) were sold in the United States at less than normal value during the period of review (POR) February 1, 2019, through January 31, 2020.

**DATES:** Applicable October 13, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Andre Gziryan, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2201.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 25, 2021, Commerce published the *Preliminary Results* of the 2019–2020 administrative review of the antidumping duty order on CTL Plate from Korea.<sup>1</sup> For a complete description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.<sup>2</sup>

**Scope of the Order**<sup>3</sup>

The products covered by the antidumping duty Order are certain CTL

plate from Korea. For a full description of the scope, see the Issues and Decision Memorandum.<sup>4</sup>

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

**Changes Since the Preliminary Results**

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, and for the reasons explained in the Issues and Decision Memorandum, we did not make changes to the preliminary calculation of the weighted-average dumping margin for the mandatory respondent, Hyundai Steel Company (Hyundai Steel), and the margin assigned to non-selected respondents.

**Final Results of the Review**

Commerce determines the following weighted-average dumping margins exist for the respondents for the period February 1, 2019, through January 31, 2020:

Producer/exporter	Weighted-average dumping margin (percent)
Hyundai Steel Company .....	0.68
Rate Applicable to the Following Non-Selected Companies:	
Dongkuk Steel Mill Co., Ltd .....	0.68
BDP International .....	0.68
Sung Jin Steel Co., Ltd .....	0.68

**Assessment Rates**

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protections (CBP) shall assess, antidumping duties on all appropriate entries of subject

*and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products from France, India, Indonesia, Italy, Japan and the Republic of Korea*, 65 FR 6585 (February 10, 2000) (Order).

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

merchandise in accordance with the final results of this review. For the individually examined respondent, Hyundai Steel, whose weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.50 percent), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for each importer’s examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).

For all non-selected respondents identified above, we will instruct CBP to liquidate all entries of subject merchandise that entered the United States during the POR at the rates listed above.

For entries of subject merchandise during the POR produced by Hyundai Steel for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of the notice of final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for companies subject to this review will be equal to the weighted-average dumping margins established in the final results of the review; (2) for merchandise exported by companies not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment for the producer of the merchandise; and (4) the cash

<sup>1</sup> See *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2019–2020*, 86 FR 33653 (June 25, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See Memorandum, “*Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review; 2019–2020*,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>3</sup> See *Notice of Amendment of Final Determinations of Sales at Less Than Fair Value*

deposit rate for all other producers or exporters will continue to be 0.98 percent,<sup>5</sup> the all-others rate established in the LTFV investigation, adjusted for the export-subsidy rate in the companion countervailing duty investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

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

#### Notification Regarding Administrative Protective Order

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

#### Notification to Interested Parties

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

Dated: October 6, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

#### Appendix—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Issue

Comment 1: Whether Commerce Should Adjust Hyundai Steel's Costs for Non-Prime Products

- V. Recommendation

[FR Doc. 2021-22249 Filed 10-12-21; 8:45 am]

**BILLING CODE 3510-DS-P**

<sup>5</sup> See, e.g., *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016–2017*, 83 FR 32629, 32630 (July 13, 2018).

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–533–897]

#### Utility Scale Wind Towers From India: Final Affirmative Determination of Sales at Less Than Fair Value

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

**SUMMARY:** The Department of Commerce (Commerce) determines that utility scale wind towers (wind towers) from India are being, or are likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation July 1, 2019, through June 30, 2020.

**DATES:** Applicable October 13, 2021.

#### FOR FURTHER INFORMATION CONTACT:

Terre Keaton Stefanova or Amaris Wade, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1280 or (202) 482–3874, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 24, 2021, Commerce published in the *Federal Register* the preliminary affirmative determination in the LTFV investigation of wind towers from India.<sup>1</sup> Commerce invited interested parties to comment on the *Preliminary Determination*. On June 24, 2021, we received case briefs from Vestas Wind Technology India Private Limited (Vestas India); Anand Engineering Products Private Limited, Windar Renewable Energy Private Limited, and GRI Towers India Private Limited (collectively, Other Producers); and the Wind Tower Trade Coalition (the petitioner).<sup>2</sup> On August 17, 2021, we held a public hearing at the request of Vestas India, the Other Producers and the petitioner.<sup>3</sup> A summary of the events that occurred since Commerce published the *Preliminary*

<sup>1</sup> See *Utility Scale Wind Towers from India: Preliminary Affirmative Determinations of Sales at Less than Fair Value*, 86 FR 27829 (May 24, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> See Vestas India's Letter, "Vestas' Case Brief," dated June 24, 2021; see also Other Producers' Letter, "Submission of Case Brief for 'Other Producers,'" dated June 24, 2021; and Petitioner's Letter, "Case Brief," dated June 24, 2021. The petitioner in this investigation is the Wind Tower Trade Coalition, whose members are Arcosa Wind Towers Inc. and Broadwind Towers, Inc.

<sup>3</sup> See Transcript to Public Hearing, dated August 17, 2021.

*Determination*, may be found in the Issues and Decision Memorandum.<sup>4</sup>

#### Scope of the Investigation

The products covered by this investigation are wind towers from India. For a complete description of the scope of this investigation, see Appendix I.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### Verification

Because the sole mandatory respondent in this investigation, Vestas India, did not cooperate in this investigation by failing to file a complete response to Commerce's supplemental section D questionnaire by the established deadline, Commerce reached the *Preliminary Determination* entirely on the basis of facts available with the application of adverse inferences (AFA). As such, because the *Preliminary Determination* was based entirely on AFA, we did not conduct a verification.

#### Use of Adverse Facts Available

In the *Preliminary Determination*, Commerce found that the mandatory respondent, Vestas India, did not cooperate in this investigation by failing to file a complete response to Commerce's supplemental section D questionnaire by the established deadline. We also found that five other companies did not cooperate in this investigation by failing to provide timely responses to Commerce's quantity and value (Q&V) questionnaire. These companies are: Acciona Wind Power India Pvt. Ltd.; Nordex India Pvt.

<sup>4</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from India," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Ltd.; Prommada Hindustan Private Ltd.; Vinayaka Energy Tek; and Zeeco India Pvt. Ltd. Therefore, in the *Preliminary Determination*, pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), we assigned Vestas India and the five companies which failed to timely respond to Commerce’s Q&V questionnaire a dumping margin based on total AFA. In applying total AFA, we assigned an estimated weighted-average dumping margin of 54.03 percent, the sole dumping margin alleged in the Petition,<sup>5</sup> which Commerce

corroborated to the extent practicable within the meaning of section 776(c) of the Act. We continue to find the application of total AFA to Vestas India and the five companies which failed to respond to Commerce’s Q&V questionnaire, pursuant to sections 776(a) and (b) of the Act, is warranted in the final determination.

**Changes Since the Preliminary Determination**

Based on our analysis of comments received, we made no changes to the *Preliminary Determination*.

**All-Others Rate**

As discussed in the *Preliminary Determination*, Commerce based the estimated weighted-average dumping margin for all other producers and exporters on the only dumping margin alleged in the Petition, pursuant to section 735(c)(5)(B) of the Act. We made no changes to this rate for this final determination.

**Final Determination**

The final estimated weighted-average dumping margins are as follows:

Exporter/producer	Dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) <sup>6</sup> (percent)
Vestas Wind Technology India Private Limited .....	54.03	51.87
Acciona Wind Power India Pvt. Ltd .....	54.03	51.87
Nordex India Pvt. Ltd .....	54.03	51.87
Prommada Hindustan Private Ltd .....	54.03	51.87
Vinayaka Energy Tek .....	54.03	51.87
Zeeco India Pvt. Ltd .....	54.03	51.87
All Others .....	54.03	51.87

**Disclosure**

The estimated weighted-average dumping margins assigned to Vestas India and the non-responsive companies in this investigation are based on total AFA. These rates are based on information from the Petition, and are unchanged from the *Preliminary Determination*. Accordingly, there are no calculations to disclose for this final determination.

**Continuation of Suspension of Liquidation**

In accordance with section 735(c)(1)(B) of the Act, for this final determination, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of wind towers from India, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after May 24, 2021, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the companies listed above will be equal to the company-specific estimated weighted-average

dumping margin determined in this final determination; (2) if the exporter is not identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin listed above.

These suspension of liquidation instructions will remain in effect until further notice.

**International Trade Commission Notification**

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of this final affirmative determination of sales at LTFV. Because Commerce’s final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of wind towers from India no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, all cash

deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

**Notification Regarding Administrative Protective Orders**

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

**Notification to Interested Parties**

We are issuing and publishing this determination in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

<sup>5</sup> See Petitioner’s Letter, “Petitions for the Imposition of Antidumping and Countervailing Duties,” dated September 30, 2020 (the Petition).

<sup>6</sup> See Memorandum, “Export Subsidies Found in the Companion Countervailing Duty Investigation,” dated concurrently with this notice.

Dated: October 6, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

**Appendix I—Scope of the Investigation**

The merchandise covered by this investigation consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with non-subject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

**Appendix II—List of Sections in the Issues and Decision Memorandum**

I. Summary

II. Background

III. Discussion of the Issues

Comment 1. Whether the Petitioner has Standing in This Investigation

Comment 2. The Application of Adverse Facts Available (AFA) to Vestas Wind Technology India Private Limited (Vestas India)

Comment 3. The AFA Rate to Apply to Vestas India

Comment 4. Selection of Appropriate Rate for All Other Exporters/Producers

Comment 5. Whether Commerce Should Reject the Multinational Corporation (MNC) and the Particular Market Situation (PMS) Allegations

IV. Recommendation

[FR Doc. 2021–22245 Filed 10–12–21; 8:45 am]

**BILLING CODE 3510–DS–P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A–570–896]

**Magnesium Metal From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2020–2021**

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

**SUMMARY:** The Department of Commerce (Commerce) is conducting the administrative review of the antidumping duty (AD) order on magnesium metal from the People’s Republic of China (China). The period of review (POR) is April 1, 2020, through March 31, 2021. Commerce preliminarily determines that Tianjin Magnesium International Co., Ltd. (TMI) and Tianjin Magnesium Metal Co., Ltd. (TMM) did not have any shipments of subject merchandise during the POR. We invite interested parties to comment on these preliminary results.

**DATES:** Applicable October 13, 2021.

**FOR FURTHER INFORMATION CONTACT:** Deborah Cohen, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4521.

**SUPPLEMENTARY INFORMATION:**

**Background**

On April 1, 2021, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the AD order on magnesium metal from China for the POR.<sup>1</sup> On June 11, 2021, in response to a timely request from US Magnesium LLC (the petitioner),<sup>2</sup> and in accordance

<sup>1</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 86 FR 17137 (April 1, 2021); see also *Notice of Antidumping Duty Order: Magnesium Metal from the People’s Republic of China*, 70 FR 19928 (April 15, 2005) (*Order*).

<sup>2</sup> See Petitioner’s Letter, “Magnesium Metal from the People’s Republic of China/Request for Administrative Review,” dated April 30, 2021.

with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the *Order* with respect to TMI and TMM.<sup>3</sup>

**Scope of the Order**

The product covered by the *Order* is magnesium metal from China, which includes primary and secondary alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by the *Order* includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes; magnesium ground, chipped, crushed, or machined into rasping, granules, turnings, chips, powder, briquettes, and other shapes; and products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an “ASTM Specification for Magnesium Alloy”<sup>4</sup> and are thus outside the scope of the existing antidumping orders on magnesium from China (generally referred to as “alloy” magnesium).

The scope of the *Order* excludes: (1) All forms of pure magnesium, including chemical combinations of magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an “ASTM Specification for Magnesium Alloy”;<sup>5</sup> (2) magnesium that is in liquid or molten form; and (3) mixtures

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 86 FR 31282 (June 11, 2021).

<sup>4</sup> The meaning of this term is the same as that used by the American Society for Testing and Materials in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

<sup>5</sup> The material is already covered by existing antidumping orders. See *Notice of Antidumping Duty Orders: Pure Magnesium from the People’s Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation*, 60 FR 25691 (May 12, 1995); see also *Antidumping Duty Order: Pure Magnesium in Granular Form from the People’s Republic of China*, 66 FR 57936 (November 19, 2001).

containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (Al<sub>2</sub>O<sub>3</sub>), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.<sup>6</sup> The merchandise subject to this *Order* is classifiable under items 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

### Preliminary Determination of No Shipments

We received timely submissions from TMI and TMM certifying that they did not have sales, shipments, or exports of subject merchandise to the United States during the POR.<sup>7</sup> On June 14, 2021, we requested the U.S. Customs and Border Protection (CBP) entry data of subject merchandise imported into the United States during the POR, and exported by TMM and/or TMI.<sup>8</sup> This query returned no entries during the POR.<sup>9</sup> Additionally, on June 23, 2021, Commerce submitted a no-shipments inquiry to CBP with regard to TMI and TMM, to which CBP responded that it found no shipments of subject

merchandise by TMI and TMM during the POR.<sup>10</sup>

Accordingly, and consistent with our practice, we preliminarily determine that TMI and TMM had no shipments and, therefore, no reviewable entries during the POR. In addition, we find it is not appropriate to rescind the review with respect to these companies, but rather to complete the review with respect to TMI and TMM and issue appropriate instructions to CBP based on the final results of the review, consistent with our practice in non-market economy (NME) cases.<sup>11</sup>

### Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments, filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), within 30 days after the date of publication of these preliminary results of review.<sup>12</sup> ACCESS is available to registered users at <https://access.trade.gov>. Rebuttal briefs, limited to issues raised in the case briefs, must be filed within seven days after the time limit for filing case briefs.<sup>13</sup> Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a brief summary of the argument, and a table of authorities.<sup>14</sup> Note that Commerce has temporarily modified certain portions of its requirements for serving documents containing business proprietary information, until further notice.<sup>15</sup>

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to Commerce within 30 days of the date of publication of this notice.<sup>16</sup> Requests should contain: (1) The party's name, address, the telephone number; (2) the number of participants; and (3)

<sup>10</sup> *Id.* at Attachment 3; *see also* "Magnesium Metal from the People's Republic of China; No Shipment Inquiry for Tianjin Magnesium International Co., Ltd and Tianjin Magnesium Metal Co., Ltd. during the period 04/01/2020 through 03/31/2021," dated July 06, 2021.

<sup>11</sup> *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review 2014–2015*, 81 FR 72567 (October 20, 2016), and the "Assessment Rates" section, below.

<sup>12</sup> *See* 19 CFR 351.309(c)(1)(ii).

<sup>13</sup> *See* 19 CFR 351.309(d)(1) and (2); *see also* *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

<sup>14</sup> *See* 19 CFR 351.309(c) and (d); *see also* 19 CFR 351.303 (for general filing requirements).

<sup>15</sup> *See Temporary Rule*.

<sup>16</sup> *See* 19 CFR 351.310(c).

a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held.<sup>17</sup> Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, unless extended, pursuant to section 751(a)(3)(A) of the Act.

### Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and CBP will assess, antidumping duties on all appropriate entries covered by this review.<sup>18</sup> Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication). Pursuant to Commerce's practice in NME cases, if we continue to determine in the final results that TMI and TMM had no shipments of subject merchandise, any suspended entries of subject merchandise during the POR from these companies will be liquidated at the China-wide rate.<sup>19</sup>

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) For TMI, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to TMI in the most recently completed review of the company; (2) for previously investigated or reviewed Chinese and non-Chinese exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate

<sup>17</sup> *See* 19 CFR 310(d).

<sup>18</sup> *See* 19 CFR 351.212(b)(1).

<sup>19</sup> For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

<sup>6</sup> This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from China, Israel, and Russia. *See Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form from the People's Republic of China*, 66 FR 49345 (September 27, 2001); *see also* *Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Israel*, 66 FR 49349 (September 27, 2001); *Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium from the Russian Federation*, 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not combined in liquid form and cast into the same ingot.

<sup>7</sup> *See* TMI's Letter, "Magnesium Metal from the People's Republic of China; A–570–896; No Shipment Certification," dated June 14, 2021; *see also* TMM's Letter, "Magnesium Metal from the People's Republic of China; A–570–896; No Shipment Certification," dated June 14, 2021.

<sup>8</sup> *See* Memorandum, "Antidumping Duty Administrative Review of Magnesium Metal from the People's Republic of China, 04/01/2020–03/31/2021: Entry Data and No Shipment Inquiry," dated July 14, 2021 at Attachment 1.

<sup>9</sup> *Id.* at Attachment 2.

published for the most recent period; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate (including TMM, which claimed no shipments, but has not been found to be separate from China-wide entity), the cash deposit rate will be China-wide rate of 141.49 percent; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

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

#### Notification to Interested Parties

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: October 6, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2021-22240 Filed 10-12-21; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-557-821]

#### Utility Scale Wind Towers From Malaysia: Final Affirmative Determination of Sales at Less Than Fair Value

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

**SUMMARY:** The Department of Commerce (Commerce) determines that utility scale wind towers (wind towers) from Malaysia are being, or are likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation July 1, 2019, through June 30, 2020.

**DATES:** Applicable October 13, 2021.

**FOR FURTHER INFORMATION CONTACT:** Jerry Huang, 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) 482-4047.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 24, 2021, Commerce published in the *Federal Register* a preliminary negative determination in the LTFV investigation of wind towers from Malaysia.<sup>1</sup> Commerce invited interested parties to comment on the *Preliminary Determination*.<sup>2</sup> On August 23, 2021, we issued a post-preliminary determination to address the petitioner's<sup>3</sup> allegation that Commerce should determine normal value (NV) under section 773(d) of the Tariff Act of 1930, as amended (the Act), with respect to CS Wind Corporation and CS Wind Malaysia Sdn Bhd (collectively, CS Wind).<sup>4,5</sup> On August 31, 2021, we received case briefs from CS Wind and the petitioner.<sup>6</sup> On September 8, 2021, we received rebuttal briefs from CS Wind and the petitioner.<sup>7</sup> On September 22, 2021, we held a public hearing at the request of the petitioner.<sup>8</sup> A summary of the events that occurred since Commerce published the *Preliminary Determination*, may be found in the Issues and Decision Memorandum.<sup>9</sup>

##### Scope of the Investigation

The products covered by this investigation are wind towers from

<sup>1</sup> See *Utility Scale Wind Towers from Malaysia: Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination*, 86 FR 27828 (May 24, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See *Preliminary Determination*, 86 FR at 27829.

<sup>3</sup> The petitioner in this investigation is the Wind Tower Trade Coalition, whose members are Arcosa Wind Towers Inc. and Broadwind Towers, Inc.

<sup>4</sup> See Petitioner's Letter, "Utility Scale Wind Towers from Malaysia: Multinational Corporation Allegation," dated February 2, 2021.

<sup>5</sup> See Memorandum, "Post-Preliminary Decision Memorandum in the Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from Malaysia," dated August 23, 2021.

<sup>6</sup> See CS Wind's Letter, "CS Wind' Case Brief," dated August 31, 2021; and Petitioner's Letter, "Case Brief," dated August 31, 2021.

<sup>7</sup> See CS Wind's Letter, "CS Wind's Rebuttal Brief," dated September 8, 2021; and Petitioner's Letter, "Petitioner's Rebuttal Brief," dated September 8, 2021.

<sup>8</sup> See Transcript to Public Hearing, dated September 22, 2021.

<sup>9</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from Malaysia," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Malaysia. For a complete description of the scope of this investigation, see Appendix I.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.<sup>10</sup>

#### Changes Since the Preliminary Determination

Based on our review of the record and comments received from interested parties, we made certain changes to our calculation of CS Wind's dumping margin. For a discussion of these changes, see the Issues and Decision Memorandum.

#### All-Others Rate

Section 735(c)(5)(A) of the Act, provides that Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce determined an estimated weighted-average dumping margin for the individually-examined respondent, *i.e.*, CS Wind, that is not zero, *de*

<sup>10</sup> See Commerce's In-Lieu-Of-Verification Questionnaire, dated August 13, 2021; see also CS Wind's Letter, "Utility Scale Wind Towers from Malaysia: In Lieu of Verification Questionnaire Response," dated August 23, 2021.

*minimis*, or determined entirely under section 776 of the Act. Therefore, we are assigning the dumping margin

calculated for the sole mandatory respondent as the all-others rate for this final determination.

**Final Determination**

The final estimated weighted-average dumping margins are as follows:

Exporter/producer	Dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) <sup>11</sup> (percent)
CS Wind Corporation/CS Wind Malaysia Sdn Bhd .....	3.20	0.00
All Others .....	3.20	0.00

**Disclosure**

Commerce intends to disclose its calculations and analysis performed in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

**Suspension of Liquidation**

In accordance with section 735(c)(1)(B) and (C) of the Act, for this final determination, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all appropriate entries of wind towers from Malaysia, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for the producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin listed above.

These suspension of liquidation instructions will remain in effect until further notice.

**International Trade Commission Notification**

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of this final

affirmative determination of sales at LTFV. Because Commerce’s final determination is affirmative, in accordance with section 735(b)(3) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of wind towers from Malaysia no later than 75 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, all cash deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Suspension of Liquidation” section.

**Notification Regarding Administrative Protective Orders**

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

**Notification to Interested Parties**

We are issuing and publishing this determination in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: October 6, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

**Appendix I**

**Scope of the Investigation**

The merchandise covered by this investigation consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with non-subject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified

<sup>11</sup> See Memorandum, “Export Subsidies Found in the Companion Countervailing Duty Investigation,” dated concurrently with this notice.

under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

## Appendix II

### List of Sections Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the *Preliminary Determination*
- IV. Discussion of the Issues
  - Comment 1: Collapsing CS Wind Malaysia with CS Wind Corporation
  - Comment 2: Total Adverse Facts Available (AFA) for CS Wind
  - Comment 3: Date of Sale
  - Comment 4: Fees for Certain U.S. Sales
  - Comment 5: Steel Consumption for Door Frames
  - Comment 6: General and Administrative (G&A) Expense Ratio
  - Comment 7: Steel Plate Costs
  - Comment 8: Application of the Multinational Corporation (MNC) Provision to Non-Market Economy (NME) Countries
  - Comment 9: Constructed Value (CV) Profit and CV Selling Expense Ratios
  - Comment 10: Double Counting of Foreign Currency Translation Gains and Losses
- V. Recommendation

[FR Doc. 2021-22247 Filed 10-12-21; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-898]

### Utility Scale Wind Towers From India: Final Affirmative Countervailing Duty Determination

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

**SUMMARY:** The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of utility scale wind towers (wind towers) from India. The period of investigation is April 1, 2019, through March 31, 2020.

**DATES:** Applicable October 13, 2021.

**FOR FURTHER INFORMATION CONTACT:** David Crespo or Melissa Kinter, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3693 or (202) 482-1413, respectively.

### SUPPLEMENTARY INFORMATION:

## Background

On March 25, 2021, Commerce published the *Preliminary Determination* of the countervailing duty (CVD) investigation, which aligned the final determination in this CVD investigation with the final determination in the companion antidumping duty investigation of wind towers from India.<sup>1</sup> Commerce invited interested parties to comment on the *Preliminary Determination*. On July 20, 2021, we received case briefs from the Government of India, Vestas Wind Technology India Private Limited (Vestas); Anand Engineering Products Private Limited, Windar Renewable Energy Private Limited, and GRI Towers India Private Limited (collectively, the tollers); and the Wind Tower Trade Coalition (the petitioner).<sup>2</sup> On July 27, 2021, we received rebuttal briefs from Vestas, the tollers, and the petitioner.<sup>3</sup> On September 1, 2021, we held a public hearing at the request of Vestas, the tollers, and the petitioner.<sup>4</sup>

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, are discussed in the Issues and Decision Memorandum.<sup>5</sup>

## Scope of the Investigation

The products covered by this investigation are wind towers from India. For a complete description of the scope of the investigation, *see* Appendix I.

<sup>1</sup> *See Utility Scale Wind Towers from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 86 FR 15897 (March 25, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> *See* Petitioner's Letter, "Utility Scale Wind Towers from India: Petitioner's Case Brief," dated July 20, 2021; GOI's Letter, "CVD Investigation—Utility Scale Wind Towers from India: Case Brief on Behalf of Government of India," dated July 20, 2021; Vestas's Letter, "Utility Scale Wind Towers from India: Case Brief," dated July 20, 2021; and Tollers' Letter, "Certain Utility Scale Wind Towers from India (C-533-898): Case Brief on Behalf of Tolling Service Providers," dated July 20, 2021.

<sup>3</sup> *See* Petitioner's Letter, "Utility Scale Wind Towers from India: Petitioner's Rebuttal Brief," dated July 27, 2021; Vestas's Letter, "Utility Scale Wind Towers from India: Rebuttal Brief," dated July 27, 2021; and Tollers' Letter, "Certain Utility Scale Wind Towers from India (C-533-898): Rebuttal Brief on Behalf of Respondents/Tolling Service Providers," dated July 27, 2021.

<sup>4</sup> *See* Hearing Transcript, "Countervailing Duty Investigation on Utility-Scale Wind Towers from India," dated September 1, 2021.

<sup>5</sup> *See* Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Utility Scale Wind Towers from India," dated concurrently with, and hereby adopted by this notice (Issues and Decision Memorandum).

## Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

## Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).<sup>6</sup>

## Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>7</sup> For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

As discussed in the Issues and Decision Memorandum, because several respondents did not act to the best of their ability in responding to our requests for information, we drew adverse inferences, where appropriate, in selecting from among the facts otherwise available, pursuant to

<sup>6</sup> *See* GRI Towers' Letter, "Certain Utility Scale Wind Towers from India (C-533-898): Submission of In-Lieu-Of-Verification (ILOV) Questionnaire Response—GRI India," dated July 13, 2021; Vestas's Letter, "Utility Scale Wind Towers from India: Response to the In Lieu of On-site Verification (ILOV) Questionnaire," dated July 13, 2021; and Windar's Letter, "Certain Utility Scale Wind Towers from India (C-533-898): Submission of In-Lieu-Of-Verification (ILOV) Questionnaire Response—Windar India," dated August 31, 2021.

<sup>7</sup> *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.



sections 776(a) and 776(b) of the Act. The respondents Naiks Brass & Iron Works, Nordex India Pvt., Prommada Hindustan, Suzlon Energy, Vinayaka Energy Tek, Wish Energy Solutions Pvt Ltd, and Zeeco India Pvt. Ltd. did not respond to Commerce's quantity and value questionnaire, and we have continued to use an adverse inference in our selection of facts available for determining the subsidy rates for these companies, pursuant to section 776(d) of the Act. For further information, see the section "Use of Facts Otherwise Available and Adverse Inferences" in the accompanying Issues and Decision Memorandum.

### Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties and our verification findings, we made certain changes to the subsidy rate calculations for Vestas. For a discussion of these changes, see the Issues and Decision Memorandum.

### All-Others Rate

In accordance with section 705(c)(5)(A) of the Act, we continue to assign the countervailable subsidy rate calculated for Vestas as the all-others rate applicable to all exporters and/or producers not individually examined.<sup>8</sup>

### Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated an individual estimated subsidy rate for Vestas. We determine that the following total estimated net countervailable subsidy rates exist:

Producer/exporter	Percent ad valorem
Vestas Wind Technology India Private Limited .....	2.25
Naiks Brass & Iron Works * .....	397.70
Nordex India Pvt * .....	397.70
Prommada Hindustan * .....	397.70
Suzlon Energy * .....	397.70
Vinayaka Energy Tek * .....	397.70
Wish Energy Solutions Pvt Ltd * .....	397.70
Zeeco India Pvt. Ltd * .....	397.70
All Others .....	2.25

\* Rate based on adverse facts available.

### Disclosure

We intend to disclose to interested parties the calculations and analysis performed in this final determination within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

### Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section, that were entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after July 23, 2021, but to continue the suspension of liquidation of all entries from March 25, 2021 through July 22, 2021.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

### ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of wind towers from Indonesia no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that material injury or threat of material injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as

discussed above in the "Continuation of Suspension of Liquidation" section.

### Notification Regarding Administrative Protective Orders

In the event the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

### Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: October 6, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

### Appendix I

#### Scope of the Investigation

The merchandise covered by this investigation consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with non-subject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the

<sup>8</sup> See *Preliminary Determination*.

wind towers or sections thereof, unless those components are shipped with the tower sections.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

## Appendix II

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Use of Facts Otherwise Available and Adverse Inferences
- IV. Subsidies Valuation Information
- V. Analysis of Programs
- VI. Analysis of Comments
  - Comment 1: Whether Commerce Should Apply Adverse Facts Available (AFA) to Vestas Wind Technology India Private Limited (Vestas)
  - Comment 2: Whether the Advance Authorization Program (AAP) is Tied to Non-Subject Merchandise
  - Comment 3: Whether Commerce Should Revise its Benefit Methodology for the Duty Drawback (DDB) Program
  - Comment 4: Whether Commerce Unlawfully Cumulated Vestas's Benefits With the Benefits of its Tollers
  - Comment 5: Whether the Merchandise Export Incentive Scheme (MEIS) Program is Tied to Non-Subject Merchandise
  - Comment 6: Whether the Provision of Land for Less Than Adequate Remuneration (LTAR) by the Gujarat Industrial Development Corporation (GIDC) is Specific and Confers Countervailable Benefits
  - Comment 7: Whether the Provision of Water for LTAR Conferred a Benefit
  - Comment 8: Whether Commerce Correctly Attributed Benefits for the Export Promotion of Capital Goods (EPCG) Program
  - Comment 9: Whether the AAP and DDB Programs are Countervailable Under the Agreement on Subsidies and Countervailing Measures (SCM Agreement)
  - Comment 10: Whether Commerce Correctly Applied AFA to the Government of India (GOI)
  - Comment 11: Whether Commerce Correctly Initiated New Subsidy Allegations (NSAs)
- VII. Recommendation

[FR Doc. 2021-22246 Filed 10-12-21; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

[Docket No.: 210915-0186]

### National Cybersecurity Center of Excellence (NCCoE) Migration to Post-Quantum Cryptography

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The National Institute of Standards and Technology (NIST) invites organizations to provide letters of interest describing products and technical expertise to support and demonstrate security platforms for the *Migration to Post-Quantum Cryptography* project. This notice is the initial step for the National Cybersecurity Center of Excellence (NCCoE) in collaborating with technology companies to address cybersecurity challenges identified under the *Migration to Post-Quantum Cryptography* project. Participation in the project is open to all interested organizations.

**DATES:** Collaborative activities will commence as soon as enough completed and signed letters of interest have been returned to address all the necessary components and capabilities, but no earlier than November 12, 2021.

**ADDRESSES:** The NCCoE is located at 9700 Great Seneca Highway, Rockville, MD 20850. Letters of interest must be submitted to [applied-crypto-pqc@nist.gov](mailto:applied-crypto-pqc@nist.gov) or via hardcopy to National Institute of Standards and Technology, NCCoE; 9700 Great Seneca Highway, Rockville, MD 20850. Interested parties can access the letter of interest template by visiting the website and completing the letter of interest webform. NIST will announce the completion of the selection of participants and inform the public that it is no longer accepting letters of interest for this project at <https://www.nccoe.nist.gov/projects/building-blocks/post-quantum-cryptography>. Organizations whose letters of interest are accepted will be asked to sign a consortium Cooperative Research and Development Agreement (CRADA) with NIST; a template CRADA can be found at: <https://nccoe.nist.gov/library/nccoe-consortium-crada-example>.

**FOR FURTHER INFORMATION CONTACT:** William Newhouse via telephone 301-975-0232; by email [applied-crypto-pqc@nist.gov](mailto:applied-crypto-pqc@nist.gov); or by mail to National Institute of Standards and Technology,

NCCoE; 9700 Great Seneca Highway, Rockville, MD 20850. Additional details about the *Migration to Post-Quantum Cryptography* project are available at <https://www.nccoe.nist.gov/projects/building-blocks/post-quantum-cryptography>.

### SUPPLEMENTARY INFORMATION:

**Background:** The NCCoE, part of NIST, is a public-private collaboration for accelerating the widespread adoption of integrated cybersecurity tools and technologies. The NCCoE brings together experts from industry, government, and academia under one roof to develop practical, interoperable cybersecurity approaches that address the real-world needs of complex Information Technology (IT) systems. By accelerating dissemination and use of these integrated tools and technologies for protecting IT assets, the NCCoE will enhance trust in U.S. IT communications, data, and storage systems; reduce risk for companies and individuals using IT systems; and encourage development of innovative, job-creating cybersecurity products and services.

**Process:** NIST is soliciting responses from all sources of relevant security capabilities (see below) to enter into a Cooperative Research and Development Agreement (CRADA) to provide products and technical expertise to support and demonstrate security platforms for the *Migration to Post-Quantum Cryptography* project. The full project can be viewed at: <https://www.nccoe.nist.gov/projects/building-blocks/post-quantum-cryptography>.

Interested parties can access the template for a letter of interest by visiting the project website at <https://www.nccoe.nist.gov/projects/building-blocks/post-quantum-cryptography> and completing the letter of interest webform. On completion of the webform, interested parties will receive access to the letter of interest template, which the party must complete, certify as accurate, and submit to NIST by email or hardcopy. NIST will contact interested parties if there are questions regarding the responsiveness of the letters of interest to the project objective or requirements identified below. NIST will select participants who have submitted complete letters of interest on a first come, first served basis within each category of product components or capabilities listed below, up to the number of participants in each category necessary to carry out this project. When the project has been completed, NIST will post a notice on the *Migration to Post-Quantum Cryptography* project website at <https://www.nccoe.nist.gov/>

*projects/building-blocks/post-quantum-cryptography* announcing the completion of the project and informing the public that it is no longer accepting letters of interest for this project.

Completed letters of interest should be submitted to NIST and will be accepted on a first come, first served basis. There may be continuing opportunity to participate even after initial activity commences for participants who were not selected initially or have submitted the letter of interest after the selection process. Selected participants will be required to enter into a consortium CRADA with NIST (for reference, see **ADDRESSES** section above).

*Project Objective:* The advent of quantum computing technology will compromise many of the current cryptographic algorithms, especially public-key cryptography, which are widely used to protect digital information. Work on the development of quantum-resistant public-key cryptographic standards is underway, and algorithm selection is expected to be completed in the next one to two years (<https://csrc.nist.gov/projects/post-quantum-cryptography>). Replacement of cryptographic algorithms is both technically and logistically challenging. It can take years or even decades to complete. In order to address these challenges, the NCCoE is undertaking a practical demonstration of technology and tools that can provide a head start on executing a migration roadmap in collaboration with a public and private sector community of interest.

To meet the need to accelerate migration to quantum-resistant cryptography, the NCCoE *Migration to Post-Quantum Cryptography* project will demonstrate tools for discovery of quantum-vulnerable cryptographic code or dependencies on such code. The tools to be demonstrated provide automation assistance in identifying where and how public-key cryptography is being used in data centers on-premises or in the cloud and distributed compute, storage, and network infrastructures. The project can also contribute to updates to standards, guidelines, regulations, hardware, firmware, operating systems, communication protocols, cryptographic libraries, and applications that employ cryptography. The audience for the project includes developers of products that use public-key cryptographic algorithms, integrators of such products, customer organizations that acquire or configure such products, and bodies that standardize protocols

that employ or are dependent on public-key cryptographic algorithms.

The proposed proof-of-concept solution(s) will integrate commercial and open source products that leverage cybersecurity standards and recommended practices to demonstrate the use case scenarios detailed in the *Migration to Post-Quantum Cryptography* project description at <https://www.nccoe.nist.gov/projects/building-blocks/post-quantum-cryptography>. This project will result in a publicly available NIST Cybersecurity Practice Guide as a Special Publication 1800 series, a detailed implementation guide describing the practical steps needed to implement a cybersecurity reference implementation. Supporting outputs may include playbook, tools, code, and white papers.

*Requirements for Letters of Interest:* Each responding organization's letter of interest should identify which security platform component(s) or capability(ies) it is offering. Letters of interest should not include company proprietary information, and all components and capabilities must be commercially available. Components are listed in section 3 of the *Migration to Post-Quantum Cryptography* project description at <https://www.nccoe.nist.gov/projects/building-blocks/post-quantum-cryptography> and include, but are not limited to:

- General IT components:
  - Compute, storage, and network resources necessary to running cryptographic code detection tools
  - cloud services
- Functional security components:
  - The data security component
  - the endpoint security component
  - the identity and access management component
  - the security analytics component
- Devices and network infrastructure components:
  - Assets including the devices/endpoints
  - core enterprise resources such as applications/services
  - network infrastructure components
- Approaches and tools for discovering public-key cryptography components in:
  - Operating systems
  - application code
  - hardware implementing, controlling, or accelerating crypto functionality
- Approaches and tools for discovering algorithm migration impacts on:
  - Communications and network protocols
  - key management protocols, processes, and procedures

- network management protocols, processes, and procedures
- business processes and procedures

Each responding organization's letter of interest should identify how their products help address one or more of the following demonstration scenarios in section 2 of the *Migration to Post-Quantum Cryptography* project description at <https://www.nccoe.nist.gov/projects/building-blocks/post-quantum-cryptography>:

- FIPS-140 validated hardware and software modules that employ quantum-vulnerable public-key cryptography
- Cryptographic libraries that include quantum-vulnerable public-key cryptography
- Cryptographic applications and cryptographic support applications that include or are focused on quantum-vulnerable public-key cryptography
- Embedded quantum-vulnerable cryptographic code in computing platforms
- Communication protocols widely deployed in different industry sectors that leverage quantum-vulnerable cryptographic algorithms

Considerations for desired characteristics include:

- All candidate quantum-resistant replacements for quantum-vulnerable public-key algorithms should have a security strength at least equivalent to that possessed by the quantum-vulnerable algorithm being replaced, where the security strength of the algorithm being replaced is measured in the absence of quantum computing.
  - Any suggestion for replacement of a quantum-vulnerable public-key algorithm by a compensating control(s) should be accompanied by an explanation of how the compensating control provides relevant confidentiality and integrity protection commensurate with that currently being provided in the absence of quantum computing.
  - Any projected performance degradation resulting from a suggested replacement of a quantum-vulnerable public-key algorithm by a NIST candidate quantum-resistant algorithm should be characterized in the project findings.

In their letters of interest, responding organizations need to acknowledge the importance of and commit to provide:

1. Access for all participants' project teams to component interfaces and the organization's experts necessary to make functional connections among security platform components.
2. Support for development and demonstration of the *Migration to Post-*

*Quantum Cryptography* project, which will be conducted in a manner consistent with the most recent version of the following standards and guidance: FIPS 200, SP 800–37, SP 800–52, SP 800–53, SP 800–63, and SP 1800–16. Additional details about the *Migration to Post-Quantum Cryptography* project are available at <https://www.nccoe.nist.gov/projects/building-blocks/post-quantum-cryptography>.

NIST cannot guarantee that all of the products proposed by respondents will be used in the demonstration. Each prospective participant will be expected to work collaboratively with NIST staff and other project participants under the terms of the consortium CRADA in the development of the *Migration to Post-Quantum Cryptography* project. Prospective participants' contribution to the collaborative effort will include assistance in establishing the necessary interface functionality, connection and set-up capabilities and procedures, demonstration harnesses, environmental and safety conditions for use, integrated platform user instructions, and demonstration plans and scripts necessary to demonstrate the desired capabilities. Each participant will train NIST personnel, as necessary, to operate its product in capability demonstrations. Following successful demonstrations, NIST will publish a description of the security platform and its performance characteristics sufficient to permit other organizations to develop and deploy security platforms that meet the security objectives of the *Migration to Post-Quantum Cryptography* project. These descriptions will be public information.

Under the terms of the consortium CRADA, NIST will support development of interfaces among

participants' products by providing IT infrastructure, laboratory facilities, office facilities, collaboration facilities, and staff support to component composition, security platform documentation, and demonstration activities.

The dates of the demonstration of the *Migration to Post-Quantum Cryptography* project capability will be announced on the NCCoE website at least two weeks in advance at <https://nccoe.nist.gov/>. The expected outcome will demonstrate how the components of the solutions that address *Migration to Post-Quantum Cryptography* can enhance security capabilities that provide assurance of mitigation of identified risks while continuing to meet industry sectors' compliance requirements. Participating organizations will gain from the knowledge that their products are interoperable with other participants' offerings.

For additional information on the NCCoE governance, business processes, and NCCoE operational structure, visit the NCCoE website <https://nccoe.nist.gov/>.

**Alicia Chambers,**  
*NIST Executive Secretariat.*

[FR Doc. 2021–22223 Filed 10–12–21; 8:45 am]

**BILLING CODE 3510–13–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XB503]

### Marine Mammals and Endangered Species

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

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of permits and permit amendments.

**SUMMARY:** Notice is hereby given that permits and permit amendments have been issued to the following entities under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), as applicable.

**ADDRESSES:** The permits and related documents are available for review upon written request via email to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Shasta McClenahan, Ph.D. (Permit Nos. 19592–01 and 25739), Jennifer Skidmore (Permit No. 24054), Amy Hapeman (Permit Nos. 24140, 24368, 25691, 25694, and 25696), and Carrie Hubbard (Permit No. 19225); at (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** Notices were published in the **Federal Register** on the dates listed below that requests for a permit or permit amendment had been submitted by the below-named applicants. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the activities, go to [www.federalregister.gov](http://www.federalregister.gov) and search on the permit number provided in Table 1 below.

**BILLING CODE 3510–22–P**

Table 1 -- Issued Permits and Permit Amendments

Permit No.	RTID	Applicant	Previous Federal Register Notice	Issuance Date
19225-01	0648-XE417	James D. Darling, Ph.D., Whale Trust, P.O. Box 384, Tofino, BC V0R2Z0 Canada	81 FR 91920; December 19, 2016	September 13, 2021
19592-01	0648-XE560	St. George Traditional Council, P.O. Box 940, St. George Island, Alaska 99591 (Responsible Party: Chris Merculief)	81 FR 66627; September 28, 2016	September 13, 2021
24054	0648-XB213	Terrie Williams, Ph.D., University of California at Santa Cruz, Long Marine Lab, Center for Ocean Health, 115 McAllister Way, Santa Cruz, CA 95060	86 FR 36107; July 8, 2021	September 15, 2021
24140	0648-XB210	Jane Provancha, Herndon Solutions Group, LLC., 2562 Meadow Lane, Cocoa, FL 32926	86 FR 35491; July 6, 2021	September 22, 2021
24368	0648-XB210	NMFS Southeast Fisheries Science Center, 3209 Frederic Street, Pascagoula, MS 39567 (Responsible Party: Lisa Desfosse, Ph.D.)	86 FR 35491; July 6, 2021	September 22, 2021
25691	0648-XB159	Allen Foley, Ph.D., Florida Fish and Wildlife Conservation Commission, Fish and Wildlife Research Institute, 370 Zoo Parkway, Jacksonville, FL 32218	86 FR 31482; June 14, 2021	September 22, 2021
25694	0648-XB133	Carlos Diez, Department of Natural and Environmental Resources of Puerto Rico, P.O. Box 9020708, Viejo, San Juan PR 00901	86 FR 28766; May 28, 2021	September 22, 2021
25696	0648-XB219	Inwater Research Group, Inc., 4160 NE Hyline Drive, Jensen Beach, FL 34957 (Responsible Party: Michael Bresette)	86 FR 36106; July 8, 2021	September 22, 2021
25716	0648-XB219	NMFS Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543 (Responsible Party: Jon Hare, Ph.D.)	86 FR 36106; July 8, 2021	September 22, 2021
25739	0648-XB277	New England Aquarium, Central Wharf, Boston, MA 02110 (Responsible Party: Vikki Spruill)	86 FR 41020; July 30, 2021	September 23, 2021
25850	0648-XB333	University of California at Davis, 387 North Quad Avenue, Room 1210 PES, Davis, CA 95616 (Responsible Party: Chris Yarnes, Ph.D.)	86 FR 45969; August 17, 2021	September 28, 2021

In compliance with the National Environmental Policy Act of 1969 (42

U.S.C. 4321 *et seq.*), a final determination has been made that the

activities proposed are categorically excluded from the requirement to

prepare an environmental assessment or environmental impact statement.

As required by the ESA, as applicable, issuance of these permit was based on a finding that such permits: (1) Were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in Section 2 of the ESA.

**Authority:** The requested permits have been issued under the MMPA of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), as applicable.

Dated: October 6, 2021.

**Amy Sloan,**

*Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2021–22190 Filed 10–12–21; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XB492]

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Parallel Thimble Shoal Tunnel Project in Virginia Beach, Virginia

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

**ACTION:** Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

**SUMMARY:** NMFS has received a request from the Chesapeake Tunnel Joint Venture (CTJV) for authorization to take marine mammals incidental to the Parallel Thimble Shoal Tunnel Project (PTST) in Virginia Beach, Virginia. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in

Request for Public Comments at the end of this document. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

**DATES:** Comments and information must be received no later than November 12, 2021.

**ADDRESSES:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be sent to [ITP.Meadows@noaa.gov](mailto:ITP.Meadows@noaa.gov).

**Instructions:** NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** 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:

##### Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are

issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

#### National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

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

We will review all comments submitted in response to this notification prior to concluding our NEPA process or making a final decision on the IHA request.

#### Summary of Request

On September 21, 2021, NMFS received an application from CTJV requesting an IHA to take small numbers of five species (harbor seal (*Phoca vitulina*), gray seal (*Halichoerus grypus*), bottlenose dolphin (*Tursiops truncatus*), harbor porpoise (*Phocoena*

*phocoena*) and humpback whale (*Megaptera novaeangliae*) of marine mammals incidental to pile driving and removal associated with the PTST Project. The application was deemed adequate and complete on September 30, 2021. CTJV's request is for take of a small number of these species by Level A or Level B harassment. Neither CTJV nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate. NMFS previously issued IHAs to CTJV for similar work (83 FR 36522; July 30, 2018; 85 FR 16061; March 20, 2020; and 86 FR 14606; March 17, 2021). However, due to design and schedule changes only a small portion of that work was conducted under those issued IHAs. This proposed IHA covers 1 year of a 5 year project.

### **Description of Proposed Activity**

#### *Overview*

The purpose of the project is to build an additional two lane vehicle tunnel under the navigation channel as part of the Chesapeake Bay Bridge and Tunnel

(CBBT). The PTST project will address existing constraints to regional mobility based on current traffic volume, improve safety, improve the ability to conduct necessary maintenance with minimal impact to traffic flow, and ensure reliable hurricane evacuation routes. In-water pile driving is needed to create vessel moorings, temporary work trestles and Support of Excavation walls on islands at either end of the tunnel. The work in this application involves the installation of 722 36-inch and 42 42-inch steel piles. The project will take no more than 252 days of in-water pile work.

The pile driving/removal can result in take of marine mammals from sound in the water which results in behavioral harassment or auditory injury.

#### *Dates and Duration*

This project is ongoing under an existing IHA (86 FR 14606; March 17, 2021). Because of new understanding of the geology of the area, significant revisions have been made to the plans and required work including switching

some piles from wood to steel (which produces louder sound on installation), and increasing the size and number of piles. The IHA proposed here will thus supersede the existing IHA once it is issued and be effective for 1 year from the date of issuance.

#### *Specific Geographic Region*

The PTST project is located between Portal Islands 1 and 2 of the CBBT as shown in Figure 1. A 6,525 lineal foot (ft) (1989 m) tunnel will be bored underneath the Thimble Shoal Channel connecting the Portal Islands located near the mouth of the Chesapeake Bay. The CBBT is a 23-mile (37 km) long facility that connects the Hampton Roads area of Virginia to the Eastern Shore of Virginia. Water depths within the PTST construction area range from 0 to 60 ft (18.2 m) below Mean Lower Low Water (MLLW). The Thimble Shoal Channel is 1,000 ft (305 m) wide, is authorized to a depth of -55 ft (16.8 m) below MLLW, and is maintained at a depth of 50 ft (15.2 m) MLLW.

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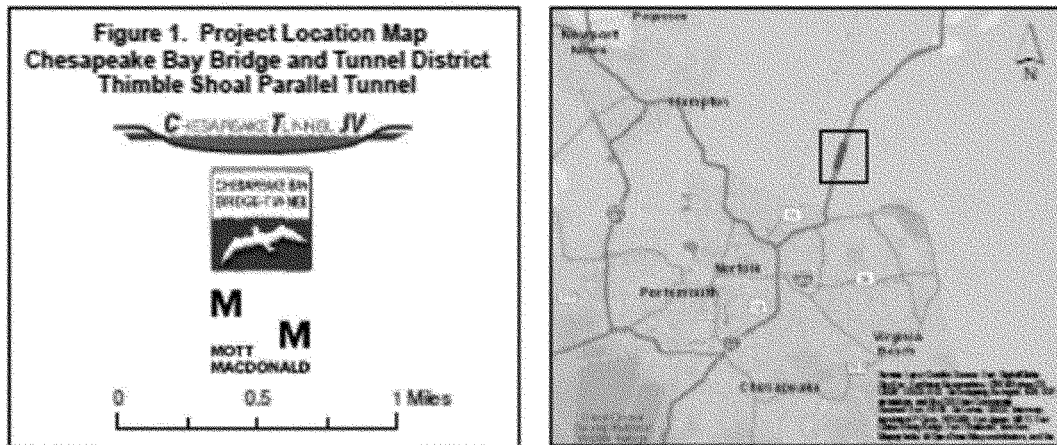
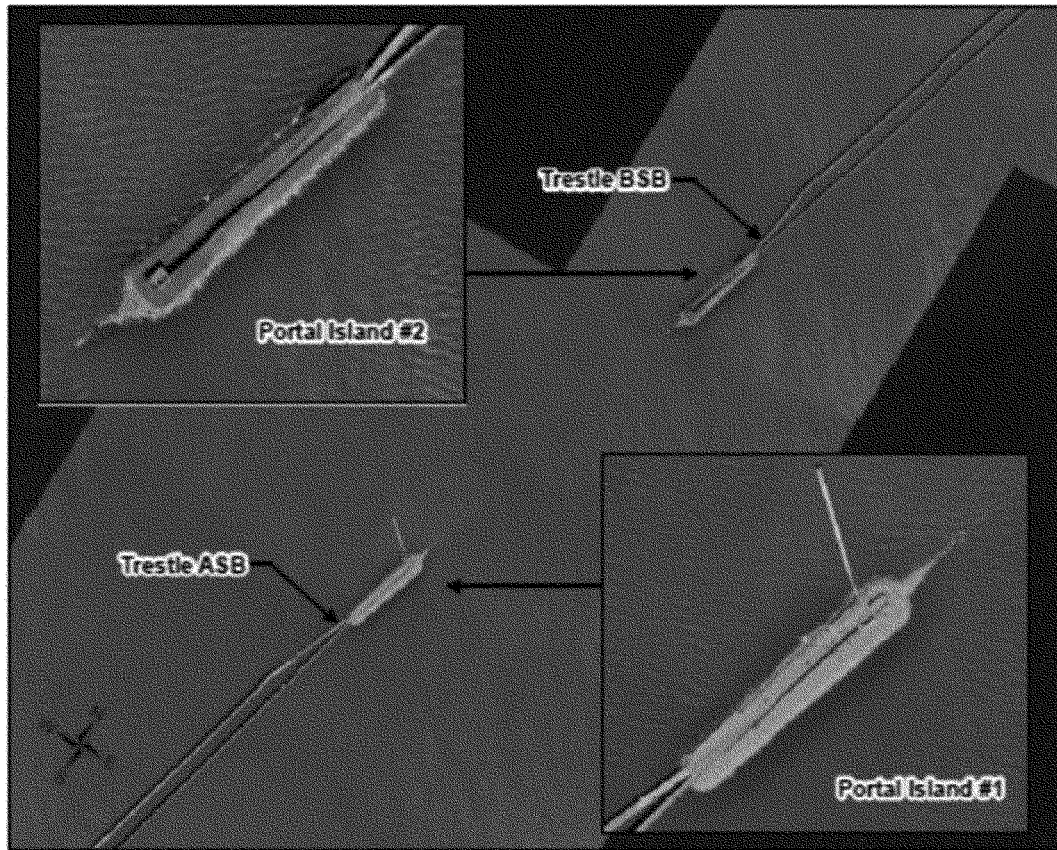


Figure 1-- Map of Proposed Project Area near Virginia Beach, Virginia.

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*Detailed Description of Specific Activity*

The PTST project consists of the construction of a two lane tunnel parallel and to the west of the existing tunnel, connecting Portal Islands 1 and 2. A tunnel boring machine (TBM) will both excavate material and construct the tunnel as it progresses from Portal Island No. 1 to Portal Island No. 2. Precast concrete tunnel segments will be transported to the TBM for installation. The TBM will assemble the tunnel

segments in-place as the tunnel is bored. After the tunnel structure is completed, final upland work for the PTST Project will include installation of the final roadway, lighting, finishes, mechanical systems, and other required internal systems for tunnel use and function. In addition, the existing fishing pier will be repaired and refurbished.

Descriptions of additional upland activities may be found in the application but such actions will not affect marine mammals and are not described here.

Proposed in-water activities during this IHA include the following and are shown in Table 1:

- *Mooring piles:* These are constructed of 28 36-inch steel pile piles on Portal Island No. 1 and 16 36-inch steel pile piles on Portal Island No. 2. Installation will be by vibratory hammer with a bubble curtain;
- *Two engineered berms:* Approximately 1,395 ft (425 m) in length for Portal Island No. requiring 316 36-inch steel interlocked pipe piles (209 on west side; 107 on east side) and



approximately 1,354 ft (451 m) in length for Portal Island No. 2 requiring 338 piles of the same size and type (204 piles on west side; 134 on east side). Each berm will extend channelward from its portal island. Construction methods will include impact pile driving as well as using a down-the-hole to create holes in the substrate for the piles. Once the piles are advanced through an existing rock layer (made of rocks previously placed for the earlier tunnel) using DTH, they are driven to final grade via traditional impact driving methods. A special bubble curtain system encompasses the entire area (see Application Appendix A);

- *Two temporary Omega trestles:* 26 42-inch steel pipe piles on Portal Island No. 1 and 24 36 inch and 16 42-inch steel pipe piles on Portal Island No. 2. These trestles will be offset to the west side of each engineered berm, extending channelward from each island. Construction methods will include vibratory hammer with bubble curtain with impact pile driving only as needed. This will be the methods for all piles on Portal Island 1 and the 42-inch piles on Portal Island No. 2. The 36-inch piles on Portal Island No. 2 will be installed with DTH and an impact hammer with bubble curtain.

Table 1 provides a summary of the pile driving activities. Most in-water construction activities would involve multiple pile systems working simultaneously. There could be as many as three systems working simultaneously, with no more than two at a single island. Table 2 shows the potential simultaneous driving scenarios on each island and project-wide and provides best estimates of the days for each scenario.

In summary, the project period includes 252 days of pile driving and DTH activities for which incidental take authorization is requested.

TABLE 1—SUMMARY OF PILE DRIVING ACTIVITIES AND USER SPREADSHEET INPUTS

Method	Pile type	Number of piles	Minutes/ strikes per pile	Piles per day
Vibratory, or Impact	42-inch steel	42	12 1,000	2 4
Vibratory	36-inch steel	44	12	4
DTH, and Impact	36-inch steel	24	36,000 1,000	2 2
DTH, and Impact	36-inch steel interlocking	654	36,000 1000	3 or 6 6
Totals		764		

All User spreadsheet calculations use Transmission Loss = 15 and standard weighting factor adjustments. See Estimated Take section for discussion of User Spreadsheet.

TABLE 2—SIMULTANEOUS DRIVING SCENARIOS

Activity (each mention is 1 system)	Days of simultaneous driving island 1	Days of simultaneous driving on island 2	Days of simultaneous driving at both islands
Impact + DTH	124	147	48
DTH + Vibratory	10	6	2
Impact + Vibratory	10	6	1
Impact + DTH + DTH	0	0	22
DTH + DTH + Vibratory	0	0	6
DTH + Vibratory + Impact	0	0	8
Impact + Impact + DTH	0	0	19
Totals	144	159	106

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

**Description of Marine Mammals in the Area of Specified Activities**

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock

Assessment Reports (SARs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about these species (e.g., physical and behavioral descriptions) may be found on NMFS's website (<https://www.fisheries.noaa.gov/find-species>).

Table 3 lists all species with expected potential for occurrence in the project area in Chesapeake Bay and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal

(PBR), where known. For taxonomy, we follow Committee on Taxonomy (2020). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular

study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For

some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Atlantic SARs (*e.g.*, Hayes *et al.*, 2021).

TABLE 3—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) <sup>1</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>2</sup>	PBR	Annual M/SI <sup>3</sup>
<b>Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)</b>						
Family Balaenopteridae (rorquals): Humpback whale .....	<i>Megaptera novaeangliae</i> .....	Gulf of Maine .....	-; N	1,393 (0; 1,375, 2016) .....	22	58
<b>Superfamily Odontoceti (toothed whales, dolphins, and porpoises)</b>						
Family Delphinidae: Bottlenose dolphin .....	<i>Tursiops truncatus</i> .....	WNA Coastal, Northern Migratory.	-; Y	6,639 (0.41; 4,759; 2011) .....	48	12.2–21.5
		WNA Coastal, Southern Migratory.	-; Y	3,751 (0.06; 2,353; 2011) .....	23	0–8
		Northern North Carolina Estuarine System.	-; Y	823 (0.06; 782; 2017) .....	7.8	7.2–30
Family Phocoenidae (porpoises): Harbor porpoise .....	<i>Phocoena phocoena</i> .....	Gulf of Maine/Bay of Fundy ...	-; N	95,543 (0.31; 74,034; 2016) ..	851	217
<b>Order Carnivora—Superfamily Pinnipedia</b>						
Family Phocidae (earless seals): Harbor seal .....	<i>Phoca vitulina</i> .....	WNA .....	-; N	75,834 (0.1; 66,884, 2012) ....	2,006	350
Gray seal <sup>4</sup> .....	<i>Halichoerus grypus</i> .....	WNA .....	-; N	27,131 (0.19; 23,158, 2016) ..	1,359	4,729

<sup>1</sup> Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

<sup>2</sup> NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports>. CV is coefficient of variation; N<sub>min</sub> is the minimum estimate of stock abundance.

<sup>3</sup> 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.

<sup>4</sup> The NMFS stock abundance estimate applies to U.S. population only, however the actual stock abundance is approximately 505,000. The PBR value is estimated for the U.S. population, while the M/SI estimate is provided for the entire gray seal stock (including animals in Canada).

Humpback whales, bottlenose dolphin, harbor porpoise, harbor seal, and gray seal spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have proposed authorizing take of these species. All species that could potentially occur in the proposed survey areas are included in the CTJV's IHA application (see application, Table 4). North Atlantic right whale and fin whale could potentially occur in the area. However the spatial and temporal occurrence of these species is very rare, the species are readily observed, and the applicant would shut down pile driving if they enter the project area. Thus take is not expected to occur, and they are not discussed further.

**Humpback Whale**

The humpback whale is found worldwide in all oceans. In winter, humpback whales from waters off New England, Canada, Greenland, Iceland,

and Norway migrate to mate and calve primarily in the West Indies, where spatial and genetic mixing among these groups occurs. For the humpback whale, NMFS defines a stock on the basis of feeding location, *i.e.*, Gulf of Maine. However, our reference to humpback whales in this document refers to any individuals of the species that are found in the specific geographic region. These individuals may be from the same breeding population (*e.g.*, West Indies breeding population of humpback whales) but visit different feeding areas.

Based on photo-identification only 39 percent of individual humpback whales observed along the mid- and south Atlantic U.S. coast are from the Gulf of Maine stock (Barco *et al.*, 2002). Therefore, the SAR abundance estimate underrepresents the relevant population, *i.e.*, the West Indies breeding population.

Prior to 2016, humpback whales were listed under the ESA as an endangered

species worldwide. Following a 2015 global status review (Bettridge *et al.*, 2015), NMFS established 14 DPSs with different listing statuses (81 FR 62259; September 8, 2016) pursuant to the ESA. The West Indies Distinct Population Segment (DPS), which consists of the whales whose breeding range includes the Atlantic margin of the Antilles from Cuba to northern Venezuela, and whose feeding range primarily includes the Gulf of Maine, eastern Canada, and western Greenland, was delisted. As described in Bettridge *et al.* (2015), the West Indies DPS has a substantial population size (*i.e.*, approximately 10,000; Stevick *et al.*, 2003; Smith *et al.*, 1999; Bettridge *et al.*, 2015), and appears to be experiencing consistent growth.

Humpback whales are the only large cetaceans that are likely to occur in the project area and could be found there at any time of the year. There has been a decline in whale sightings in the peak

months since 2016/17; the distribution of whale sightings occur most frequently in the month of January through March (Aschettino *et al.*, 2020).

There have been 33 humpback whale strandings recorded in Virginia between 1988 and 2013. Most of these strandings were reported from ocean facing beaches, but 11 were also within the Chesapeake Bay (Barco and Swingle, 2014). Strandings occurred in all seasons, but were most common in the spring. Since January 2016, elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through Florida. The event has been declared an Unusual Mortality Event (UME) with 150 strandings recorded, 7 of which occurred in or near the mouth of the Chesapeake Bay. More detailed information is available at: <https://www.fisheries.noaa.gov/national/marine-life-distress/2016-2021-humpback-whale-unusual-mortality-event-along-atlantic-coast>. Three previous UMEs involving humpback whales have occurred since 2000, in 2003, 2005, and 2006.

Humpback whales use the mid-Atlantic as a migratory pathway to and from the calving/mating grounds, but it may also be an important winter feeding area for juveniles. Since 1989, observations of juvenile humpbacks in the mid-Atlantic have been increasing during the winter months, peaking from January through March (Swingle *et al.*, 1993). Biologists theorize that non-reproductive animals may be establishing a winter feeding range in the mid-Atlantic since they are not participating in reproductive behavior in the Caribbean.

#### *Bottlenose Dolphin*

The bottlenose dolphin occurs in temperate and tropical oceans throughout the world (Blaylock 1985). In the western Atlantic Ocean there are two distinct morphotypes of bottlenose dolphins, an offshore type that occurs along the edge of the continental shelf as well as an inshore type. The inshore morphotype can be found along the entire United States coast from New York to the Gulf of Mexico, and typically occurs in waters less than 20 meters deep (NOAA Fisheries 2016a). Bottlenose dolphins found in Virginia are representative primarily of either the northern migratory coastal stock, southern migratory coastal stock, or the Northern North Carolina Estuarine System Stock (NNCES).

The northern migratory coastal stock is best defined by its distribution during warm water months when the stock occupies coastal waters from the shoreline to approximately the 20 m

isobath between Assateague, Virginia, and Long Island, New York (Garrison *et al.*, 2017). The stock migrates in late summer and fall and, during cold water months (best described by January and February), occupies coastal waters from approximately Cape Lookout, North Carolina, to the North Carolina/Virginia border. Historically, common bottlenose dolphins have been rarely observed during cold water months in coastal waters north of the North Carolina/Virginia border, and their northern distribution in winter appears to be limited by water temperatures. Overlap with the southern migratory coastal stock in coastal waters of northern North Carolina and Virginia is possible during spring and fall migratory periods, but the degree of overlap is unknown and it may vary depending on annual water temperature (Garrison *et al.*, 2016). When the stock has migrated in cold water months to coastal waters from just north of Cape Hatteras, North Carolina, to just south of Cape Lookout, North Carolina, it overlaps spatially with the Northern North Carolina Estuarine System (NNCES) Stock (Garrison *et al.*, 2017).

The southern migratory coastal stock migrates seasonally along the coast between North Carolina and northern Florida (Garrison *et al.*, 2017). During January–March, the southern migratory coastal stock appears to move as far south as northern Florida. During April–June, the stock moves back north past Cape Hatteras, North Carolina, where it overlaps, in coastal waters, with the NNCES stock (in waters  $\leq 1$  km from shore). During the warm water months of July–August, the stock is presumed to occupy coastal waters north of Cape Lookout, North Carolina, to Assateague, Virginia, including the Chesapeake Bay.

The NNCES stock is best defined as animals that occupy primarily waters of the Pamlico Sound estuarine system (which also includes Core, Roanoke, and Albemarle sounds, and the Neuse River) during warm water months (July–August). Members of this stock also use coastal waters ( $\leq 1$  km from shore) of North Carolina from Beaufort north to Virginia Beach, Virginia, including the lower Chesapeake Bay. A community of NNCES dolphins are likely year-round Bay residents (Eric Patterson, pers. communication).

#### *Harbor Porpoise*

The harbor porpoise is typically found in colder waters in the northern hemisphere. In the western North Atlantic Ocean, harbor porpoises range from Greenland to as far south as North Carolina (Barco and Swingle, 2014). They are commonly found in bays,

estuaries, and harbors less than 200 meters deep (NOAA Fisheries, 2016c). Harbor porpoises in the United States are made up of the Gulf of Maine/Bay of Fundy stock. Gulf of Maine/Bay of Fundy stock are concentrated in the Gulf of Maine in the summer, but are widely dispersed from Maine to New Jersey in the winter. South of New Jersey, harbor porpoises occur at lower densities. Migrations to and from the Gulf of Maine do not follow a defined route (NOAA Fisheries, 2016c).

Harbor porpoise occur seasonally in the winter and spring in small numbers near the project area. Strandings occur primarily on ocean facing beaches, but they occasionally travel into the Chesapeake Bay to forage and could occur in the project area (Barco and Swingle, 2014). Since 1999, stranding incidents have ranged widely from a high of 40 in 1999 to 2 in 2011, 2012, and 2016 (Barco *et al.*, 2017). In most areas, harbor porpoise occur in small groups of just a few individuals.

#### *Harbor Seal*

The harbor seal occurs in arctic and temperate coastal waters throughout the northern hemisphere, including on both the east and west coasts of the United States. On the east coast, harbor seals can be found from the Canadian Arctic down to Georgia (Blaylock, 1985). Harbor seals occur year-round in Canada and Maine and seasonally (September–May) from southern New England to New Jersey (NOAA Fisheries, 2016d). The range of harbor seals appears to be shifting as they are regularly reported further south than they were historically. In recent years, they have established haulout sites in the Chesapeake Bay including on the portal islands of the CBBT (Rees *et al.*, 2016, Jones *et al.*, 2018).

Harbor seals are the most common seal in Virginia (Barco and Swingle, 2014). They can be seen resting on the rocks around the portal islands of the CBBT from December through April. Seal observation surveys conducted at the CBBT recorded 112 seals during the 2014/2015 season, 184 seals during the 2015/2016 season, 308 seals in the 2016/2017 season and 340 seals during the 2017/2018 season. They are primarily concentrated north of the project area at Portal Island No. 3 (Rees *et al.* 2016; Jones *et al.* 2018).

Harbor seals are central-place foragers (Orlans and Pearson, 1979) and tend to exhibit strong site fidelity within season and across years, generally forage close to haulout sites, and repeatedly visit specific foraging areas (Suryan and Harvey, 1998; Thompson *et al.*, 1998). Harbor seals tend to forage at night and

haul out during the day with a peak in the afternoon between 1 p.m. and 4 p.m. (London *et al.*, 2001).

*Gray Seal*

The gray seal occurs on both coasts of the Northern Atlantic Ocean and are divided into three major populations (NOAA Fisheries 2016b). The western north Atlantic stock occurs in eastern Canada and the northeastern United States, occasionally as far south as North Carolina. Gray seals inhabit rocky coasts and islands, sandbars, ice shelves and icebergs (NOAA Fisheries 2016b). In the United States, gray seals congregate in the summer to give birth at four established colonies in Massachusetts and Maine (NOAA Fisheries 2016b). From September through May, they disperse and can be abundant as far south as New Jersey. The range of gray seals appears to be shifting as they are regularly being reported further south than they were historically (Rees *et al.* 2016).

Gray seals are uncommon in Virginia and the Chesapeake Bay. Only 15 gray

seal strandings were documented in Virginia from 1988 through 2013 (Barco and Swingle, 2014). They are rarely found resting on the rocks around the portal islands of the CBBT from December through April alongside harbor seals. Seal observation surveys conducted at the CBBT recorded one gray seal in each of the 2014/2015 and 2015/2016 seasons while no gray seals were reported during the 2016/2017 and 2017/2018 seasons (Rees *et al.* 2016, Jones *et al.* 2018).

*Marine Mammal Hearing*

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.*, Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008).

To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.*, low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 4.

TABLE 4—MARINE MAMMAL HEARING GROUPS [NMFS, 2018]

Hearing group	Generalized hearing range*
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i> ).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

\* Represents the generalized hearing range for the entire group as a composite (*i.e.*, all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.*, 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.*, 2006; Kastelein *et al.*, 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Humpback whales are in the low-frequency hearing group, bottlenose dolphins are in the mid-frequency hearing group, harbor porpoises are in the high frequency hearing group, and both harbor and gray seals are in the phocid group.

**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 effects on marine mammals during the specified activity can occur from impact and vibratory pile driving and removal and DTH. The effects of underwater noise from CTJV's proposed activities have the potential to result in

Level A or Level B harassment of marine mammals in the action area.

*Description of Sound Sources*

The marine soundscape is comprised of both ambient and anthropogenic sounds. Ambient sound is defined as the all-encompassing sound in a given place and is usually a composite of sound from many sources both near and far (ANSI 1994, 1995). The sound level of an area is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.*, waves, wind, precipitation, earthquakes, ice, atmospheric sound), biological (*e.g.*, sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.*, vessels, dredging, aircraft, construction).

The sum of the various natural and anthropogenic sound sources at any given location and time—which

comprise “ambient” or “background” sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.*, 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

In-water construction activities associated with the project would include impact and vibratory pile driving and removal and DTH. The sounds produced by these activities fall into one of two general sound types: impulsive and non-impulsive. Impulsive sounds (*e.g.*, explosions, gunshots, sonic booms, impact pile driving) are typically transient, brief (less than 1 second), broadband, and consist of high peak sound pressure with rapid rise time and rapid decay (ANSI, 1986; NIOSH, 1998; ANSI, 2005; NMFS, 2018). Non-impulsive sounds (*e.g.*, machinery operations such as drilling or dredging, vibratory pile driving, underwater chainsaws, pile clippers, and active sonar systems) can be broadband, narrowband or tonal, brief or prolonged (continuous or intermittent), and typically do not have the high peak sound pressure with rapid rise/decay time that impulsive sounds do (ANSI 1995; NIOSH 1998; NMFS 2018). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.*, Ward 1997 in Southall *et al.*, 2007).

Three types of pile hammers would be used on this project: impact, vibratory, and DTH. Impact hammers operate by repeatedly dropping and/or pushing a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper, 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment.

Vibratory hammers produce significantly less sound than impact hammers. Peak Sound pressure Levels (SPLs) may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.*, 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson *et al.*, 2005).

A DTH hammer is essentially a drill bit that drills through the bedrock using a rotating function like a normal drill, in concert with a hammering mechanism operated by a pneumatic (or sometimes hydraulic) component integrated into the DTH hammer to increase speed of progress through the substrate (*i.e.*, it is similar to a “hammer drill” hand tool). Rock socketing involves using DTH equipment to create a hole in the bedrock inside which the pile is placed to give it lateral and longitudinal strength. The sounds produced by the DTH method contain both a continuous non-impulsive component from the drilling action and an impulsive component from the hammering effect. Therefore, we treat DTH systems as both impulsive and continuous, non-impulsive sound source types simultaneously.

The likely or possible impacts of CTJV’s proposed activity on marine mammals could involve both non-acoustic and acoustic stressors. Potential non-acoustic stressors could result from the physical presence of the equipment, vessels, and personnel; however, any impacts to marine mammals are expected to primarily be acoustic in nature. Acoustic stressors include effects of heavy equipment operation during pile installation and removal.

#### *Acoustic Impacts*

The introduction of anthropogenic noise into the aquatic environment from pile driving equipment is the primary means by which marine mammals may be harassed from the CTJV’s specified activity. In general, animals exposed to natural or anthropogenic sound may experience physical and psychological effects, ranging in magnitude from none to severe (Southall *et al.*, 2007). Generally, exposure to pile driving and removal and other construction noise has the potential to result in auditory threshold shifts and behavioral reactions (*e.g.*, avoidance, temporary cessation of foraging and vocalizing, changes in dive behavior). Exposure to anthropogenic noise can also lead to non-observable physiological responses such as an increase in stress hormones.

Additional noise in a marine mammal’s habitat can mask acoustic cues used by marine mammals to carry out daily functions such as communication and predator and prey detection. The effects of pile driving and demolition noise on marine mammals are dependent on several factors, including, but not limited to, sound type (*e.g.*, impulsive vs. non-impulsive), the species, age and sex class (*e.g.*, adult male vs. mom with calf), duration of exposure, the distance between the pile and the animal, received levels, behavior at time of exposure, and previous history with exposure (Wartzok *et al.*, 2004; Southall *et al.*, 2007). Here we discuss physical auditory effects (threshold shifts) followed by behavioral effects and potential impacts on habitat.

NMFS defines a noise-induced threshold shift (TS) as a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual’s hearing range above a previously established reference level (NMFS, 2018). The amount of threshold shift is customarily expressed in dB. A TS can be permanent or temporary. As described in NMFS (2018), there are numerous factors to consider when examining the consequence of TS, including, but not limited to, the signal temporal pattern (*e.g.*, impulsive or non-impulsive), likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (*i.e.*, spectral content), the hearing and vocalization frequency range of the exposed species relative to the signal’s frequency spectrum (*i.e.*, how animal uses sound within the frequency band of the signal; *e.g.*, Kastelein *et al.*, 2014), and the overlap between the animal and the source (*e.g.*, spatial, temporal, and spectral).

*Permanent Threshold Shift (PTS)*—NMFS defines PTS as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual’s hearing range above a previously established reference level (NMFS 2018). Available data from humans and other terrestrial mammals indicate that a 40 dB threshold shift approximates PTS onset (see Ward *et al.*, 1958, 1959; Ward, 1960; Kryter *et al.*, 1966; Miller, 1974; Ahroon *et al.*, 1996; Henderson and Hu, 2008). PTS levels for marine mammals are estimates, with the exception of a single study unintentionally inducing PTS in a harbor seal (Kastak *et al.*, 2008), there are no empirical data measuring PTS in marine mammals, largely due to the fact

that, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing PTS are not typically pursued or authorized (NMFS, 2018).

**Temporary Threshold Shift (TTS)**—A temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2018). Based on data from cetacean TTS measurements (see Southall *et al.*, 2007), a TTS of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Schlundt *et al.*, 2000; Finneran *et al.*, 2000, 2002). As described in Finneran (2016), marine mammal studies have shown the amount of TTS increases with cumulative sound exposure level ( $SEL_{cum}$ ) in an accelerating fashion: At low exposures with lower  $SEL_{cum}$ , the amount of TTS is typically small and the growth curves have shallow slopes. At exposures with higher  $SEL_{cum}$ , the growth curves become steeper and approach linear relationships with the noise SEL.

Depending on the degree (elevation of threshold in dB), duration (*i.e.*, recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.*, 2007), so we can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaeorientalis*)) and five species of pinnipeds exposed to a limited number of sound sources (*i.e.*, mostly tones and octave-band noise) in laboratory settings

(Finneran, 2015). TTS was not observed in trained spotted (*Phoca largha*) and ringed (*Pusa hispida*) seals exposed to impulsive noise at levels matching previous predictions of TTS onset (Reichmuth *et al.*, 2016). In general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species (Finneran, 2015). The potential for TTS from impact pile driving exists. After exposure to playbacks of impact pile driving sounds (rate 2760 strikes/hour) in captivity, mean TTS increased from 0 dB after 15 minute exposure to 5 dB after 360 minute exposure; recovery occurred within 60 minutes (Kastelein *et al.*, 2016). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. No data are available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), Finneran (2015), and Table 5 in NMFS (2018).

Installing piles for this project requires impact pile driving. There would likely be pauses in activities producing the sound during each day. Given these pauses and that many marine mammals are likely moving through the action area and not remaining for extended periods of time, the potential for TS declines.

**Behavioral Harassment**—Exposure to noise from pile driving and removal also has the potential to behaviorally disturb marine mammals. Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound 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 a sound source displaces 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; NRC, 2005).

Disturbance may result in changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke

slapping or jaw clapping); avoidance of areas where sound sources are located. Pinnipeds may increase their haulout time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006). Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.*, species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.*, Richardson *et al.*, 1995; Wartzok *et al.*, 2004; Southall *et al.*, 2007; Weilgart, 2007; Archer *et al.*, 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.*, 2012), and can vary depending on characteristics associated with the sound source (*e.g.*, whether it is moving or stationary, number of sources, distance from the source). In general, pinnipeds seem more tolerant of, or at least habituate more quickly to, potentially disturbing underwater sound than do cetaceans, and generally seem to be less responsive to exposure to industrial sound than most cetaceans. Please see Appendices B and C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.*, bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.*, Croll *et al.*, 2001; Nowacek *et al.*, 2004; Madsen *et al.*, 2006; Yazvenko *et al.*, 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

In 2016, the Alaska Department of Transportation and Public Facilities (ADOT&PF) documented observations of marine mammals during construction activities (*i.e.*, pile driving) at the Kodiak Ferry Dock (see 80 FR 60636, October 7, 2015). In the marine mammal monitoring report for that project (ABR

2016), 1,281 Steller sea lions were observed within the estimated Level B harassment zone during pile driving or drilling (*i.e.*, documented as potential take by Level B harassment). Of these, 19 individuals demonstrated an alert behavior, 7 were fleeing, and 19 swam away from the project site. All other animals (98 percent) were engaged in activities such as milling, foraging, or fighting and did not change their behavior. In addition, two sea lions approached within 20 m of active vibratory pile driving activities. Three harbor seals were observed within the disturbance zone during pile driving activities; none of them displayed disturbance behaviors. Fifteen killer whales and three harbor porpoise were also observed within the Level B harassment zone during pile driving. The killer whales were travelling or milling while all harbor porpoises were travelling. No signs of disturbance were noted for either of these species. Given the similarities in species, activities and habitat, we expect similar behavioral responses of marine mammals to the CTJV's specified activity. That is, disturbance, if any, is likely to be temporary and localized (*e.g.*, small area movements).

**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, similar projects in the area.

**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). 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.*, pile driving, shipping, sonar, seismic exploration) 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. Masking of natural sounds can result when human activities produce high levels of background sound at frequencies important to marine mammals. Conversely, if the background level of underwater sound is high (*e.g.*, on a day with strong wind and high waves), an anthropogenic sound source would not be detectable as far away as would be possible under quieter conditions and would itself be masked. The San Francisco area contains active military and commercial shipping, ferry operations, as well as numerous recreational and other commercial vessel and background sound levels in the area are already elevated.

**Airborne Acoustic Effects**—Pinnipeds that occur near the project site could be exposed to airborne sounds associated with pile driving and removal that have the potential to cause behavioral harassment, depending on their distance from pile driving activities. Cetaceans are not expected to be exposed to airborne sounds that would result in harassment as defined under the MMPA.

Airborne noise would primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above the acoustic criteria. We recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with their heads above water. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon the area and move further from the source. However, these animals would likely previously have been "taken" because of exposure to underwater sound above the behavioral harassment thresholds, which are generally larger than those associated with airborne sound. Thus, the behavioral harassment of these animals is already accounted for in these estimates of potential take. Therefore, we do not believe that authorization of incidental take

resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

#### *Marine Mammal Habitat Effects*

CTJV's construction activities could have localized, temporary impacts on marine mammal habitat and their prey by increasing in-water sound pressure levels and slightly decreasing water quality. Increased noise levels may affect acoustic habitat (see masking discussion above) and adversely affect marine mammal prey in the vicinity of the project area (see discussion below). During DTH, impact and vibratory pile driving or removal, elevated levels of underwater noise would ensound the project area where both fishes and mammals occur and could affect foraging success. Additionally, marine mammals may avoid the area during construction, however, displacement due to noise is expected to be temporary and is not expected to result in long-term effects to the individuals or populations. Construction activities are of short duration and would likely have temporary impacts on marine mammal habitat through increases in underwater and airborne sound.

A temporary and localized increase in turbidity near the seafloor would occur in the immediate area surrounding the area where piles are installed or removed. In general, turbidity associated with pile installation is localized to about a 25-foot (7.6-m) radius around the pile (Everitt *et al.*, 1980). The sediments of the project site are sandy and will settle out rapidly when disturbed. Cetaceans are not expected to be close enough to the pile driving areas to experience effects of turbidity, and any pinnipeds could avoid localized areas of turbidity. Local strong currents are anticipated to disperse any additional suspended sediments produced by project activities at moderate to rapid rates depending on tidal stage. Therefore, we expect the impact from increased turbidity levels to be discountable to marine mammals and do not discuss it further.

#### *In-Water Construction Effects on Potential Foraging Habitat*

The area likely impacted by the project is relatively small compared to the available habitat Chesapeake Bay and the Atlantic and does not include any Biologically Important Areas or other habitat of known importance. The area is highly influenced by anthropogenic activities. The total seafloor area affected by pile installation and removal is a small area compared to the vast foraging area available to marine mammals in the area. At best,

the impact area provides marginal foraging habitat for marine mammals and fishes. Furthermore, pile driving and removal at the project site would not obstruct movements or migration of marine mammals.

Avoidance by potential prey (*i.e.*, fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity.

*In-water Construction Effects on Potential Prey*—Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (*e.g.*, crustaceans, cephalopods, fish, zooplankton). Marine mammal prey varies by species, season, and location. Here, we describe studies regarding the effects of noise on known marine mammal prey.

Fish utilize the soundscape and components of sound in their environment to perform important functions such as foraging, predator avoidance, mating, and spawning (*e.g.*, Zelick and Mann, 1999; Fay, 2009). Depending on their hearing anatomy and peripheral sensory structures, which vary among species, fishes hear sounds using pressure and particle motion sensitivity capabilities and detect the motion of surrounding water (Fay *et al.*, 2008). The potential effects of noise on fishes depends on the overlapping frequency range, distance from the sound source, water depth of exposure, and species-specific hearing sensitivity, anatomy, and physiology. Key impacts to fishes may include behavioral responses, hearing damage, barotrauma (pressure-related injuries), and mortality.

Fish react to sounds which are especially strong and/or intermittent low-frequency sounds, and behavioral responses such as flight or avoidance are the most likely effects. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. The reaction of fish to noise depends on the physiological state of the fish, past exposures, motivation (*e.g.*, feeding, spawning, migration), and other environmental factors. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish; several are based on studies in support of large, multiyear bridge construction projects

(*e.g.*, Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Several studies have demonstrated that impulse sounds might affect the distribution and behavior of some fishes, potentially impacting foraging opportunities or increasing energetic costs (*e.g.*, Fewtrell and McCauley, 2012; Pearson *et al.*, 1992; Skalski *et al.*, 1992; Santulli *et al.*, 1999; Paxton *et al.*, 2017). However, some studies have shown no or slight reaction to impulse sounds (*e.g.*, Pena *et al.*, 2013; Wardle *et al.*, 2001; Jorgenson and Gyselman, 2009; Cott *et al.*, 2012).

SPLs of sufficient strength have been known to cause injury to fish and fish mortality. However, in most fish species, hair cells in the ear continuously regenerate and loss of auditory function likely is restored when damaged cells are replaced with new cells. Halvorsen *et al.* (2012a) showed that a TTS of 4–6 dB was recoverable within 24 hours for one species. Impacts would be most severe when the individual fish is close to the source and when the duration of exposure is long. Injury caused by barotrauma can range from slight to severe and can cause death, and is most likely for fish with swim bladders. Barotrauma injuries have been documented during controlled exposure to impact pile driving (Halvorsen *et al.*, 2012b; Casper *et al.*, 2013).

The most likely impact to fish from pile driving and removal and construction activities at the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated.

Construction activities, in the form of increased turbidity, have the potential to adversely affect forage fish in the project area. Forage fish form a significant prey base for many marine mammal species that occur in the project area. Increased turbidity is expected to occur in the immediate vicinity (on the order of 10 feet (3 m) or less) of construction activities. However, suspended sediments and particulates are expected to dissipate quickly within a single tidal cycle. Given the limited area affected and high tidal dilution rates any effects on forage fish are expected to be minor or negligible. Finally, exposure to turbid waters from construction activities is not expected to be different from the current exposure; fish and marine mammals in Chesapeake are routinely exposed to substantial levels of suspended sediment from natural and anthropogenic sources.



In summary, given the short daily duration of sound associated with individual pile driving events and the relatively small areas being affected, pile driving activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity. Thus, we conclude that impacts of the specified activity are not likely to have more than short-term adverse effects on any prey habitat or populations of prey species. Further, any impacts to marine mammal habitat are not expected to result in significant or long-term consequences for individual marine mammals, or to contribute to adverse impacts on their populations.

**Estimated Take**

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of "small numbers" and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as use of the acoustic sources (*i.e.*, vibratory or impact pile driving and DTH) have the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result for pinnipeds and harbor porpoise because predicted auditory injury zones are larger. The

proposed mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.*, previous monitoring results or average group size). Due to the lack of marine mammal density data available for this location, NMFS relied on local occurrence data and group size to estimate take for some species. Below, we describe the factors considered here in more detail and present the proposed take estimate.

*Acoustic Thresholds*

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

*Level B Harassment for non-explosive sources*—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed by varying degrees by other factors related to the source (*e.g.*, frequency, predictability, duty cycle), the environment (*e.g.*, bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.*, 2007, Ellison *et al.*, 2012). Based on what the available science indicates and the practical need to use a threshold

based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 microPascal ( $\mu$ Pa) (root mean square (rms)) for continuous (*e.g.*, vibratory pile-driving) and above 160 dB re 1  $\mu$ Pa (rms) for non-explosive impulsive (*e.g.*, impact pile driving) or intermittent (*e.g.*, scientific sonar) sources.

CTJV's proposed activity includes the use of continuous (vibratory hammer and DTH) and impulsive (impact pile-driving) sources, and therefore the 120 and 160 dB re 1  $\mu$ Pa (rms) thresholds are applicable. However, CTJV recorded ambient sounds at the project site for over two weeks in 2019 ([https://media.fisheries.noaa.gov/dam-migration/ctjvthimbleshoads\\_final\\_ssv\\_report\\_opr1\\_3-23.pdf](https://media.fisheries.noaa.gov/dam-migration/ctjvthimbleshoads_final_ssv_report_opr1_3-23.pdf)) and established that median ambient sounds levels were 122.78 dB. We have therefore agreed to use this value as the threshold for the continuous sources.

*Level A harassment for non-explosive sources*—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). CTJV's activity includes the use of impulsive (impact pile-driving and DTH) and non-impulsive (vibratory hammer and DTH) sources.

These thresholds are provided in Table 5. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>.

TABLE 5—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans .....	Cell 1: $L_{pk,flat}$ : 219 dB; $L_{E,LF,24h}$ : 183 dB .....	Cell 2: $L_{E,LF,24h}$ : 199 dB.
Mid-Frequency (MF) Cetaceans .....	Cell 3: $L_{pk,flat}$ : 230 dB; $L_{E,MF,24h}$ : 185 dB .....	Cell 4: $L_{E,MF,24h}$ : 198 dB.
High-Frequency (HF) Cetaceans .....	Cell 5: $L_{pk,flat}$ : 202 dB; $L_{E,HF,24h}$ : 155 dB .....	Cell 6: $L_{E,HF,24h}$ : 173 dB.
Phocid Pinnipeds (PW) (Underwater) .....	Cell 7: $L_{pk,flat}$ : 218 dB; $L_{E,PW,24h}$ : 185 dB .....	Cell 8: $L_{E,PW,24h}$ : 201 dB.

TABLE 5—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT—Continued

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
Otariid Pinnipeds (OW) (Underwater) .....	Cell 9: $L_{pk,flat}$ : 232 dB; $L_{E,OW,24h}$ : 203 dB .....	Cell 10: $L_{E,OW,24h}$ : 219 dB.

\* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

**Note:** Peak sound pressure ( $L_{pk}$ ) has a reference value of 1  $\mu$ Pa, and cumulative sound exposure level ( $L_E$ ) has a reference value of 1  $\mu$ Pa<sup>2</sup>s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript “flat” is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.*, varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

*Ensonified Area*

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the proposed project. Marine mammals are

expected to be affected via sound generated by the primary components of the project (*i.e.*, impact and vibratory pile driving, and DTH).

In order to calculate distances to the Level A harassment and Level B harassment sound thresholds for the methods and piles being used in this project, NMFS used acoustic monitoring data from other locations to develop source levels for the various pile types, sizes and methods (Table 6). Based on

monitoring the sound source levels for some piles with versus without a bubble curtain in prior years of this project it was determined that the bubble curtain system used for this project provided a 6 db reduction in near field sound levels ([https://media.fisheries.noaa.gov/dam-migration/ctjvthimbleshoals\\_final\\_ssv\\_report\\_opr1\\_3-23.pdf](https://media.fisheries.noaa.gov/dam-migration/ctjvthimbleshoals_final_ssv_report_opr1_3-23.pdf)) and we have agreed to apply this reduction in source levels for this proposed work.

TABLE 6—PROJECT SOUND SOURCE LEVELS

Method	Estimated noise levels (dB)	Source
DTH-impulsive .....	164 SELss .....	Reyff & Heyvaert (2019).
DTH-non-impulsive .....	166 dB RMS .....	Denes <i>et al.</i> (2016).
Impact .....	204 Pk, 177 SEL* .....	Caltrans (2015) Table I.2.1.
Vibratory .....	174 Pk, 164 RMS* .....	Caltrans (2015) Table I.2.2.

**Note:** SEL = single strike sound exposure level; RMS = root mean square.  
\* Source levels reduced by 6 dB to account for use of bubble curtain.

*Level B Harassment Zones*

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \text{Log}_{10} (R1/R2),$$

Where:

- TL = transmission loss in dB
- B = transmission loss coefficient; for practical spreading equals 15
- R1 = the distance of the modeled SPL from the driven pile, and
- R2 = the distance from the driven pile of the initial measurement

The recommended TL coefficient for most nearshore environments is the practical spreading value of 15. This value results in an expected propagation

environment that would lie between spherical and cylindrical spreading loss conditions, which is the most appropriate assumption for CTJV’s proposed activity in the absence of specific modelling.

CTJV determined underwater noise would fall below the behavioral effects threshold of 160 dB RMS for impact driving at 136 m and the 122.78 dB rms threshold for vibratory driving at 5,598 m (Table 7). Distances to the 122.78 threshold for the various combinations of simultaneous DTH, vibratory pile driving, and/or impact pile driving range from 7,609 to 14,061 m (Table 7). It should be noted that based on the bathymetry and geography of the project area, sound will not reach the full distance of the harassment isopleths in all directions (see Application Appendix A).

*Level A Harassment Zones*

When the NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of take by Level A harassment. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and

will qualitatively address the output where appropriate. For stationary sources such as pile driving or removal and DTH using any of the methods discussed above, NMFS User Spreadsheet predicts the closest

distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. We used the User Spreadsheet to determine the Level A harassment isopleths. Inputs used in the

User Spreadsheet or models are reported in Table 1 and the resulting isopleths are reported in Table 7 for each of the construction methods and scenarios.

TABLE 7—LEVEL A AND LEVEL B ISOPLETHS (METERS) FOR EACH METHOD

Method and piles per day	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocids	Otariids	Level B
DTH (3 per day) .....	1,226	44	1,460	656	48	7,609
DTH (6 per day) .....	1,946	70	2,318	1,042	76	12,060
Impact (4 per day) .....	1,002	36	1,194	537	39	136
Impact (6 per day) .....	1,313	47	1,564	703	52	136
Vibratory .....	9	1	14	6	1	5,598
Impact + DTH .....	Use zones for each source alone					7,609
DTH + Vibratory .....	Use DTH zones					10,344
Impact + Vibratory .....	Use Impact zones					5,598
Impact + DTH + DTH .....	Use zones for each source alone					12,060
DTH + DTH + Vibratory .....	Use DTH zones					14,061
DTH + Vibratory + Impact .....	Use DTH zones					10,344
Impact + Impact + DTH .....	Use zones for each source alone					7,609

Because CTJV will use multiple simultaneous methods we need to account for the effect of this on sound levels. When two non-impulsive continuous noise sources, such as vibratory hammers or DTH, have overlapping sound fields, there is potential for higher sound levels than for non-overlapping sources. In these cases, the sources may be considered additive and combined using the rules in Table 8. For addition of two simultaneous non-impulsive continuous sources, the difference between the two sound source levels (SSLs) is calculated, and if that difference is between 0 and 1 dB, 3 dB are added to the higher SSL; if difference is between 2 or 3 dB, 2 dB are added to the highest SSL; if the

difference is between 4 to 9 dB, 1 dB is added to the highest SSL; and with differences of 10 or more dB, there is no addition.

For simultaneous usage of three or more continuous sound sources, the three overlapping sources with the highest SSLs are identified. Of the three highest SSLs, the lower two are combined using the above rules, then the combination of the lower two is combined with the highest of the three. For example, with overlapping isopleths from 24-, 36-, and 42-inch diameter steel pipe piles with SSLs of 161, 167, and 168 dB rms respectively, the 24- and 36-inch would be added together; given that 167 - 161 = 6 dB, then 1 dB is added to the highest of the two SSLs

(167 dB), for a combined noise level of 168 dB. Next, the newly calculated 168 dB is added to the 42-inch steel pile with SSL of 168 dB. Since 168 - 168 = 0 dB, 3 dB is added to the highest value, or 171 dB in total for the combination of 24-, 36-, and 42-inch steel pipe piles (NMFS 2018b; WSDOT 2018).

Simultaneous use of two or more impact hammers or DTH does not require this sort of source level additions on its own. For impact hammering or DTH, it is unlikely that the two (or more) hammers would strike at the same exact instant, and therefore, the sound source levels will not be adjusted regardless of the distance between the hammers.

TABLE 8—RULES FOR COMBINING SOUND LEVELS GENERATED DURING PILE INSTALLATION

Hammer types	Difference in SSL	Level A zones	Level B zones
Non-impulsive, Impulsive.	Any .....	Use impulsive zones .....	Use largest zone.
Impulsive, Impulsive.	Any .....	Use zones for each pile size and number of strikes.	Use zone for each pile size.
Non-impulsive, Non-impulsive.	0 or 1 dB .....	Add 3 dB to the higher source level .....	Add 3 dB to the higher source level.
	2 or 3 dB .....	Add 2 dB to the higher source level .....	Add 2 dB to the higher source level.
	4 to 9 dB .....	Add 1 dB to the higher source level .....	Add 1 dB to the higher source level.
	10 dB or more .....	Add 0 dB to the higher source level .....	Add 0 dB to the higher source level.

*Marine Mammal Occurrence and Take Calculation and Estimation*

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Here we describe how the information provided above is brought together to

produce a quantitative take estimate. A summary of proposed take is in Table 9.

*Humpback Whale*

Density data for this species in the project vicinity do not exist. Populations in the mid-Atlantic have been estimated for humpback whales off

the coast of New Jersey with a density of 0.000130/km<sup>2</sup> (Whitt *et al.*, 2015). In the Project area, a similar density may be expected. Aschettino *et al.* (2018) observed and tracked 12 individual humpback whales west of the CBBT. Based on these data, and the known movement of humpback whales from

November through April at the mouth of the Chesapeake Bay, and as used in the prior IHAs, CTJV is requesting and we are proposing take of a single humpback group every two months for the duration of in-water pile driving activities. There are 12 months of in-water construction anticipated during the proposed IHA. Using an average group size of two animals, pile driving activities over a 12-month period would result in 12 takes of humpback whale by Level B harassment.

No takes by Level A harassment are expected or proposed because we expect CTJV will effectively shutdown for low-frequency whales including humpbacks at the full extent of the Level A harassment zones.

#### *Bottlenose Dolphin*

In the previous IHA for this project we used seasonal density values documented by Engelhaupt *et al.* (2016). The Level B harassment area for each pile and driving type was multiplied by the appropriate seasonal density and the anticipated number of days of a specific activity per month number to derive a total number of takes for each construction project component. We use the same approach here. The number of calculated takes for the project is 86,656 (Table 10). There is insufficient information on relative abundance to apportion the takes precisely to the three stocks present in the area. We use the same approach used in the prior IHAs as well as in the nearby Hampton Roads Bridge and Tunnel project (86 FR 17458; April 2, 2021). Given that most of the NNCES stock are found in the Pamlico Sound estuarine system, NMFS will assume that no more than 250 of the authorized takes will be from this stock. Since members of the northern migratory coastal and southern migratory coastal stocks are thought to occur in or near the Bay in greater numbers, we will conservatively assume that no more than half of the remaining animals will accrue to either of these stocks. Additionally, a subset of these takes would likely be comprised of Chesapeake Bay resident dolphins, although the size of that population is unknown.

No takes by Level A harassment are expected or proposed because we expect CTJV will effectively shutdown for bottlenose dolphins at the full extent of the Level A harassment zones.

#### *Harbor Porpoise*

Density data for this species in the project vicinity do not exist. Given that harbor porpoises are uncommon in the project area, this exposure analysis (as

we did for the prior IHAs) assumes that there is a porpoise sighting once during every two months of operations which would equate to six sightings during the year. Assuming an average group size of two (Hansen *et al.*, 2018; Elliser *et al.*, 2018) results in a total of 12 estimated takes of porpoises over a year.

Harbor porpoises are members of the high-frequency hearing group which have Level A harassment isopleths as large as 2,318 m during DTH installation of 6 piles per day. In the previous IHA the shutdown zone was set at 100 m since harbor porpoises are cryptic, were thought to be somewhat common in the project area and are known to approach the shoreline. There was concern there would be excessive shutdowns that would extend the project and days of exposure of marine mammals to sound if the zones were larger. However, monitoring data to date suggests we can increase the shutdown zone to 200 m and still avoid an impracticable number of shutdowns. Therefore, we are proposing to implement a 200 m shutdown zone as a mitigation measure. Given the relatively large Level A harassment zones during impact driving and DTH, NMFS assumed in the previous IHAs that 40 percent of estimated porpoise takes would be by Level A harassment. The monitoring data on harbor porpoise take to date do not contradict this expectation. We therefore continue to assume this percentage, resulting in five proposed takes of porpoises by Level A harassment and seven takes by Level B harassment.

#### *Harbor Seal*

With new data on harbor seals since the initial IHAs, we are altering our estimation method for this species. The new method also aligns with what we have used in other recent nearby projects. The number of harbor seals expected to be present in the PTST project area was estimated using survey data for in-water and hauled out seals collected by the United States Navy at the portal islands from November 2014 through 2019 (Rees *et al.*, 2016; Jones *et al.*, 2020). The survey showed a daily average seal count of 13.6. We rounded this up to 14 seals per day. We multiplied that number by 95 in-water work days on Portal Island 1 and 111 work days on Portal Island 2 (the number of days of in-water activities when the seals are present, December to May) to estimate 2,884 takes of harbor seals.

The largest Level A harassment isopleth for phocid species is 1,042

meters which would occur during DTH of 6 large holes per day. In the previous IHA the shutdown zone was set at 15 m since seals are common in the project area and are known to approach the shoreline. There was concern there would be excessive shutdowns that would extend the project and days of exposure of marine mammals to sound if the zones were larger. However, monitoring data to date suggests we can increase the shutdown zone to 150 m and still avoid an impracticable number of shutdowns. Therefore, we are proposing to implement a shutdown zone of 150 m for harbor seals. As discussed above for harbor porpoises we assume that 40 percent of the exposed seals will occur within the Level A harassment zone and the remaining affected seals would result in Level B harassment takes. Therefore, NMFS is proposing to authorize 1,154 takes by Level A harassment and 1,730 takes by Level B harassment.

#### *Gray Seal*

The number of gray seals expected to be present at the PTST project area was estimated using survey data collected by the U.S. Navy at the portal islands from 2014 through 2018 (Rees *et al.*, 2016; Jones *et al.*, 2018). One seal was observed in February of 2015 and one seal was recorded in February of 2016, while no seals were observed at any other time. So the February rate of seal per day was estimated at 1.6. We rounded this to 2 animals per day and multiplied by the number of expected work days in February (20) to arrive at an estimate of 40 takes of gray seals per year.

The largest Level A harassment isopleth for phocid species is 1,042 meters which would occur during DTH of 6 large holes per day. In the previous IHA the shutdown zone was set at 15 m since seals are common in the project area and are known to approach the shoreline. There was concern there would be excessive shutdowns that would extend the project and days of exposure of marine mammals to sound if the zones were larger. However, monitoring data to date suggests we can increase the shutdown zone to 150 m and still avoid an impracticable number of shutdowns. Therefore, we are proposing to implement a shutdown zone of 150 m for gray seals. As above we estimate 40 percent of these takes could be by Level A harassment, so we propose to authorize 24 Level B harassment takes and 16 Level A harassment takes for gray seals.

TABLE 9—PROPOSED AUTHORIZED AMOUNT OF TAKING, BY LEVEL A HARASSMENT AND LEVEL B HARASSMENT, BY SPECIES AND STOCK AND PERCENT OF TAKE BY STOCK

Common name	Stock	Level A harassment	Level B harassment	Percent of stock
Humpback whale	Gulf of Maine	0	12	0.9
Harbor Porpoise	Gulf of Maine/Bay of Fundy	5	7	<0.1
Bottlenose dolphin	WNA Coastal, Northern Migratory	0	43,203	651
Bottlenose dolphin	WNA Coastal, Northern Migratory	0	43,203	651
Bottlenose dolphin	NNCES	0	250	30.4
Harbor seal	Western North Atlantic	1,154	1,730	3.8
Gray seal	Western North Atlantic	16	24	<0.1

TABLE 10—DATA TO ESTIMATE LEVEL B HARASSMENT TAKE OF BOTTLENOSE DOLPHINS

Months		Nov.	Dec.–Feb.	March–May	June–Aug.	Sept.–Oct.	Level B area (km <sup>2</sup> )	Dolphin take
Dolphin Density/km <sup>2</sup>	Island	3.88	0.63	1	3.55	3.88		
Impact + DTH	1	17	40	16	4	0	136	16,507
Impact + DTH	2	0	3	7	50	38	147	46,766
DTH + Vibratory	1	2	4	1	1	0	218	3,235
DTH + Vibratory	2	0	0	1	2	2	250	3,966
Impact + Vibratory	1	2	4	1	1	0	80	1,188
Impact + Vibratory	2	0	0	1	2	2	79	1,176
DTH + DTH + Impact	1 & 2	0	4	13	1	0	323	6,161
DTH + DTH + Vibratory	1 & 2	0	1	5	0	0	402	2,264
DTH + Vibratory + Impact	1 & 2	0	2	5	1	0	255	2,181
Impact + Impact + DTH	1 & 2	0	5	13	1	0	163	3,212

**Note:** Take is calculated by multiplying the density for a given time by the Area of the Level B harassment zone and the number of days of work (found in the main cells of the table). See more detailed table with monthly totals in Table 16 of the application.

**Proposed Mitigation**

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or

stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

The following mitigation measures are proposed in the IHA:

- Avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions;
- Conduct training between construction supervisors and crews and the marine mammal monitoring team and relevant CTJV staff prior to the start of all pile driving and DTH activity and

when new personnel join the work, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood;

- Pile driving activity must be halted upon observation 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, entering or within the harassment zone;

• CTJV will establish and implement the shutdown zones indicated in Table 11. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones typically vary based on the activity type and marine mammal hearing group.

- Employ Protected Species Observers (PSOs) and establish monitoring locations as described in the Marine Mammal Monitoring Plan and Section 5 of the IHA. 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 pile driving and removal at least one PSO must be used. The PSO will be stationed as close to the activity as possible;

- The placement of the PSOs during all pile driving and removal and DTH activities will ensure that the entire shutdown zone is visible during pile installation. Should environmental conditions deteriorate such that marine mammals within the entire shutdown zone will not be visible (e.g., fog, heavy rain), pile driving and removal must be delayed until the PSO is confident marine mammals within the shutdown zone could be detected;
- Monitoring must take place from 30 minutes prior to initiation of pile driving activity through 30 minutes post-completion of pile driving activity. Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine the shutdown zones clear of marine mammals. Pile driving may commence following 30 minutes of observation when the determination is made;

- If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal;
- CTJV must use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of three strikes at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. A soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer;
- Use a bubble curtain during impact and vibratory pile driving and DTH in

water depths greater than 3 m (10 ft) and ensure that it is operated as necessary to achieve optimal performance, and that no reduction in performance may be attributable to faulty deployment. At a minimum, CTJV must adhere to the following performance standards: The bubble curtain must distribute air bubbles around 100 percent of the piling circumference for the full depth of the water column. The lowest bubble ring must be in contact with the substrate for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent substrate contact. No parts of the ring or other objects shall prevent full substrate contact. Air flow to the bubblers must be balanced around the circumference of the pile. For work with interlocking pipe piles for the berm construction a special 3-sided bubble curtain will be used (see Application Appendix A).

TABLE 11—SHUTDOWN ZONES (METERS) FOR EACH METHOD

Method and piles/day	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocids
DTH (3/day)	1,230	50	200	150
DTH (6/day)	1,950	70	200	150
Impact (4/day)	1,010	40	200	150
Impact (6/day)	1,320	50	200	150
Vibratory (4/day)	20	10	20	10
Impact + DTH.				
DTH + Vibratory	1,230	50	200	150
Impact + Vibratory	1,320	50	200	150
Impact + DTH + DTH	1,320	50	200	150
DTH + DTH + Vibratory	1,950	70	200	1,050
DTH + Vibratory + Impact	1,320	50	200	710
Impact + Impact + DTH				

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)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be

present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

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

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (e.g., presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (e.g., source characterization, propagation, ambient noise); (2) affected species (e.g., life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (e.g., age, calving or feeding areas);

- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;

- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (e.g., marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

*Visual Monitoring*

- Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following: PSOs must be independent (i.e., not construction personnel) and have no other assigned tasks during monitoring periods. At least one PSO must have

prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization. Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training. PSOs must be approved by NMFS prior to beginning any activity subject to this IHA.

- PSOs must record all observations of marine mammals as described in the Section 5 of the IHA and the Marine Mammal Monitoring Plan, regardless of distance from the pile being driven. PSOs shall document any behavioral reactions in concert with distance from piles being driven or removed;

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; and

- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary;

- CTJV must establish the following monitoring locations. For all pile driving and DTH activities, a minimum of one PSO must be assigned to the active pile driving or DTH location to monitor the shutdown zones and as much of the Level A and Level B harassment zones as possible. For activities in Table 7 above with Level B harassment zones larger than 6000 meters, an additional PSO must be stationed at Fort Story to monitor as much of the Level B harassment zone as possible.

#### Reporting

A draft marine mammal monitoring report will be submitted to NMFS within 90 days after the completion of pile driving and removal activities, or 60 days prior to a requested date of issuance of any future IHAs for projects at the same location, whichever comes

first. The report will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring;

- Construction activities occurring during each daily observation period, including the number and type of piles driven or removed and by what method (*i.e.*, impact or cutting) and the total equipment duration for cutting for each pile or total number of strikes for each pile (impact driving);

- 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 observation of a marine mammal, 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 pile being driven for each sighting (if pile driving was occurring at time of sighting); 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; 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);

- Number of marine mammals detected within the harassment zones, by species; and

- Detailed information about any implementation of any mitigation triggered (*e.g.*, shutdowns and delays), 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 construction activities discover an injured or dead marine mammal, the IHA-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 Greater Atlantic Regional Stranding Coordinator as soon as feasible. If the death or injury was clearly caused by the specified activity, CTJV must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHA. The IHA-holder must not resume their activities until notified by NMFS. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

- Species identification (if known) or description of the animal(s) involved;

- Condition of the animal(s) (including carcass condition if the animal is dead);

- Observed behaviors of the animal(s), if alive;

- If available, photographs or video footage of the animal(s); and

- General circumstances under which the animal was discovered.

#### 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).

Pile driving and removal and DTH activities have the potential to disturb or displace marine mammals. Specifically, the project activities may result in take, in the form of Level A and Level B harassment from underwater sounds generated from pile driving and removal and DTH. Potential takes could occur if individuals are present in the ensonified zone when these activities are underway.

The takes from Level A and Level B harassment would be due to potential behavioral disturbance, TTS, and PTS. No serious injury or mortality is anticipated given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. The potential for harassment is minimized through the construction method and the implementation of the planned mitigation measures (see Proposed Mitigation section).

The Level A harassment zones identified in Table 7 are based upon an animal exposed to impact pile driving multiple piles per day. Considering the short duration to impact drive or DTH each pile and breaks between pile installations (to reset equipment and move pile into place), this means an animal would have to remain within the area estimated to be ensonified above the Level A harassment threshold for multiple hours. This is highly unlikely given marine mammal movement throughout the area. If an animal was exposed to accumulated sound energy, the resulting PTS would likely be small (e.g., PTS onset) at lower frequencies where pile driving energy is concentrated, and unlikely to result in impacts to individual fitness, reproduction, or survival.

The nature of the pile driving project precludes the likelihood of serious injury or mortality. For all species and stocks, take would occur within a limited, confined area (adjacent to the CBBT) of the stock's range. Level A and Level B harassment will be reduced to

the level of least practicable adverse impact through use of mitigation measures described herein. Further the amount of take proposed to be authorized is extremely small when compared to stock abundance.

Behavioral responses of marine mammals to pile driving at the project site, if any, are expected to be mild and temporary. Marine mammals within the Level B harassment zone may not show any visual cues they are disturbed by activities (as noted during modification to the Kodiak Ferry Dock) or could become alert, avoid the area, leave the area, or display other mild responses that are not observable such as changes in vocalization patterns. Given the short duration of noise-generating activities per day, any harassment would be temporary. There are no other areas or times of known biological importance for any of the affected species.

We acknowledge the existence and concern about the ongoing humpback whale UME. We have no evidence that this project is likely to result in vessel strikes (a major correlate of the UME) and marine construction projects in general involve the use of slow-moving vessels, such as tugs towing or pushing barges, or smaller work boats maneuvering in the vicinity of the construction project. These vessel types are not typically associated with vessel strikes resulting in injury or mortality. More generally, the UME does not yet provide cause for concern regarding population-level impacts for humpback whales. Despite the UME, the West Indies breeding population or DPS, remains healthy.

In addition, it is unlikely that minor noise effects in a small, localized area of habitat would have any effect on the stocks' ability to recover. 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;
- Authorized Level A harassment would be very small amounts and of low degree;

- No important habitat areas have been identified within the project area;
- For all species, Chesapeake Bay is a very small and peripheral part of their range;

- CTJV would implement mitigation measures such as bubble curtains, soft-starts, and shut downs; and
- Monitoring reports from similar work in Chesapeake Bay 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 section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS proposes to authorize is below one third of the estimated stock abundance for humpback whale, harbor porpoise, gray seal, harbor seal (in fact, take of individuals is less than 10 percent of the abundance of the affected stocks, see Table 7). This is likely a conservative estimate because they assume all takes are of different individual animals which is likely not the case. Some individuals may return multiple times in a day, but PSOs would count them as separate takes if they cannot be individually identified.

There are three bottlenose dolphin stocks that could occur in the project area. Therefore, the estimated 86,656 dolphin takes by Level B harassment would likely be split among the western North Atlantic northern migratory



coastal stock, western North Atlantic southern migratory coastal stock, and NNCES stock. Based on the stocks' respective occurrence in the area, NMFS estimated that there would be no more than 250 takes from the NNCES stock, representing 30.4 percent of that population, with the remaining takes split evenly between the northern and southern migratory coastal stocks. Based on consideration of various factors described below, we have determined the numbers of individuals taken would comprise less than one-third of the best available population abundance estimate of either coastal migratory stock. Detailed descriptions of the stocks' ranges have been provided in Description of Marine Mammals in the Area of Specified Activities.

Both the northern migratory coastal and southern migratory coastal stocks have expansive ranges and they are the only dolphin stocks thought to make broad-scale, seasonal migrations in coastal waters of the western North Atlantic. Given the large ranges associated with these two stocks it is unlikely that large segments of either stock would approach the project area and enter into the Chesapeake Bay. The majority of both stocks are likely to be found widely dispersed across their respective habitat ranges and unlikely to be concentrated in or near the Chesapeake Bay.

Furthermore, the Chesapeake Bay and nearby offshore waters represent the boundaries of the ranges of each of the two coastal stocks during migration. The northern migratory coastal stock is found during warm water months from coastal Virginia, including the Chesapeake Bay and Long Island, New York. The stock migrates south in late summer and fall. During cold water months dolphins may be found in coastal waters from Cape Lookout, North Carolina, to the North Carolina/Virginia. During January–March, the southern migratory coastal stock appears to move as far south as northern Florida. From April to June, the stock moves back north to North Carolina. During the warm water months of July–August, the stock is presumed to occupy coastal waters north of Cape Lookout, North Carolina, to Assateague, Virginia, including the Chesapeake Bay. There is likely some overlap between the northern and southern migratory stocks during spring and fall migrations, but the extent of overlap is unknown.

The Bay and waters offshore of the mouth are located on the periphery of the migratory ranges of both coastal stocks (although during different seasons). Additionally, each of the migratory coastal stocks are likely to be

located in the vicinity of the Bay for relatively short timeframes. Given the limited number of animals from each migratory coastal stock likely to be found at the seasonal migratory boundaries of their respective ranges, in combination with the short time periods (~2 months) animals might remain at these boundaries, it is reasonable to assume that takes are likely to occur only within some small portion of either of the migratory coastal stocks.

Both migratory coastal stocks likely overlap with the NNCES stock at various times during their seasonal migrations. The NNCES stock is defined as animals that primarily occupy waters of the Pamlico Sound estuarine system (which also includes Core, Roanoke, and Albemarle sounds, and the Neuse River) during warm water months (July–August). Members of this stock also use coastal waters ( $\leq 1$  km from shore) of North Carolina from Beaufort north to Virginia Beach, Virginia, including the lower Chesapeake Bay. Comparison of dolphin photo-identification data confirmed that limited numbers of individual dolphins observed in Roanoke Sound have also been sighted in the Chesapeake Bay (Young, 2018). Like the migratory coastal dolphin stocks, the NNCES stock covers a large range. The spatial extent of most small and resident bottlenose dolphin populations is on the order of 500 km<sup>2</sup>, while the NNCES stock occupies over 8,000 km<sup>2</sup> (LeBrecque *et al.*, 2015). Given this large range, it is again unlikely that a preponderance of animals from the NNCES stock would depart the North Carolina estuarine system and travel to the northern extent of the stock's range and enter into the Bay. However, recent evidence suggests that there is likely a small resident community of NNCES dolphins of indeterminate size that inhabits the Chesapeake Bay year-round (Eric Patterson, Personal Communication).

Many of the dolphin observations in the Bay are likely repeated sightings of the same individuals. The Potomac-Chesapeake Dolphin Project has observed over 1,200 unique animals since observations began in 2015. Re-sightings of the same individual can be highly variable. Some dolphins are observed once per year, while others are highly regular with greater than 10 sightings per year (Mann, Personal Communication). Similarly, using available photo-identification data, Engelhaupt *et al.* (2016) determined that specific individuals were often observed in close proximity to their original sighting locations and were observed multiple times in the same season or same year. Ninety-one percent of re-

sighted individuals (100 of 110) in the study area were recorded less than 30 km from the initial sighting location. Multiple sightings of the same individual would considerably reduce the number of individual animals that are taken by harassment. Furthermore, the existence of a resident dolphin population in the Bay would increase the percentage of dolphin takes that are actually re-sightings of the same individuals.

Monitoring reports and data from prior years of the project work have recorded less than 10 level B takes of bottlenose dolphins in over 100 days of monitored pile driving.

In summary and as described above, the following factors primarily support our preliminary determination regarding the incidental take of small numbers of a species or stock:

- The take of marine mammal stocks authorized for take comprises less than 10 percent of any stock abundance (with the exception of bottlenose dolphin stocks);
- Potential bottlenose dolphin takes in the project area are likely to be allocated among three distinct stocks;
- Bottlenose dolphin stocks in the project area have extensive ranges and it would be unlikely to find a high percentage of any one stock concentrated in a relatively small area such as the project area or the Bay;
- The Bay represents the migratory boundary for each of the specified dolphin stocks and it would be unlikely to find a high percentage of any stock concentrated at such boundaries;
- Monitoring from prior years found less than 10 level B takes of bottlenose dolphin in over 100 days of monitored pile driving; and
- Many of the takes would be repeats of the same animal and it is likely that a number of individual animals could be taken 10 or more times.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

#### **Unmitigable Adverse Impact Analysis and Determination**

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of

such species or stocks for taking for subsistence purposes.

### Endangered Species Act

Section 7(a)(2) of the ESA (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

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

### Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to the CTJV to conduct the Parallel Thimble Shoal Tunnel Project in Virginia Beach, Virginia for 1 year from the date of issuance, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>.

### Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed Parallel Thimble Shoal Tunnel project. We also request at this time comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent Renewal IHA.

On a case-by-case basis, NMFS may issue a one-time 1 year Renewal IHA following notification to the public providing an additional 15 days for public comments when (1) up to another year of identical, or nearly identical, activities as described in the Description of Proposed Activity section of this notification is planned or (2) the activities as described in the Description of Proposed Activity section of this notification would not be completed by the time the IHA expires and a Renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this

notification, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed Renewal IHA effective date (recognizing that Renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA);

- The request for renewal must include the following:

- (1) An explanation that the activities to be conducted under the requested Renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take); and

- (2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized; and

- Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: October 6, 2021.

**Kimberly Damon-Randall,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

[FR Doc. 2021-22191 Filed 10-12-21; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER22-40-000]

#### **PSEG Power New York Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

This is a supplemental notice in the above-referenced proceeding of PSEG Power New York Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 25, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Dated: October 5, 2021.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2021-22175 Filed 10-12-21; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Project No. 10661–051]

**Indiana Michigan Power Company; 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.:* 10661–051.
- c. *Date Filed:* September 30, 2021.
- d. *Applicant:* Indiana Michigan Power Company.
- e. *Name of Project:* Constantine Hydroelectric Project (Constantine Project).
- f. *Location:* The Constantine Project is located on the St. Joseph River in the Village of Constantine in St. Joseph County, Michigan. 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:* Jonathan Magalski, Environmental Supervisor, Renewables, Indiana Michigan Power Company; 1 Riverside Plaza, Columbus, Ohio 43215 at (614) 716–2240 or email at [jmmagalski@aep.com](mailto:jmmagalski@aep.com).
- i. *FERC Contact:* Lee Emery at (202) 502–8379 or email at [lee.emery@ferc.gov](mailto:lee.emery@ferc.gov).

- j. This application is not ready for environmental analysis at this time.
- k. *The Constantine Project consists of:* (1) An 525-acre reservoir with a storage capacity of 5,750 acre-feet at a water surface elevation of 782.94 feet National Geodetic Vertical Datum (NGVD); (2) a 561.25-foot-long dam consisting of, from east to west: (a) A 250-foot-long, 22.5-foot-high embankment with a top elevation of 790 feet NGVD, (b) a 241.25-foot-long, 12-foot-high uncontrolled concrete overflow spillway dam with a fixed crest elevation of 781.96 feet NGVD, topped by 0.94-foot-high flashboards with a crest elevation of 782.90 feet NGVD, which includes a 4-foot sluice gate at the left abutment, and (c) a 70-foot-long earthen embankment; (3) a 650-foot-long, 20-foot-high earthen detached dike that begins 1,500 feet east of the left abutment of the spillway dam, with a top elevation of 790 feet NGVD; (4) a 68-foot-long, 20-foot-high concrete headgate structure consisting of seven wooden 15-foot-high vertical slide gates with a sill elevation of 770.00 feet NGVD with six 7.83-foot-long gates and one 6.75-foot-long gate located at the entrance to the power canal; (5) a 1,270-foot-long power canal with a bottom width of 60 feet; (6) a 140-foot-long, 30-foot-wide brick powerhouse; (7) trash racks in front of the forebay at the entrance to the powerhouse; (8) four vertical shaft Francis turbines each coupled to a 300-kilowatt generator, for a total installed capacity of 1.2 megawatts; (11) a switchyard adjacent to the powerhouse with three step-up

- transformers; (12) a 50-foot-long, 2.4-kilovolt transmission line; and (13) appurtenant facilities.
- The Constantine Project is operated in a run-of-river mode with an estimated average annual energy production of 4,933 megawatt-hours. Indiana Michigan Power Company 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](mailto: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) .....	October 2021.
Request Additional Information .....	November 2021.
Notice of Acceptance/Notice of Ready for Environmental Analysis .....	March 2022

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: October 6, 2021.  
**Kimberly D. Bose,**  
*Secretary.*  
 [FR Doc. 2021–22230 Filed 10–12–21; 8:45 am]  
**BILLING CODE 6717–01–P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. ER22–20–000]

**PGR 2021 Lessee 1, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

This is a supplemental notice in the above-referenced proceeding of PGR 2021 Lessee 1, LLC’s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR

part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant’s request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 25, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: October 5, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021-22173 Filed 10-12-21; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2088-083]

#### South Feather Water and Power Agency; Notice of Application for Approval of Contract for the Sale of Power Under Section 22 of the Federal Power Act

Take notice that on September 3, 2021, South Feather Water and Power Agency (SFWPA) filed with the Commission an application for approval

of a contract for the sale of power from its licensed South Feather Hydroelectric Project No. 2088 for a period beyond the expiration of its existing license for the project. The project is located on the South Fork Feather River, Lost Creek, and Slate Creek, in Butte, Yuba, and Plumas Counties, California.

Section 22 of the Federal Power Act, 16 U.S.C. 815, provides that contracts for the sale and delivery of power for periods extending beyond the termination date of a license may be entered into upon the joint approval of the Commission and the appropriate state public service commission or other similar authority in the state in which the sale or delivery of power is made.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications 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. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P-15226-000.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-15226) in the docket number field to access the

document. For assistance, contact FERC Online Support.

*Comment Date:* 5:00 p.m. Eastern Time on November 4, 2021.

Dated: October 5, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021-22171 Filed 10-12-21; 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:* PR21-66-000.

*Applicants:* Louisville Gas and Electric Company.

*Description:* Submits tariff filing per 284.123(b),(e)/: Operating Statement Rate Change Revised Exhibit A to be effective 9/1/2021 under PR21-66.

*Filed Date:* 9/28/21.

*Accession Number:* 20210928-5041.

*Comments/Protests Due:* 5 p.m. ET 10/19/21.

*Docket Numbers:* PR21-67-000.

*Applicants:* Columbia Gas of Ohio, Inc.

*Description:* Submits tariff filing per 284.123(b),(e)/: COH Rates effective August 27 2021 to be effective 8/27/2021 under PR21-67.

*Filed Date:* 9/30/21.

*Accession Number:* 202109305090.

*Comments/Protests Due:* 5 p.m. ET 10/21/21.

*Docket Numbers:* PR22-1-000.

*Applicants:* Permian Highway Pipeline LLC.

*Description:* Submits tariff filing per 284.123(b),(e)/: PHP Fuel Filing 2021.10.01 to be effective 10/1/2021 under PR22-1.

*Filed Date:* 10/1/2021.

*Accession Number:* 202110015136.

*Comments/Protests Due:* 5 p.m. ET 10/22/21.

*Docket Numbers:* RP22-26-000.

*Applicants:* Transcontinental Gas Pipe Line Company, LLC.

*Description:* § 4(d) Rate Filing: List of Non-Conforming Service Agreements (ASR et al—Six One Commodities) to be effective 11/5/2021.

*Filed Date:* 10/5/21.

*Accession Number:* 20211005-5024.

*Comments Date:* 5 p.m. ET 10/18/21.

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.

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: October 6, 2021.

**Debbie-Anne A. Reese,**  
Deputy Secretary.

[FR Doc. 2021-22218 Filed 10-12-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER22-15-000]

#### ELP Stillwater Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of ELP Stillwater Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 25, 2021.

The Commission encourages electronic submission of protests and

interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Dated: October 5, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021-22184 Filed 10-12-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER22-19-000]

#### Stanly Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Stanly Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR

part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 25, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Dated: October 5, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021-22182 Filed 10-12-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER02-2001-000]

#### Southern California Edison Company; Notice of Filing

Take notice that on September 15, 2021, Southern California Edison Company (SCE) requested that the Federal Energy Regulatory Commission (Commission) review and confirm SCE's Electric Quarterly Report submission practices for transaction information received from the California Independent System Operator Corporation (CAISO). In particular, given recent changes to the CAISO market settlement timeline, SCE requests that the Commission approve SCE's longstanding practices of (1) providing CAISO transaction data for a given quarter by the filing deadline for the following quarter; and (2) providing CAISO transaction data only once using final settlement data, as opposed to filing both initial and final settlement data.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this

time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (866) 208-3676 or TTY, (202) 502-8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

*Comment Date:* 5:00 p.m. Eastern Time on November 5, 2021.

Dated: October 6, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021-22229 Filed 10-12-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 5867-054]

#### Alice Falls Hydro, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a 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:* New Major License.

b. *Project No.:* 5867-054.

c. *Date Filed:* September 29, 2021.

d. *Applicant:* Alice Falls Hydro, LLC.

e. *Name of Project:* Alice Falls Hydroelectric Project (Alice Falls Project).

f. *Location:* On the Ausable River, in the Town of Chesterfield, Clinton and Essex Counties, New York. The project does not occupy federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Jody Smet, Vice President, Regulatory Affairs, Eagle

Creek Renewable Energy, LLC, Two Bethesda Metro Center, Suite 1330, Bethesda, MD 20814; (804) 739-0654; email—[Jody.Smet@eaglecreekre.com](mailto:Jody.Smet@eaglecreekre.com).

i. *FERC Contact:* John Stokely at (202) 502-8534; or email at [john.stokely@ferc.gov](mailto:john.stokely@ferc.gov).

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* November 28, 2021.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, 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. All filings must clearly identify the project name and docket number on the first page: Alice Falls Project (P-5867-054).

m. The application is not ready for environmental analysis at this time.

n. The Alice Falls Project consists of the following existing facilities: (1) A stone masonry dam, 88 feet long and 63 feet high; (2) a 110-foot-long section of

rock ledge adjacent to the dam with 2.5-foot-high pipe-supported flashboards; (3) a reservoir with a surface area of 4.8 acres with a normal water surface elevation of 350 feet mean sea level; (4) an intake structure; (5) a divided, 45-foot-long, reinforced concrete penstock; (6) a powerhouse containing two turbine-generator units of 1.5 megawatts and 0.6 megawatts; (7) a substation; (8) a 1,500-foot-long, 46.0-kilovolt buried transmission line; and (9) appurtenant facilities.

The Alice Falls Project is operated in a run-of-river mode with an average annual generation of 4,021 megawatt-hours.

o. A copy of the application 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. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC Online Support.

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.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary) November 2021  
Request Additional Information November 2021  
Issue Acceptance Letter February 2022  
Issue Scoping Document 1 for comments March 2022  
Request Additional Information (if necessary) May 2022  
Issue Scoping Document 2 June 2022  
Issue Notice of Ready for Environmental Analysis June 2022

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: October 5, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021-22185 Filed 10-12-21; 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:* EC22-2-000.

*Applicants:* Stanly Solar, LLC, PGR 2021 Lessee 1, LLC.

*Description:* Joint Application for Authorization Under Section 203 of the Federal Power Act of Stanly Solar, LLC, et al.

*Filed Date:* 10/1/21.

*Accession Number:* 20211001-5377.

*Comment Date:* 5 p.m. ET 10/22/21.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER21-1280-003.

*Applicants:* Southern California Edison Company.

*Description:* Compliance filing: SCE Refile Compliance Filing—Morongo WOD Formula Rate Protocols to be effective 5/5/2021.

*Filed Date:* 10/6/21.

*Accession Number:* 20211006-5076.

*Comment Date:* 5 p.m. ET 10/20/21.

*Docket Numbers:* ER21-2819-001.

*Applicants:* South Field Energy LLC.  
*Description:* Tariff Amendment: Supplemental Filing of South Field Energy LLC and Request for Waiver to be effective 10/1/2021.

*Filed Date:* 10/6/21.

*Accession Number:* 20211006-5113.

*Comment Date:* 5 p.m. ET 10/27/21.

*Docket Numbers:* ER21-2944-000.

*Applicants:* Pacific Gas and Electric Company.

*Description:* Notice of Termination of Service Agreement for Gilroy Energy Center, LLC, Service Agreement (No. 25) of Pacific Gas and Electric Company.

*Filed Date:* 9/24/21.

*Accession Number:* 20210924-5182.

*Comment Date:* 5 p.m. ET 10/15/21.

*Docket Numbers:* ER22-48-000.

*Applicants:* Gridflex Generation, LLC.  
*Description:* Baseline eTariff Filing: Application for Market-Based Rate to be effective 12/6/2021.

*Filed Date:* 10/5/21.

*Accession Number:* 20211005-5107.

*Comment Date:* 5 p.m. ET 10/26/21.

*Docket Numbers:* ER22-49-000.

*Applicants:* Tri-State Generation and Transmission Association, Inc.

*Description:* § 205(d) Rate Filing: Initial Filing of Rate Schedule No. 335 to be effective 12/6/2021.

*Filed Date:* 10/6/21.

*Accession Number:* 20211006-5018.

*Comment Date:* 5 p.m. ET 10/27/21.

*Docket Numbers:* ER22-50-000.

*Applicants:* Midcontinent

Independent System Operator, Inc.

*Description:* Annual Calculation of the Cost of New Entry value ("Cone") for each Local Resource Zone ("LRZ") in the MISO Region of Midcontinent Independent System Operator, Inc.

*Filed Date:* 10/4/21.

*Accession Number:* 20211004-5267.

*Comment Date:* 5 p.m. ET 10/25/21.

*Docket Numbers:* ER22-51-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original NSA, SA No. 6191; Queue No. P11 to be effective 9/9/2021.

*Filed Date:* 10/6/21.

*Accession Number:* 20211006-5086.

*Comment Date:* 5 p.m. ET 10/27/21.

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: October 6, 2021.

**Debbie-Anne A. Reese,**  
Deputy Secretary.

[FR Doc. 2021-22219 Filed 10-12-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 4639-033]

#### Ampersand Christine Falls Hydro, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a 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 Minor License.

b. *Project No.*: 4639–033.

c. *Date Filed*: September 29, 2021.

d. *Applicant*: Ampersand Christine Falls Hydro, LLC.

e. *Name of Project*: Christine Falls Hydroelectric Project (Christine Falls Project).

f. *Location*: On the Sacandaga River near the Village of Speculator, Hamilton County, New York. The project does not occupy federal land.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts*: Mr. Sayad Moudachirou, Licensing Manager, Ampersand Christine Falls Hydro LLC, 717 Atlantic Avenue, Suite 1A, Boston, MA 02111, Phone: 617–933–7206, Email: [sayad@ampersandenergy.com](mailto:sayad@ampersandenergy.com); and Mr. Jason Huang, Asset Manager, Ampersand Christine Falls Hydro LLC, 717 Atlantic Avenue, Suite 1A, Boston, MA 02111, Phone: 773–919–0923, Email: [jasonh@ampersandenergy.com](mailto:jasonh@ampersandenergy.com).

i. *FERC Contact*: Andy Bernick at (202) 502–8660; or email at [andrew.bernick@ferc.gov](mailto:andrew.bernick@ferc.gov).

j. *Cooperating agencies*: Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status*: November 28, 2021.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208–3676 (toll free), or

(202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, 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. All filings must clearly identify the project name and docket number on the first page: Christine Falls Project (P–4639–033).

m. This application is not ready for environmental analysis at this time.

n. The Christine Falls Project consists of the following existing facilities: (1) A 15-foot-high, 165-foot-long concrete gravity dam, with 3-foot-high wooden flashboards installed along the crest of the 135-foot-long spillway; (2) a 1.1-acre reservoir with a normal water surface elevation of 1,699.7 feet at mean sea level; (3) an intake structure; (4) a 650-foot-long steel penstock with a diameter of 72 inches; (5) a brick powerhouse containing two turbine-generator units (*i.e.*, one 275-kilowatt (kW) unit and one 575-kW unit) with a total capacity of 850 kW; (6) a tailrace with a minimum depth of 21 feet; (7) a 610-foot-long bypassed reach; (8) an approximately 1.6-mile-long, 4.16/13.2-kilovolt underground transmission line connecting the powerhouse to a point of interconnection; and (9) appurtenant facilities.

The Christine Falls Project is operated in a run-of-river mode with an average annual generation of 2,478 megawatt-hours.

o. A copy of the application 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. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC Online Support.

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.

p. *Procedural schedule and final amendments*: The application will be processed according to the following

preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary)—November 2021

Request Additional Information—November 2021

Issue Acceptance Letter—February 2022

Issue Scoping Document 1 for comments—March 2022

Request Additional Information (if necessary)—May 2022

Issue Scoping Document 2—June 2022

Issue Notice of Ready for Environmental Analysis—June 2022

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: October 6, 2021.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2021–22227 Filed 10–12–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER02–2001–000]

#### Pacific Gas and Electric Company; Notice of Filing

Take notice that on September 15, 2021, Pacific Gas and Electric Company (PG&E) requested confirmation of an ongoing extension of the due date for the submission of a portion of PG&E's Electric Quarterly Report data relating to bilateral contracts and transactions.<sup>1</sup> Specifically, PG&E seeks confirmation of its practice of submitting transaction information received from the California Independent System Operator Corporation for a given quarter by the filing deadline for the following quarter.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy

<sup>1</sup> The Commission granted PG&E's market-based rate authority in Docket No. ER03–198–000 effective December 19, 2002.



of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

*Comment Date:* 5:00 p.m. Eastern Time on November 5, 2021.

Dated: October 6, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021-22228 Filed 10-12-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 3472-024]

#### Aspinook Hydro, LLC; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 3472-024.

c. *Date Filed:* April 30, 2020.

d. *Applicant:* Aspinook Hydro, LLC (Aspinook Hydro).

e. *Name of Project:* Wyre Wynd Hydroelectric Project (Wyre Wynd Project).

f. *Location:* On the Quinebaug River in New London and Windham Counties, Connecticut. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mark Boumansour, Chief Operating Officer, Gravity Renewables, Inc., 1401 Walnut Street, Boulder, CO 80302; Phone at (303) 440-3378, or email at [mark@gravityrenewables.com](mailto:mark@gravityrenewables.com).

i. *FERC Contact:* Kristine Sillett at (202) 502-6575, or [kristine.sillett@ferc.gov](mailto:kristine.sillett@ferc.gov).

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at <https://ferconline.ferc.gov/FERCOOnline.aspx>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P-3472-024.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a

particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is ready for environmental analysis at this time.

The Council on Environmental Quality (CEQ) issued a final rule on July 15, 2020, revising the regulations under 40 CFR parts 1500-1518 that federal agencies use to implement NEPA (see Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 FR 43304). The Final Rule became effective on and applies to any NEPA process begun after September 14, 2020. An agency may also apply the regulations to ongoing activities and environmental documents begun before September 14, 2020, which includes the proposed Wyre Wynd Project. Commission staff intends to conduct its NEPA review in accordance with CEQ's new regulations.

1. *The Wyre Wynd Project consists of the following existing facilities:* (1) A 538-foot-long dam that includes: (a) A 473-foot-long central spillway with 2-foot-high flashboards, and one sluice gate; (b) a 55-foot-long east abutment that includes a headgate structure with five gates; and (c) a 10-foot-long west abutment; (2) a 333-acre impoundment at a normal elevation of 97.3 feet NGVD 29;<sup>1</sup> (3) a 170-foot-long forebay that includes: (a) An auxiliary spillway; and (b) two outlet gates; (4) a powerhouse intake that includes: (a) A trash rack structure with 2.6 inch bar spacing; and (b) a 16-foot-long penstock that extends to the main, 2.7-megawatt (MW) turbine-generator unit within the powerhouse; (5) a 450-foot-long tailrace that receives discharges from the main unit; (6) a second intake structure branching off the forebay that includes: (a) A 4-foot-diameter intake opening; (b) a trash rack structure with 1.5-inch bar spacing; and (c) a 45-foot-long penstock that extends to an in-line mini, 0.08-MW turbine-generator unit; (7) a 350-foot-long tailrace that receives discharges from the mini unit; (8) a 600-volt (V), 10-foot-long main generator lead, and a 600-V, 200-foot-long mini lead; (9) an 80-foot-long, 600-V transmission line; and (10) appurtenant facilities. The project generates an average of 11,000 megawatt-hours annually.

Aspinook Hydro proposes to: (1) Operate the project in a run-of-river mode with a 1-inch impoundment fluctuation band; (2) provide a continuous minimum flow of 84-cubic feet per second to the bypassed reach;

<sup>1</sup> National Geodetic Vertical Datum of 1929.

and (3) provide an Adaptive Management Plan for upstream and downstream fish passage.

m. 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 (*i.e.*, P-3472). At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

All filings must (1) bear in all capital letters the title "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Aspinook Hydro must file no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification (certification); (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of certification. Please note that the certification request must comply with 40 CFR 121.5(b), including documentation that a pre-

filing meeting request was submitted to the certifying authority at least 30 days prior to submitting the certification request. Please also note that the certification request must be sent to the certifying authority and to the Commission concurrently.

o. *Procedural Schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Deadline for filing comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions.	December 2021.
Deadline for filing reply comments.	January 2022.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

Dated: October 6, 2021.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2021-22226 Filed 10-12-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER22-16-000]

#### **Pattersonville Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

This is a supplemental notice in the above-referenced proceeding of Pattersonville Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket

authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 25, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: October 5, 2021.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2021-22172 Filed 10-12-21; 8:45 am]

**BILLING CODE 6717-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-R09-OAR-2021-0648; FRL-9096-03-R9]

### **Adequacy Status of Post-Attainment Year Motor Vehicle Emissions Budgets in 2006 PM<sub>2.5</sub> Serious Area Plan for South Coast, California**

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

**ACTION:** Notice of adequacy.

**SUMMARY:** The Environmental Protection Agency (EPA) is notifying the public that the Agency has found that the motor vehicle emissions budgets (“budgets”) for the year 2020 in the 2016 Air Quality Management Plan (AQMP) for the 2006 fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS) in the Los Angeles-South Coast Air Basin “Serious” nonattainment area (“South Coast 2006 PM<sub>2.5</sub> Serious Area Plan”) are adequate for transportation conformity purposes. The California Air Resources Board (CARB) submitted the South Coast 2006 PM<sub>2.5</sub> Serious Area Plan to the EPA on April 27, 2017, as a revision to the California State

Implementation Plan (SIP). Upon the effective date of this notice of adequacy, the Southern California Association of Governments (SCAG) and the U.S. Department of Transportation (DOT) must use the adequate budgets in future transportation conformity analyses.

**DATES:** This finding is effective October 28, 2021.

**FOR FURTHER INFORMATION CONTACT:** Ginger Vagenas, EPA, Region IX, Air Division AIR-2, 75 Hawthorne Street, San Francisco, CA 94105-3901; (415) 972-3964 or [vagenas.ginger@epa.gov](mailto:vagenas.ginger@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever “we,” “us,” or “our” is used, we mean the EPA.

Today’s notice is simply an announcement of a finding that we have

already made. By letter dated September 28, 2021, EPA Region IX notified CARB that the budgets in the South Coast 2006 PM<sub>2.5</sub> Serious Area Plan for the reasonable further progress (RFP) post-attainment milestone year of 2020 are adequate.<sup>1</sup> The finding is available at EPA’s conformity website: <https://www.epa.gov/state-and-local-transportation/conformity-adequacy-review-region-9>. We announced the availability of the South Coast 2006 PM<sub>2.5</sub> Serious Area Plan and related 2020 budgets on the EPA’s transportation conformity website on April 16, 2021. We received no comments in response to the adequacy review posting. The adequate motor vehicle emissions budgets are provided in the following table:

**ADEQUATE MOTOR VEHICLE EMISSIONS BUDGETS IN SOUTH COAST 2006 PM<sub>2.5</sub> SERIOUS AREA PLAN**  
[Annual average, tons per day]

Budget year	Directly emitted fine particulate matter (PM <sub>2.5</sub> )	Nitrogen oxides (NO <sub>x</sub> )	Volatile organic compounds (VOC)
2020 .....	20	152	77

Transportation conformity is required by Clean Air Act section 176(c). The EPA’s conformity rule requires that transportation plans, transportation improvement programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do conform.<sup>2</sup> Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS.

The criteria by which we determine whether a SIP’s budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4), which was promulgated in our August 15, 1997 final rule.<sup>3</sup> We further described our process for determining the adequacy of submitted SIP budgets in our July 1, 2004 final rule<sup>4</sup> and we used the information in these resources in making the adequacy determination announced in this notice.

The EPA approved the South Coast 2006 PM<sub>2.5</sub> Serious Area Plan on February 12, 2019.<sup>5</sup> In that action, we approved the budgets for the 2017 RFP

year and the 2019 attainment year. We also approved a trading mechanism for transportation conformity analyses that allows future decreases in NO<sub>x</sub> from on-road mobile sources to offset any on-road increases in PM<sub>2.5</sub>, based on specified trading ratios.<sup>6</sup> The South Coast Air Quality Management District (SCAQMD) indicated that the trading mechanism was included in the 2016 AQMP for approval by the EPA for use by SCAG in conformity determinations for the 2006 PM<sub>2.5</sub> NAAQS for analysis years after the attainment year of 2019.<sup>7</sup>

Consistent with the requirements set out in our implementation rule for the PM<sub>2.5</sub> NAAQS,<sup>8</sup> we did not act on the RFP budget for the post-attainment year of 2020 when we approved the South Coast 2006 PM<sub>2.5</sub> Serious Area Plan. As we noted in our proposed approval of the South Coast 2006 PM<sub>2.5</sub> Serious Area Plan, it is not necessary to demonstrate conformity for 2020 or to use the 2020 budgets until such time as the area fails to attain the 2006 24-hour PM<sub>2.5</sub> NAAQS.

On September 16, 2020, the EPA determined that the Los Angeles-South

Coast Air Basin had failed to attain the 2006 24-hour PM<sub>2.5</sub> NAAQS by its December 31, 2019 attainment date.<sup>9</sup> Because of that failure to attain, we evaluated the submitted budgets for 2020 in the South Coast 2006 PM<sub>2.5</sub> Serious Area Plan to determine whether they are adequate for conformity purposes.

Pursuant to 40 CFR 93.104(e), within two years of the effective date of this notice, SCAG and the DOT will need to demonstrate conformity. For demonstrating conformity to the budgets in this plan, the on-road motor vehicle emissions from implementation of the transportation plan or program should be projected consistently with the budgets in this plan, *i.e.*, by taking the emissions results derived from CARB’s EMFAC model (short for Emission FACTor) and then rounding the emissions up to the nearest ton. The previously approved trading mechanism may be used in connection with the new budgets.

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

<sup>1</sup> Letter from Elizabeth Adams, Director, Air and Radiation Division, EPA Region IX, to Richard Corey, Executive Officer, CARB.

<sup>2</sup> 40 CFR part 93, subpart A.

<sup>3</sup> 62 FR 43780, 43781-43783.

<sup>4</sup> 69 FR 40004, 40038.

<sup>5</sup> 84 FR 3305.

<sup>6</sup> 83 FR 49872, 49891-49894 (October 3, 2018).

<sup>7</sup> Letter dated March 14, 2018, from Philip Fine, Deputy Executive Officer, Planning, Rule Development, and Area Sources, SCAQMD, to Amy Zimpfer, Associate Director, Air Division, EPA

Region IX, regarding trading ratios among PM<sub>2.5</sub> precursors.

<sup>8</sup> “Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements Rule,” 81 FR 58010 (August 24, 2016).

<sup>9</sup> 85 FR 57733.

Dated: October 5, 2021.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2021-22160 Filed 10-12-21; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OMS-2021-0325; FRL- 9068-01-OMS]

### Proposed Information Collection Request; Comment Request; Improving Customer Experience (OMB Circular A-11, Section 280 Implementation)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), Improving Customer Experience (OMB Circular A-11, Section 280 Implementation) (EPA ICR Number 2687.01, OMB Control Number 2030-NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is request for approval of a new collection. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before December 13, 2021.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA-HQ-OMS-2021-0325 online using [www.regulations.gov](http://www.regulations.gov) (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Toni Krasnic, Customer Advocacy and Communications Division, Office of Customer Advocacy, Policy and Portfolio Management, Environmental Protection Agency, 1200 Pennsylvania

Ave. NW, Washington, DC 20460; telephone number: 202-564-0984; email address: [krasnic.toni@epa.gov](mailto:krasnic.toni@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](http://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 <https://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

**Abstract:** Creating a modern, streamlined and responsive customer experience means: Raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership. To support this, OMB Circular A-11 Section 280 established government-wide standards for mature customer experience organizations in government and measurement. To enable Federal programs to deliver the experience

taxpayers deserve, they must undertake three general categories of activities: Conduct ongoing customer research, gather and share customer feedback, and test services and digital products.

These data collection efforts may be either qualitative or quantitative in nature or may consist of mixed methods. Additionally, data may be collected via a variety of means, including but not limited to electronic or social media, direct or indirect observation (*i.e.*, in person, video and audio collections), interviews, questionnaires, surveys, and focus groups. EPA will limit its inquiries to data collections that solicit strictly voluntary opinions or responses. Steps will be taken to ensure anonymity of respondents in each activity covered by this request.

The results of the data collected will be used to improve the delivery of Federal services and programs. It will include the creation of personas, customer journey maps, and reports and summaries of customer feedback data and user insights. It will also provide government-wide data on customer experience that can be displayed on [performance.gov](http://performance.gov) to help build transparency and accountability of Federal programs to the customers they serve.

EPA will collect this information by electronic means when possible, as well as by mail, fax, telephone, technical discussions, and in-person interviews. EPA may also utilize observational techniques to collect this information.

**Form Numbers:** None.

**Respondents/affected entities:**

Collections will be targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future. For the purposes of this request, "customers" are individuals, businesses, and organizations that interact with a Federal Government agency or program, either directly or via a Federal contractor. This could include individuals or households; businesses or other for-profit organizations; not-for-profit institutions; State, local or tribal governments; Federal government; and Universities.

**Respondent's obligation to respond:** Voluntary.

**Estimated number of respondents:** 2,001,550 (total).

**Frequency of response:** Varies.

**Total estimated burden:** 101,125 hours (per year). Burden is defined at 5 CFR 1320.03(b).

**Total estimated cost:** \$0 (per year), includes \$0 annualized capital or operation & maintenance costs.

*Changes in estimates:* This is a new collection.

**Krysti Wells,**

*Director, Office of Customer Advocacy, Policy and Portfolio Management.*

[FR Doc. 2021–22224 Filed 10–12–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2012–0578; FRL 8929–01–OLEM]

### Proposed Information Collection Request; Comment Request: Technical Assistance Needs Assessments (TANAs) at Superfund Remedial or Removal Sites

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency is planning to submit an information collection request (ICR), “Technical Assistance Needs Assessments” (EPA ICR No. 2470.03, OMB Control No. 2050–0211) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described in **SUPPLEMENTARY INFORMATION**. This document is a proposed renewal of the ICR, which is currently approved through May 31, 2022. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before December 13, 2021.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–SFUND–2012–0578 to: (1) EPA online using [www.regulations.gov](http://www.regulations.gov) (our preferred method), by email to [koller.callie@epa.gov](mailto:koller.callie@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov). Address comments to OMB Desk Officer for EPA.

EPA’s policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other

information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:**

Callie Koller, Assessment and Remediation Division, 6560–50–P, Office of Superfund Remediation and Technology Innovation, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 703–603–0044; email address: [koller.callie@epa.gov](mailto:koller.callie@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](http://www.regulations.gov). Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room is closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone and webform. For further information about the EPA’s public docket, Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>. The telephone number for the Docket Center is 202–566–1744.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

**Abstract:** This ICR covers the usage of TANAs to solicit feedback from members of the affected community in order to determine how the community

is receiving technical information about a Superfund remedial or removal site; whether the community requires additional assistance in order to understand and respond to site-related technical information; and whether there are organizations in the community that are interested or involved in site-related issues and capable of acting as an appropriate conduit for technical assistance services to the affected community. EPA estimates that for each TANA it conducts, 20 individuals are interviewed per site via direct face-to-face interaction, phone, or virtual call at five sites, with an approximate total of 100 individuals interviewed each year. Responses to the collection of information are voluntary and the names of respondents will be protected by the Privacy Act. The information obtained from each TANA will help ensure the community’s needs for technical information assistance are defined as early in the remedial/removal process as possible and enable meaningful community involvement in the Superfund decision-making process. Additionally, the TANA process produces a blueprint for designing a coordinated effort to meet the community’s needs for additional technical assistance while minimizing the overlap of services provided.

*Form Numbers:* None.

*Respondents/affected entities:*

Respondents to this ICR are local, state, and tribal government officials, potentially responsible party (PRP) representatives, community organizations, businesses and individuals who may be impacted by a Superfund site or a removal action lasting 120 days or longer. These community members voluntarily participate in community involvement activities throughout the remedial phase of the Superfund process. SIC Codes are OSHA’s Standard Industrial Classification System used to identify different groups. Local/state governments are categorized as Division J: Public Administration, Major Group 95: Administration of Environmental Quality, subgroup 9511: Air and Water Resource and Solid Waste Management. The other respondents, community members, do not have a SIC Code as they do not constitute an industry.

*Respondent’s obligation to respond:* Voluntary.

*Estimated number of respondents:* 100. (20 per TANA at five sites).

*Frequency of response:* Once during either a removal cleanup lasting 120 days or longer or a remedial cleanup of a site. Each TANA interview is expected

to last approximately one hour in duration.

*Total estimated burden:* 100 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* \$2,587 (per year), includes \$0 annualized capital or operation & maintenance costs.

*Changes in estimates:* A decrease of 450 hours in the total respondent burden hours is estimated during the three-year period as compared to the last collection period. The number of individual TANAs sharply declined, from 25 to five per year, thus decreasing the overall number of respondents voluntarily participating in this information request.

**Larry Douchand,**

*Director, Office of Superfund Remediation and Technology Innovation.*

[FR Doc. 2021-22253 Filed 10-12-21; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

[EPA-HQ-OAR-2021-0299; FRL-8193-02-OAR]

**Notice of Request for Approval of Alternative Means of Emission Limitation**

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

**ACTION:** Notice and request for comments.

**SUMMARY:** On April 21, 2020, Flint Hills Resources (FHR) requested an alternative means of emission limitation (AMEL) under the Clean Air Act (CAA) in order to utilize a leak detection sensor network (LDSN) with a detection response framework (DRF) at its West and East Refineries located in Corpus Christi, Texas. In this document, the EPA is soliciting comment on all aspects of the AMEL request and resulting alternative leak detection and repair (LDAR) requirements that are necessary to achieve a reduction in emissions of volatile organic compounds (VOC) and hazardous air pollutants (HAPs) at least equivalent to the reduction in emissions required by the applicable LDAR standards. This document also presents and solicits comment on all aspects of a framework for future LDSN-DRF AMEL requests, which would afford the EPA the ability to evaluate those requests in a more efficient and streamlined manner.

**DATES:** *Comments.* Comments must be received on or before November 29, 2021.

*Public hearing:* If anyone contacts us requesting a public hearing on or before

October 18, 2021, the EPA will hold a virtual public hearing on October 28, 2021. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public hearing.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA-HQ-OAR-2021-0299, 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](mailto:a-and-r-docket@epa.gov). Include Docket ID No. EPA-HQ-OAR-2021-0299 in the subject line of the message.
- *Fax:* (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2021-0299.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2021-0299, 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. 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 our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov/> or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** For questions about this action, contact Ms. Karen Marsh, Sector Policies and Programs Division (E143-05), Office of Air Quality Planning and Standards

(OAQPS), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-1065; fax number: (919) 541-0516; and email address: [marsh.karen@epa.gov](mailto:marsh.karen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

*Participation in virtual public hearing.* Please note that the EPA is deviating from its typical approach for public hearings because the President has declared a national emergency. Due to the current Centers for Disease Control and Prevention (CDC) recommendations, as well as state and local orders for social distancing to limit the spread of COVID-19, the EPA cannot hold in-person public meetings at this time.

To request a virtual public hearing, contact the public hearing team at (888) 372-8699 or by email at [SPPDpublichearing@epa.gov](mailto:SPPDpublichearing@epa.gov). If requested, the virtual hearing will be held on October 28, 2021. The hearing will convene at 9:00 a.m. Eastern Time (ET) and will conclude at 3:00 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details at <https://www.epa.gov/stationary-sources-air-pollution/alternative-means-emission-limitation-leak-detection-and-repair>.

If a public hearing is requested, the EPA will begin pre-registering speakers for the hearing upon publication of this document in the **Federal Register**. To register to speak at the virtual hearing, please use the online registration form available at <https://www.epa.gov/stationary-sources-air-pollution/alternative-means-emission-limitation-leak-detection-and-repair> or contact the public hearing team at (888) 372-8699 or by email at [SPPDpublichearing@epa.gov](mailto:SPPDpublichearing@epa.gov). The last day to pre-register to speak at the hearing will be October 25, 2021. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at: <https://www.epa.gov/stationary-sources-air-pollution/alternative-means-emission-limitation-leak-detection-and-repair>.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule.

Each commenter will have 5 minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) by emailing it to Karen Marsh, email address:

*marsh.karen@epa.gov*. The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at <https://www.epa.gov/stationary-sources-air-pollution/alternative-means-emission-limitation-leak-detection-and-repair>. While the EPA expects the hearing to go forward as set forth above, if requested, please monitor our website or contact the public hearing team at (888) 372-8699 or by email at *SPPDpublichearing@epa.gov* to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of a translator or a special accommodation such as audio description, please pre-register for the hearing with the public hearing team at (888) 372-8699 or by email at *SPPDpublichearing@epa.gov* and describe your needs by October 20, 2021. The EPA may not be able to arrange accommodations without advance notice.

**Docket.** The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2021-0299. 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. Publicly available docket materials are available electronically in *Regulations.gov*.

**Instructions.** Direct your comments to Docket ID No. EPA-HQ-OAR-2021-0299. 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 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 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 is temporarily suspending its Docket Center and Reading Room for public visitors to reduce the risk of transmitting COVID-19. Written comments submitted by mail are temporarily suspended and no hand deliveries will be accepted. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov/>. 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 CDC, local area health departments, and our Federal partners so that we 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* section 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-2021-0299. Note that written comments containing CBI and submitted by mail may be delayed and no hand deliveries will be accepted.

**Acronyms and abbreviations.** We use multiple acronyms and terms in this document. While this list may not be exhaustive, to ease the reading of this document and for reference purposes, the EPA defines the following terms and acronyms here:

AMEL	alternative means of emission limitation
AVO	audio, visual, or olfactory
AWP	Alternative Work Practice
CAA	Clean Air Act
CBI	Confidential Business Information
CDC	Center for Disease Control and Prevention
CDX	Central Data Exchange
CFR	Code of Federal Regulations
DRF	detection response framework
DT	detection threshold
DTA	average DT value
DTU	upper limit of the detection threshold band
eDTA	DTA for equivalency
EPA	Environmental Protection Agency
EST	eastern standard time
FHR	Flint Hills Resources
FID	flame ionization detector

HAPs hazardous air pollutants  
 HC hydrocarbon  
 LDAR leak detection and repair  
 LDSN leak detection sensor network  
 LDSN-DRF leak detection sensor network-  
 detection response framework  
 OAQPS Office of Air Quality Planning and  
 Standards  
 OGI optical gas imaging  
 PID photoionization detector  
 ppb parts per billion  
 ppm parts per million  
 ppmv parts per million by volume  
 PSL potential source location  
 QA/QC quality assurance/quality control  
 VOC volatile organic compounds

*Organization of this document.* The information in this document is organized as follows:

- I. Statutory and Regulatory Background
  - A. LDAR Requirements
  - B. AMEL

- II. Request for AMEL
  - A. FHR West Refinery and East Refinery LDSN-DRF
  - B. EPA’s Analysis of FHR’s AMEL Request
- III. EPA Framework for Streamlining Evaluation of Future LDSN-DRF AMEL Requests
- IV. AMEL for the Mid-Crude and Meta-Xylene Process Units at the FHR West Refinery
- V. Request for Comments

**I. Statutory and Regulatory Background**

*A. LDAR Requirements*

Numerous EPA air pollutant control standards require specific work practices for LDAR. These work practices require the periodic inspection of designated components for leaks. The work practice currently employed requires the use of an instrument which

meets the requirements specified in Method 21 of appendix A-7 of 40 CFR part 60 (hereafter referred to as EPA Method 21). The portable instrument is used to detect leaks of VOC (including organic HAPs) at the leak interface of individual components. The work practice requires periodic monitoring of each component. A “leak” is generally defined as an exceedance of a specified concentration in parts per million (ppm), as measured with EPA Method 21.<sup>1</sup>

In their request, FHR cites various LDAR requirements in 40 CFR parts 60, 61, and 63, which apply to the Mid-Crude and Meta-Xylene process units at the FHR West Refinery in Corpus Christi, Texas. These requirements are included in Table 1.<sup>2</sup>

**TABLE 1—SUMMARY OF APPLICABLE LDAR RULES THAT MAY APPLY TO THE PROCESS UNITS AT THE FHR CORPUS CHRISTI WEST REFINERY**

Applicable rules with LDAR requirements	Emission reduction required and rule citation	Provisions for AMEL
40 CFR part 60, subpart VV (New Source Performance Standards (NSPS VV)).	60.482-2, 60.482-3, 60.482-7, 60.482-8, and 60.482-10 .....	60.484.
40 CFR part 60, subpart VVa (NSPS VVa) .....	60.482-2a, 60.482-3a, 60.482-7a, 60.482-8a, and 60.482-10a.	60.484a.
40 CFR part 60, subpart GGG (NSPS GGG) ...	60.482-2, 60.482-3, 60.482-7, 60.482-8, and 60.482-10, by reference from 60.592.	60.484.
40 CFR part 60, subpart GGGa (NSPS GGGa)	60.482-2a, 60.482-3a, 60.482-7a, 60.482-8a, and 60.482-10a, by reference from 60.592a.	60.484a.
40 CFR part 60, subpart QQQ (NSPS QQQ) ...	60.692-2 and 60.692-5 .....	60.694.
40 CFR part 61, subpart FF (Benzene Waste Operations NESHAP (BWON)).	61.343, 61.344, 61.345, 61.346, 61.347, and 61.349 .....	61.353(a); also see 61.12(d).
40 CFR part 63, subpart F (Hazardous Organic NESHAP (HON)).	63.102 .....	63.162(b) by reference.
40 CFR part 63, subpart H (HON) .....	63.163, 63.164, 63.168, 63.172, 63.173, 63.174, 63.175, and 63.178.	63.162(b); 63.177.
40 CFR part 63, subpart CC (Refinery Maximum Achievable Control Technology (MACT)).	* FHR notes that the process units are complying with the requirements in NSPS VV and VVa, where appropriate to comply with Refinery MACT.	

The applicable rules shown in Table 1 require periodic monitoring of each regulated component (e.g., pump, valve, connector, closed vent system, etc.) with an EPA Method 21 instrument. The frequency of such monitoring may vary from monthly to every four years depending on the subpart and the component being monitored. If a leak is found on a component, the component is tagged and repaired within a specified time.

The current LDAR work practice involves placing an EPA Method 21 instrument probe at the leak interface (seal) of a component and registering a

VOC concentration (which includes the concentration of organic HAP).<sup>3</sup> The EPA has established concentration thresholds which define a leak. The EPA’s leak definition varies from 500 ppm to 10,000 ppm depending on the type of component and the specific subpart. If the concentration registered by the EPA Method 21 instrument exceeds the applicable leak definition, then the component must be repaired or replaced.<sup>4</sup> For some component types (e.g., components in heavy liquid service), sensory monitoring or audio, visual, or olfactory (AVO) monitoring is required. A leak identified with AVO

must also be repaired or replaced within a specified time.

*B. AMEL*

The LDAR requirements in each of the subparts listed in Table 1 were established as work practice standards pursuant to CAA sections 111(h)(1) or 112(h)(1). For standards established according to these provisions, CAA sections 111(h)(3) and 112(h)(3) allow the EPA to permit the use of an AMEL by a source if, after notice and opportunity for comment,<sup>5</sup> it is established to the Administrator’s satisfaction that such an AMEL will

<sup>1</sup> As an alternative to this standard work practice, the Alternative Work Practice (AWP) located at in 40 CFR 60.18 and 40 CFR 63.11 may be used. The AWP employs the use of optical gas imaging (OGI) for most leak detection surveys, with one annual EPA Method 21 survey. When using OGI, a “leak” is defined as any emissions imaged by the OGI instrument.

<sup>2</sup> EPA prepared Table 1 using information provided in the request, corrected as appropriate based on its own review of the regulations. However, the EPA has not independently verified whether Table 1 includes all of the regulatory requirements with which these process units must comply.

<sup>3</sup> See section 8.3.1 of Method 21 of appendix A-7 of 40 CFR part 60.

<sup>4</sup> Replacement may include the use of low-emissions valves or valve packing, where commercially available.

<sup>5</sup> CAA section 111(h)(3) requires that the EPA provide an opportunity for a hearing.



achieve emissions reductions at least equivalent to the reductions required under the applicable CAA section 111(h)(1) or 112(h)(1) standards. As noted in Table 1 of this document, many of the identified NSPS and NESHAP also include specific regulatory provisions allowing sources to request an AMEL.

## II. Request for AMEL

### A. FHR West Refinery and East Refinery LDSN-DRF

In this section, the EPA is providing a summary of the AMEL request submitted by FHR. The AMEL that the EPA is proposing is described in section IV of this preamble. As described in section II.B of this preamble, the proposed AMEL contains specific changes to the AMEL request submitted by FHR.

The LDSN-DRF proposed by FHR consists of a continuously operated LDSN and specialized facility practices and procedures defined in a DRF. Leak detection sensor nodes are installed to provide coverage of all LDAR applicable components in the process unit. The short-term excursion of an individual sensor's output above its baseline level is called a "peak", which represents a potential emission detection. A web-based analytics platform automatically acquires and analyzes the real-time data from the sensor nodes, along with wind and facility information, to issue a potential source location (PSL) notice for this "peak". The PSL identifies a location of interest where there is a possible leak. The size of the PSL can vary depending on the data collected by the system. The facility then deploys a team to locate and repair the emission source within the PSL (DRF).

Implementation of the requested LDSN-DRF is intended to replace the periodic monitoring of all components in a process unit. The LDSN-DRF focuses on the timely detection of significant emissions and the facility's ability to more rapidly mitigate leaks. Therefore, FHR seeks an alternative means of complying with the EPA Method 21 and AVO requirements in the subparts summarized in Table 1.

In its April 21, 2020, request, FHR indicates that it plans to install and operate a LDSN in process units subject to LDAR requirements at its West and East Refineries located in Corpus Christi, Texas. FHR has the requested LDSN installed in the FHR West Refinery Mid-Crude and Meta-Xylene process units currently. Those installations were part of a multi-year Cooperative Research and Development Agreement (CRADA) between FHR,

Molex, and the EPA Office of Research and Development (ORD) Center for Environmental Measurement and Modeling.<sup>6</sup> FHR has requested broad approval of the AMEL for the LDSN-DRF system for all process units at the FHR West and East Refineries through this application. FHR states that if broad approval is provided, they would use a phased approach to install a LDSN in additional process units across the FHR West and East Refineries. While FHR is requesting to generally utilize the LDSN-DRF in place of the required EPA Method 21 and AVO monitoring, FHR does state there may be process units, or portions of process units, where the current work practice would continue. According to FHR, these situations could be based on the following examples: Phased deployment/installation schedules for sensors, longer distance between LDAR components, unfavorable cost-benefit analysis, chemical detectability, equipment location remoteness, or other considerations. FHR's request states that records will be maintained to clearly demonstrate which portions of the individual process unit(s) are complying with EPA Method 21, the AWP, and the LDSN-DRF AMEL.

#### 1. LDSN

As previously discussed, the LDSN consists of leak detection sensor nodes that are positioned within a facility process unit and continuously monitor for leaks. The sensors record data approximately once every second. Any short-term excursion of an individual sensor's output above its baseline (*i.e.*, peak) represents a potential emission detection. FHR states in their request that the most critical elements for demonstrating equivalency with the EPA Method 21 work practice include sensor selection and sensor node placement.

Sensor selection is based on the responsivity of the sensor to the chemicals of interest. According to FHR's request, the sensors used in the FHR LDSN will have response factors of less than or equal to 10 for the targeted LDAR applicable process streams. The response factor is the ratio of the known concentration of a compound to the measured reading of an appropriately calibrated sensor. The higher the response factor, the lower the sensitivity of the sensor to the chemical.<sup>7</sup>

<sup>6</sup> During the CRADA, FHR remained subject to the LDAR requirements in the applicable subparts, including the EPA Method 21 and AVO monitoring.

<sup>7</sup> If the process stream is a mixture, the response factor is calculated for the average composition of the process stream. Average stream compositions may be based on sample data, feed or product

Following the same response factor threshold required by EPA Method 21, FHR suggests LDAR applicable process streams and their components with average response factors greater than 10 for the selected sensor are not eligible for the LDSN alternative and must instead continue to comply with the applicable LDAR requirements.

FHR further states sensor node placement will affect the detection threshold (DT) of an individual sensor, as in general, leaks that are closer to a sensor can be detected at smaller emission rates than leaks that are farther away from the source. The DT is a translation of concentration measurements from EPA Method 21 to the ability of the sensor to detect the leak. FHR's request states that sensor node placement will follow a site assessment, design, optimization, and installation process such that all components within the LDSN boundaries that are subject to EPA Method 21 monitoring in the applicable subparts would have sensor coverage. This also includes sensor coverage for elevated components and those located on multi-level structures.

As described in the CRADA report,<sup>8</sup> the team conducted a series of tests to establish procedures aimed at optimizing sensor node placement so that any leak within the LDSN perimeter would be detected by one or more sensors. Instead of assigning a single method detection limit like most analytical test methods, the LDSN sensors have a range of detection thresholds ("DT band") that can be represented with EPA Method 21-type ppm values across the sensor coverage radius. As explained in the CRADA report, the DT band was derived from the measurement with EPA Method 21 of known mass rate releases of isobutylene and an array of sensors at different distances and heights. The DT of an individual sensor is dependent on several factors, including the size of leak, the distance a leak is from the sensor, the sensitivity of the detector, the responsiveness of the chemicals of interest, and the wind conditions. For each sensor, there is a DT band across the sensor coverage radius. The controlled-release trials conducted through the CRADA indicate that an isobutylene leak of 1.42 g/hr or greater should be detectable within a 50-foot radius of the sensor node.<sup>9</sup>

specifications, or process knowledge. Response factors may be based on published data, test results, or generally accepted calculation methodologies.

<sup>8</sup> See Docket ID No. EPA-HQ-OAR-2021-0299.

<sup>9</sup> See section 3 of CRADA report located at Docket ID No. EPA-HQ-OAR-2021-0299.

For purposes of modeling the effectiveness of the LDSN–DRF system compared to the EPA Method 21 program, Molex utilized different estimates of the center point of the DT band, referred to as average DT values (DTA), and accounted for distance from the sensor to the leak. This allowed FHR to determine which DTA is necessary, and at what distance between sensors, for equivalence to be achieved through the model. The models for the Meta-Xylene process unit were shown to be equivalent or better than the EPA Method 21 work practice for all modeled scenarios, with significant emissions reductions observed when distance effects were incorporated into the simulations. The Mid-Crude process unit also demonstrated equivalency for two of the three emission control scenarios modeled. Through the results of these simulations, FHR is requesting to use a DTA for equivalency (eDTA) of 11,250 ppm in the Meta-Xylene process unit and 12,500 ppm in the Mid-Crude process unit at the FHR West Refinery because these values resulted in equivalent emission reductions from the LDSN–DRF system as the EPA Method 21 program.<sup>10</sup> More details of the results of the simulations can be found in section 4 of the CRADA report.<sup>11</sup>

In addition to the eDTA, FHR's request includes the upper limit of the detection threshold (DTU), which is the DT value that represents the smallest leak that could be detected by the sensor network at the furthest distance away from the sensor. The DTU was not used directly in the simulations discussed above. Instead, the DTU was calculated from the eDTA using the following equation:  $DTA = (DTU + DTL) / 2$ , where DTL represents the lower value of the DT band. Because the DTL can be very small, particularly when a sensor is right next to the leak, FHR and Molex used a conservative estimate of 1.5 times the DTA to calculate the DTU required to achieve equivalency in total emissions reductions. FHR indicated this DTU is useful for establishing the design criteria for the number and placement of sensors and can provide verification of performance through EPA Method 21 sampling of components via spot checks.

According to FHR's request, a DTU of 18,000 ppm was used in Molex's simulations as the DTU required for equivalency and would indicate that all

leaks greater than or equal to 18,000 ppm would trigger a PSL notification to facility personnel. In addition to the leaks above the DTU, additional leaks within the DT band would trigger a PSL notification depending on the distance from a sensor node and meteorological conditions. As described below, FHR defines sensor coverage by the overall system eDTA and DTU values listed below, with individual sensor nodes having a 50-foot radius.

In summary, FHR requests the following eDTA and DTU values for the FHR West and East Refineries:

- Meta-Xylene process unit at FHR West Refinery: eDTA = 11,250 ppm; DTU = 18,000 ppm;
- Mid-Crude process unit at FHR West Refinery: eDTA = 12,500 ppm; DTU = 18,000 ppm; and
- All other process units at FHR West and East Refineries: eDTA = 12,000 ppm; DTU = 18,000 ppm.

Changes to process equipment are common within process units. These may include installation of new equipment, modifications to existing equipment, or changes in service. These types of changes go through a change management process that includes an environmental review to determine potential changes to regulatory applicability and requirements. FHR states that they will use their existing management of change processes to review future changes to process equipment and systems in the process units. This review will include determining if sensor selection and placement remains adequate, or if updates or additional sensors are necessary to ensure coverage by the system maintains the eDTA and DTU values requested. FHR states that this management of change process is a basic foundational process that is used throughout the refining, petrochemical, and chemical industries.

## 2. LDSN Quality Assurance/Quality Control (QA/QC)

In addition to sensor selection and sensor placement, FHR's request outlines several QA/QC measures specific to the requested LDSN. The following paragraphs describe these measures as outlined in FHR's request.

**Initial Calibration and Set-up.** Prior to deployment, FHR's request states that each sensor will be calibrated by the manufacturer. Once installed, each sensor will be tested for responsivity and wireless communication by challenging it with a standard isobutylene gas or other appropriate standard. The test results from this initial calibration are maintained in the software package that FHR plans to use

for the LDSN–DRF system, called mSyte.

**Periodic Responsivity Test.** In their request, FHR states the sensitivity of each installed sensor will be measured and recorded at least quarterly by conducting a "bump test" using an isobutylene standard. According to FHR, a successful bump test is a response of the sensor that exceeds 50 percent of the nominal value of the standard.

**Continuous Sensor Check.** FHR proposes to continuously monitor each sensor for power outage, loss of data transmission, and sensor baseline levels. The mSyte system will contain the current status of each sensor, as well as historical data. The mSyte system will send a notification to facility personnel when any failure or significant deviation from preset threshold values occurs. FHR states that failed sensors will be reset, repaired, or replaced.

**Meteorological Data.** The FHR West and East Refineries have an existing wind sensor that FHR states will be checked at the same frequency as the bump tests of the LDSN sensor nodes to ensure the wind sensor is properly oriented to the north. Wind data collected from this wind sensor will be compared to data from the meteorological station located at the FHR refineries at least once per calendar year. The status of the meteorological station is monitored continuously through mSyte system for possible loss of communication.

**System Operational Availability.** As proposed by FHR, the LDSN is a continuous monitoring system, with each sensor recording approximately one reading per second. FHR states that these high data collection rates help optimize the LDSN's detection capability, thus providing more targeted PSLs and more efficient leak identification during the DRF inspection process. Further, FHR notes that system maintenance, sensor checks, sensor failures, or other technical reasons may result in partial downtime of the LDSN system. FHR's request states the average operational downtime of the LDSN system will not exceed 10 percent. When issues arise, FHR intends to make repairs to the LDSN system as soon as practicable.<sup>12</sup>

**Sensor Data.** FHR proposes a compliance assurance method that the EPA or state inspectors could use to verify operation effectiveness of the LDSN system using random EPA Method 21 sampling. FHR's proposed random sampling would indicate a

<sup>10</sup> See Table B–3 of the CRADA report located at Docket ID No. EPA–HQ–OAR–2021–0299. EPA Method 21 monitoring schedule used for modeling was annual for connectors, monthly for pumps, and quarterly for valves and other components.

<sup>11</sup> See section 4 of CRADA report located at Docket ID No. EPA–HQ–OAR–2021–0299.

<sup>12</sup> FHR's request does not specify a clear deadline by when repairs would be made.

compliance issue if a statistically significant number of EPA Method 21 readings are greater than 1.2 times the DTU on LDAR applicable components within the LDSN boundary where active PSL leak investigations are not pending or ongoing. FHR suggests the factor of 1.2 times the DTU represents the variability that occurs in the EPA Method 21 measurement process.

3. DRF

The LDSN system automatically detects, categorizes, and approximates the location of emissions in the monitored process unit based on sensor location, sensor output and meteorological measurements. The LDSN notifies selected facility personnel of detected emission anomalies so that appropriate action can be taken under the DRF. This section describes FHR's requested DRF.

The DRF includes the work practices that are employed to identify the specific source of emissions and to make appropriate repairs. For every notification from the LDSN, a PSL with a discrete serialized identification number is provided to facility operators. This PSL is a visual representation of the area in which there is high probability that fugitive emissions are present, thus providing a targeted area for leak investigation.

The purpose of the PSL investigation is to identify the source of emissions needing repairs. Investigations are initiated within three days of a PSL notification. FHR intends to utilize various emissions screening methods in order to locate the emissions source(s). This may include handheld portable equipment such as VOC analyzers, optical gas imaging (OGI), or other appropriate detectors for the chemicals of interest. Once identified, EPA Method 21 is performed on the emissions source to document the maximum concentration reading, and repairs begin. Each component identified with a maximum concentration reading greater than the leak definitions specified in Table 2 is considered a leak needing repair. The leak definitions in the table follow those defined in the applicable LDAR regulations for the process units at the FHR West and East Refineries. It is important to note that FHR's request

does not include conducting EPA Method 21 on every LDAR-applicable component in the PSL during the investigation. Instead, FHR proposes that when at least one component has been identified with a maximum concentration greater than or equal to 3,000 ppm, this component is presumed to be the emissions source and no further investigation is required. In this case, once the leak has been successfully repaired, the PSL is closed.

In addition, some PSL notifications are triggered by multiple smaller leaks that are close together. To account for this potential leak cluster effect, FHR proposes that when at least three components have been identified with a maximum concentration less than 3,000 ppm but greater than the applicable leak definition as specified in Table 2, that collection of components is presumed to be the emissions source and no further investigation is required. Once those smaller leaks are successfully repaired, the PSL is closed. This threshold of 3,000 ppm was chosen by FHR based on EPA ORD's model that took into consideration the occurrence of small leaks in a cluster generating a PSL. In EPA ORD's model, a single leak greater than or equal to 3,000 ppm or three leaks with concentrations less than 3,000 ppm was found equivalent in 95 percent of the model simulations, and thus equivalent to the current work practice.

Where the emission source is not identified after 30 minutes of active searching during the initial PSL investigation, FHR proposes to stop the investigation for seven days. During these seven days, the LDSN will continue to collect data for analysis, which helps refine the PSL. Within seven days of the initial investigation, a second investigation will be conducted. If this second investigation does not identify the emission source, and the PSL detection level increases to twice the initial level, a PSL update notification is sent using the increased detection level, and a new investigation is started within three days. This step is repeated each time the leak is not located. FHR further proposes that if the emission source has not been identified and the PSL has not updated within 14 days or more, the PSL is automatically closed. Finally, if after 90 days the

emission source is not identified and the PSL has not updated, FHR states that one final screening will be conducted and the PSL will be closed with an indication that no leak source was found.

In summary, FHR proposes that a PSL is closed when one of the following criteria is met:

- One or more leaks  $\geq 3,000$  ppm is found and repaired;
- Three or more leaks  $< 3,000$  ppm are found and repaired;
- Malfunction, startup, or shutdown activity or other authorized emissions are identified and documented;
- Components on delay of repair have been repaired and monitored to verify repair;
- A leak source has not been identified and the PSL has not updated within 14 days or more; or
- A leak source has not been identified after multiple investigations and it has been 90 days without the unidentified potential leak source worsening (*i.e.*, PSL detection level increasing to twice the previous detection level).

After a PSL is closed, FHR's request states that if the LDSN shows new positive detections above the threshold, a new PSL is generated and notification is issued. This starts a new DRF investigation process.

FHR's request states that the applicable leak repair requirements in 40 CFR part 60, subparts VV, VVa, GGG, GGGa, and QQQ, 40 CFR part 61, subpart FF, and 40 CFR part 63, subparts H and CC would remain in effect for components subject to LDAR (*i.e.*, pumps, valves, connectors, and agitators). These requirements include an initial repair attempt within five days of leak confirmation with EPA Method 21 maximum concentration reading above the applicable leak definition, and final successful repair within 15 days of leak detection. Additionally, delay of repair, as allowed in the applicable subparts, would still apply to leaks detected with the LDSN-DRF system.

Table 2 summarizes the applicable leak definitions for various component types, including non-LDAR components that are identified as leaking by the LDSN-DRF system.

TABLE 2—APPLICABLE LEAK DEFINITIONS FOR COMPONENTS IN THE LDSN-DRF SYSTEM

LDSN leak source classification	Leak source component class	LDSN leak definition	Initial repair attempt	Final effective repair	Final repair confirmation
LDAR Component Leak—"LDAR".	Agitator—FF .....	500 ppm .....	5 days .....	15 days .....	<500 ppm.

TABLE 2—APPLICABLE LEAK DEFINITIONS FOR COMPONENTS IN THE LDSN–DRF SYSTEM—Continued

LDSN leak source classification	Leak source component class	LDSN leak definition	Initial repair attempt	Final effective repair	Final repair confirmation
LDAR Component Leak—“LDAR”.	Agitator—VV .....	2,000 ppm .....	5 days .....	15 days .....	<2,000 ppm.
LDAR Component Leak—“LDAR”.	Agitator—HON .....	10,000 ppm .....	5 days .....	15 days .....	<10,000 ppm.
LDAR Component Leak—“LDAR”.	Compressor—HON .....	500 ppm .....	5 days .....	15 days .....	<500 ppm.
LDAR Component Leak—“LDAR”.	Compressor—non HON .....	2,000 ppm .....	5 days .....	15 days .....	<2,000 ppm.
LDAR Component Leak—“LDAR”.	Compressor in Hydrogen Service.	AVO .....	5 days .....	15 days .....	No AVO indication.
LDAR Component Leak—“LDAR”.	Connector .....	500 ppm .....	5 days .....	15 days .....	<500 ppm.
LDAR Component Leak—“LDAR”.	Pump—with permit specifying 500 ppm.	500 ppm .....	5 days .....	15 days .....	<500 ppm.
LDAR Component Leak—“LDAR”.	Pump—HON .....	1,000 ppm .....	5 days .....	15 days .....	<1,000 ppm.
LDAR Component Leak—“LDAR”.	Pump—VV .....	2,000 ppm .....	5 days .....	15 days .....	<2,000 ppm.
LDAR Component Leak—“LDAR”.	Valve .....	500 ppm .....	5 days .....	15 days .....	<500 ppm.
Non-LDAR Component Leak—“Emission Event”.	Agitator—Hydrocarbon (HC) but non LDAR.	10,000 ppm .....	Follow emission event reporting and repair guidelines		<10,000 ppm.
Non-LDAR Component Leak—“Emission Event”.	Compressor—HC but non LDAR.	2,000 ppm .....	Follow emission event reporting and repair guidelines		<2,000 ppm.
Non-LDAR Component Leak—“Emission Event”.	Connector—HC but non LDAR	500 ppm .....	Follow emission event reporting and repair guidelines		<500 ppm.
Non-LDAR Component Leak—“Emission Event”.	Pump—HC but non LDAR .....	2,000 ppm .....	Follow emission event reporting and repair guidelines		<2,000 ppm.
Non-LDAR Component Leak—“Emission Event”.	Relief Device—HC but non LDAR.	500 ppm .....	Follow emission event reporting and repair guidelines		<500 ppm.
Non-LDAR Component Leak—“Emission Event”.	Valve—HC but non LDAR .....	500 ppm .....	Follow emission event reporting and repair guidelines		<500 ppm.
Non-LDAR Component Leak—“Emission Event”.	Other .....	500 ppm .....	Follow emission event reporting and repair guidelines		<500 ppm.
“Authorized Emission” <sup>1</sup> .....	Authorized Emission .....	N/A .....	N/A .....	N/A .....	N/A.

<sup>1</sup> Authorized emissions may include emissions from a stack or otherwise allowed. These emissions are not considered equipment leaks for purposes of this AMEL.

*B. EPA’s Analysis of FHR’s AMEL Request*

This section addresses specific aspects of FHR’s request.

1. Equivalence Demonstration

FHR submitted both a pilot study and an analysis of the LDSN system requirements that would achieve equivalent emissions reductions to compliance with the currently required leak detection program at the two process units in question.<sup>13</sup> This submission includes (1) simulation modeling that was used to determine the level of performance of the LDSN that is necessary to achieve equivalent emission reductions and (2) results from a pilot study conducted in the specific process units for which this AMEL is requested. Based on the EPA’s analysis of the simulation modeling results, and

<sup>13</sup> As part of EPA’s review of this modeling, we considered the closure of the Consent Order for the Corpus Christi Refinery and reviewed records of the LDAR program during the 2019 calendar year and did not identify issues with the program that would affect the basis for the equivalency.

the pilot study results, plus the EPA’s comparison of the proposed work practice standards for the AMEL in section IV applied to the data collected in the pilot study, the EPA finds that this proposed AMEL would achieve at least equivalent emission reductions as the EPA Method 21 requirements to which these process units are subject. Our analysis of the submission is discussed below.

a. *Modeling demonstration.* Molex and EPA ORD<sup>14</sup> used historical leak data and a Monte-Carlo simulation method to generate a profile of leak events, and then calculated mass emissions under two scenarios: (1) The applicable EPA Method 21 requirements and (2) the LDSN with certain assumptions about its performance. The Monte-Carlo analysis indicates that the LDSN, when operated with specified performance criteria, is at least equivalent to the current EPA Method 21 work practice. However, there are

<sup>14</sup> See section 4 of the CRADA report located at Docket ID No. EPA–HQ–OAR–2021–0299.

several assumptions that could affect this conclusion. For example, the simulation method did not account for variability in the LDSN with respect to certain data quality allowances such as downtime. However, as discussed further in section II.B.3 of this preamble, the EPA did analyze the effects of downtime on the equivalence modeling.

As stated in the CRADA report, the equivalency modeling was limited to the process units included in the CRADA pilot study (Meta-Xylene and Mid-Crude) and was not designed to provide conclusions about other potential LDSN installations. Overall, the modeling demonstrates that the LDSN–DRF system may take time to reach a level of steady-state control, though this is also common for a LDAR program based on EPA Method 21. Therefore, the EPA generally accepts the analysis as valid but solicits comments on this approach.

b. *Pilot study results.* FHR conducted multi-month pilot studies of the LDSN–DRF in the Mid-Crude and Meta-Xylene process units. The pilot study started in

May 2019 for the Meta-Xylene unit and in July 2019 for the Mid-Crude unit. The pilot studies ended in November 2019 for both units. FHR deployed fixed-place networks of 10.6 electron volt photoionization detectors for the pilot studies; the network consisted of 38 sensor nodes for the Mid-Crude unit and 10 sensor nodes for the Meta-Xylene

unit. During the pilot studies, LDAR inspections with EPA Method 21 continued to be conducted at the required frequency.

To evaluate the results of the pilot study, the EPA examined inspection information extracted from FHR's leak database to compare leaks identified with the LDSN-DRF and those identified with the required EPA

Method 21 monitoring. First, we removed components outside the area of the LDSN, as well as components that will remain under the standard work practice, as these components are not relevant for demonstrating the efficacy of the LDSN-DRF in practice. A summary of the EPA's results of this comparison is included in Table 3.

TABLE 3—COMPARISON OF EPA METHOD 21 AND LDSN-DRF RESULTS

	Mid-Crude		Meta-Xylene	
	EPA Method 21	LDSN-DRF	EPA Method 21	LDSN-DRF
Number of leaks .....	23	33	58	64
Smallest leak, ppm .....	540	582	500	564
Largest leak, ppm .....	81,568	100,000	100,000	100,000
Mean of leaks, ppm .....	13,036	21,904	4,415	14,052

For the Mid-Crude process unit, of the 33 leaks found by LDSN-DRF, 11 were for components that are subject to AVO inspection, two were components added to the leak database, and six were due for an inspection, as the unit had been down prior to installation of the LDSN. For the remaining 14 components, the LDSN found leaks an average of 240 days sooner than the next scheduled inspection, with a range of 14 to 359 days. For the Meta-Xylene process unit, of the 64 leaks found by LDSN, 10 were for components that are either subject to AVO inspection, one was a component added to the leak database, one was on delay of repair, and one was due for an inspection. Additionally, five of the PSLs generated at the Meta-Xylene process unit were for new leaks on components where leaks were previously discovered and fixed because of the LDSN-DRF. Because both leaks occurred prior to when the next scheduled EPA Method 21 inspection would have occurred, the analysis only considered the original leak found by the LDSN. For the remaining 46 components, the LDSN-DRF found leaks an average of 127 days sooner than the next required EPA Method 21 inspection, with a range of 13 to 360 days.

To estimate the emissions from component leaks not captured by the LDSN-DRF, we assumed that the component had been leaking for half of the time from the previously passed EPA Method 21 inspection, unless that timeframe exceeded the start date of the pilot study; in that case, the component was assumed to be leaking from the time the pilot study started until the leak was found. The emissions were then calculated using the correlation equations in EPA's *Protocol for*

*Equipment Leak Emission Estimates*.<sup>15</sup> Petroleum industry equations were used for the Mid-Crude process unit and Synthetic Organic Chemical Manufacturing Industry (SOCMI) equations were used for the Meta-Xylene process unit.<sup>16</sup> The emissions from the leaks not found by the LDSN totaled 338 kg for the Meta-Xylene process unit and 39 kg for the Mid-Crude process unit.<sup>17</sup> To estimate the emissions reductions achieved by the LDSN-DRF, we calculated the number of days from when the component was fixed to the next required EPA Method 21 inspection. We then calculated the emissions using the correlation equations mentioned above. The estimated emissions reductions totaled 1,977 kg for the Meta-Xylene process unit and 43 kg for the Mid-Crude process unit. Additional emissions reductions would likely be achieved by finding and fixing leaks from the components listed as AVO. However, because these components are not surveyed on a regular frequency, it is difficult to quantify how long the leak might have occurred without the LDSN.

In addition to this direct comparison of LDAR components, the LDSN found two leaks in the Meta-Xylene process unit and 20 leaks in the Mid-Crude process unit that were outside of the designated covered area or outside of

the LDAR program. Because many of these leaks were not from traditional LDAR components, it is difficult to quantify the emissions reductions from the LDSN-DRF. However, 11 of the leaks found at the Mid-Crude process unit were for traditional LDAR components that will not be covered by the LDSN-DRF. For these 11 components alone, we estimated an emissions reduction of 278 kg.

During the pilot studies, several leaks above 18,000 ppm (the DTU) were identified with EPA Method 21 monitoring that were not identified with the LDSN-DRF (six leaks at the Mid-Crude process unit and three leaks at the Meta-Xylene process unit). Based on these results, FHR determined that six new sensors were needed in the Mid-Crude process unit in order to achieve the level of performance required for equivalence. For the Meta-Xylene process unit, FHR states they believe that the three leaks above the DTU identified with EPA Method 21 monitoring were included within active PSLs with investigations that were not yet completed. They used this information to improve their PSL tracking mechanism. It is not clear to the EPA that additional sensors are not warranted in the process unit. However, the compliance assurance measures that we are proposing in the AMEL should address any continued issues with the design of the LDSN-DRF system for these process units. Further, FHR will conduct an analysis to ensure the system meets the DTU requirements in Section IV.A.

2. Scope of AMEL Approval

*Process units covered by AMEL.* FHR has requested approval for the use of the LDSN-DRF in all process units located

<sup>15</sup> Available at: [https://www.epa.gov/sites/production/files/2020-09/documents/protocol\\_for\\_equipment\\_leak\\_emission\\_estimates.pdf](https://www.epa.gov/sites/production/files/2020-09/documents/protocol_for_equipment_leak_emission_estimates.pdf)

<sup>16</sup> Pegged emission rate leak factors were used for leaks at and above 100,000 ppm.

<sup>17</sup> Three components in the EPA Method 21 inspection set were leaking at the time the pilot study began. These may not have been picked up by the LDSN because the system may have already marked them as known leakers. However, we have included them in the emissions summary to be conservative.

at the FHR West and East Refineries in Corpus Christi, Texas. However, the data provided for the equivalency demonstration is limited to the Mid-Crude and Meta-Xylene process units at the FHR West Refinery. As a result, the EPA is unable to evaluate the appropriate DTA and DTU values for other process units located at these refineries through this request. Therefore, the evaluation of the AMEL and subsequent proposed approval is limited to the implementation of the LDSN-DRF in the Mid-Crude and Meta-Xylene process units at the FHR West Refinery.

*Standards covered by AMEL.* As summarized in Table 1, FHR has requested approval to implement the LDSN-DRF as an alternative to EPA Method 21 monitoring, AVO monitoring, and monitoring to demonstrate that closed vent systems and equipment designated with no detectable emissions are not leaking. However, FHR also notes that the equivalency simulations do not include leaks identified through AVO monitoring. It is not possible to determine if the LDSN-DRF will result in emission reductions at least equivalent to the AVO monitoring requirements of the applicable subparts. Therefore, the AMEL specified in Section III does not allow the use of the LDSN-DRF as an alternative to the required AVO monitoring.

In the applicable subparts, annual monitoring of closed vent systems with EPA Method 21 is required. These vent systems are closed because they are used to route emissions to control devices. Closed vent systems are subject to a leak definition of 500 ppm with EPA Method 21. Similarly, some components are designated for no detectable emissions, which is demonstrated by an EPA Method 21 instrument reading of less than 500 ppm. These are emissions standards for both types of equipment and leaks are not supposed to occur. Emissions standards are not eligible for AMEL. Therefore, the AMEL specified in Section IV does not allow the use of the LDSN-DRF as an alternative to the EPA Method 21 monitoring requirements for

closed vent systems and components designated for no detectable emissions, including pressure relief devices.

3. LDSN Specifications

*Operational Downtime.* As noted in FHR’s AMEL application, high data collection rates are necessary to meet the DTU design criteria. Nevertheless, system maintenance, sensor checks, sensor failures, or other technical reasons may result in partial downtime of the LDSN system. FHR’s request included an average operational downtime of the LDSN system of no more than 10 percent. FHR further proposed an average operational downtime for each sensor of no more than 30 percent. This large amount of downtime for individual sensors was due in part to how FHR defined operational downtime, which included periods of data deemed invalid. FHR proposed that half of the time between a failed bump test and the previously passed bump test would be considered invalid data. We agree that a high data collection rate of all sensors is necessary for the LDSN to operate in a manner that provides equivalent emissions reductions. While we recognize that some downtime of the sensors is inevitable, a downtime of 30% for each sensor does not provide a high data collection rate. Our understanding is that during the downtime of an individual sensor, adjacent sensors will be able to detect larger mass leaks but will not detect leaks at the detection level. Taking into consideration that a detection is based on a 72-hour period and that the sensors work together to determine where leaks may be occurring, adverse effects from short duration downtime periods of one sensor are not anticipated. Therefore, the AMEL specified in section IV of this preamble applies a narrower definition for sensor operation downtime and limits the downtime of each individual sensor to no more than 10 percent on a rolling annual basis, determined each month. The AMEL defines operational downtime as periods when a sensor does not provide data or is out of control.

As part of our review of the AMEL request, the EPA performed modeling to determine the effect of downtime on the equivalence of the LDSN-DRF system. For this analysis, the EPA used the model that was developed by EPA ORD and modeled a scenario in which the detection of any leaks was delayed over random periods of time by up to 36 days per year. This is equivalent to a 10 percent network-wide downtime, where all sensors are down at the same time continuously for 10 percent of the year, which is the worst-case scenario for the downtime allowed by the AMEL specified in Section IV. The EPA ORD model was modified in the following ways:

- For each of the 1,000 Monte Carlo Simulations, a random 36-day period of downtime was generated for each of the three years covered in the model.
- For each simulation, if a leak detection would have been made by the LDSN during the downtime period, the date of detection was changed to the day after the downtime ended.
- New total emissions were calculated for each detection method and simulation.

Table 4 summarizes the results of the model with and without downtime. The numbers represent the percentage of Monte Carlo simulations where emissions were lower based on the various sensor network detection scenarios as compared to two different Method 21 scenarios. “DTA” represents the detection threshold average scenario, “DT\_” represents the detection threshold scenario, and “DTC” represents the detection threshold cluster scenario. The assumptions for these scenarios are described in Appendix E of the CRADA report located at Docket ID No. EPA-HQ-OAR-2021-0299. For purposes of Table 4, “M21” represents running EPA Method 21 on all components, including connectors, while “C21” represents excluding connectors. Including downtime reduced the percentage of scenarios where the sensor network outperformed EPA Method 21 by at most 2 percent.<sup>18</sup>

TABLE 4—RESULTS OF LDSN DOWNTIME MODELING

Detection .....	Standard model			Model with downtime		
	DTA .....	DT_ .....	DTC .....	DTA .....	DT_ .....	DTC .....
M21 .....	20.5 .....	72.9 .....	94.3 .....	19.4 .....	71.2 .....	92 .....
C21 .....	94.4 .....	99.9 .....	100 .....	93.2 .....	99.6 .....	100 .....

<sup>18</sup> See Docket ID No. EPA-HQ-OAR-2021-0299 for additional information on the modeling performed by the EPA.

*Sensor Detection Criteria.* The requested AMEL did not specify a detection criterion for the individual sensors. The proposed AMEL specified in Section IV of this notice requires the sensors in the LDSN to be capable of maintaining a detection floor of less than 10 part per billion (ppb) by volume isobutylene equivalent (ppbe) on a rolling 10-minute average. The detection floor is defined as three times the local standard deviation. To determine the detection floor, the previous 10 minutes of data is used, excluding data when transient peaks above the noise baseline indicate emission detections. The detection floor must be adjusted for the system response to the most recent bump test. Signals above the detection floor are considered emission detections. Section IV.A(a)(2) includes an equation for determining the detection floor.

*Response Factor.* FHR requested a response factor threshold of 10 or less for process streams covered by the AMEL. This request was based on the threshold required by EPA Method 21. However, there is no data that supports that the system would perform adequately if the process streams had a response factor of 10. The CRADA report discusses the importance of response factor and notes that ethylene, which has a response factor of approximately 10 for these sensors, has a weak response and is difficult to detect.<sup>19</sup> According to the FHR's application, the streams in the Meta-Xylene process unit have an average response factor of 0.8. The streams in the Mid-Crude process unit have response factors that range from 0.7–3.0. The pilot study and equivalence modeling were conducted using these response factors. Therefore, the AMEL in Section IV of this notice limits the process streams covered by the LDSN to a response factor of three.

#### 4. DRF Specifications

*Screening method.* The proposed AMEL does not specify an individual screening method (e.g., OGI) that must be used during the PSL investigations. The intent of these investigations is to quickly identify the potential emissions source(s) that triggered the PSL. FHR has requested discretion to use a screening method that best reflects their knowledge of the emission sources within the PSL. In supporting information, FHR provides the following examples of screening technologies that will be utilized for the PSL investigations:

- Photoionization detector (PID): A portable VOC gas detector capable of detecting most VOC gases. This device must have a digital readout with a resolution of 10 ppb or higher, and a response time T90 <30 seconds. It must be certified for use in hazardous locations. This portable instrument is used for fast scanning the area to narrow down the search.

- Flame ionization detector (FID) or PID: An FID or PID compliant with EPA Method 21. This tool is employed in the DRF to pinpoint the leak source and record the leak concentration before and after repair.

- OGI: This tool is used to identify large leaks.

FHR utilized these technologies during the pilot study to identify potential emission sources. The EPA agrees that discretion should be afforded when choosing a screening technology, provided the technologies are capable of identifying VOC gases, and we find these three screening technologies are appropriate for use.

*Initial screening investigations.* FHR has requested that the initial screening investigations be conducted for 30 minutes; if after 30 minutes no potential leak sources are identified, FHR requests to stop the investigation and wait seven days before conducting another screening investigation. During the pilot study, FHR noted that most leak sources were identified within this 30-minute screening window, and the EPA agrees that this is a sufficient amount of time to identify most leaks that would trigger a PSL. Further, the LDSN continues to collect information, which allows the system to better identify the area where the emissions are located, thus making subsequent screening investigations more likely to result in leak source identification. To ensure the efficacy of the initial screening investigations, the EPA is proposing a requirement to maintain a record of the latitude and longitude coordinates in decimal degrees to an accuracy and precision of five decimals of a degree using the *North American Datum of 1983* for the path taken during the screening investigation, when no leak sources are identified during the 30-minute screening investigation. Additionally, the record would include the date and time stamp of the start and end of the investigation. While the EPA expects that leak sources will be easily identified during the screening investigation, this record will provide valuable information to the EPA that screening was conducted in a manner to maximize identification of the leak source.

*Closure of a PSL after 90 days.* FHR states that a PSL can be closed if a leak source has not been identified after multiple investigations and it has been 90 days without the unidentified potential leak source worsening (i.e., PSL detection level increasing to twice the previous detection level). FHR further states that one final screening would occur before closing the PSL. If a leak is present and not addressed before closing the PSL, a new PSL notification would be generated by the LDSN. While it is expected that this is a rare occurrence, and FHR did not experience such a situation during the pilot study period, the EPA is concerned about leaks that would go unrepaired. In the LDAR requirements of the applicable subparts, all LDAR-applicable components are monitored on average (1) monthly for pumps, (2) quarterly for valves, and (3) annually for other components types. Noting these frequencies, the EPA finds that it is important to monitor all LDAR components in a PSL with EPA Method 21 if no emission source has been identified within 90 days of the initial notification. All components with instrument readings above the applicable leak definitions specified in Table 2 must be repaired before closing the PSL.

*Repair of non-LDAR applicable components.* FHR's request states that one advantage to the LDSN-DRF is that leaks from components that are not traditionally subject to LDAR can be detected and repaired. However, FHR does not propose a specific repair deadline by which repairs will be completed for these non-LDAR applicable components. Given that the purpose of LDAR is to both detect and repair leaks, the EPA finds that setting a deadline by which repairs must be made is necessary to reap the benefit of reducing emissions in a timely manner and ensure the LDSN is not confounded by these leaks. Additionally, sources have a general duty to operate equipment in a manner to minimize emissions. Therefore, we are including a requirement that leaks identified on non-LDAR applicable components must be completed and verified within 30 days of identification of the leak.

#### 5. Additional Annual Compliance Demonstration

In their request, FHR stated that random EPA Method 21 sampling could be utilized to verify the effectiveness of the LDSN, including verification that the system is operating with a DTU of 18,000 ppm. This verification would be demonstrated, according to FHR, by the lack of a statistically significant number

<sup>19</sup> See section 3.2 of the CRADA report located at Docket ID No. EPA-HQ-OAR-2021-0299.

of EPA Method 21 readings greater than 1.2 times the DTU on applicable LDAR components within the boundary of the LDSN, with the factor of 1.2 representing the variability that occurs with the implementation of EPA Method 21.

The EPA agrees this approach would provide an additional backstop to verifying the efficacy of the LDSN, and as such, has incorporated an additional annual compliance demonstration into the proposed AMEL in section IV.E. The EPA has determined that it is appropriate for FHR to demonstrate the LDSN is operating as expected through this additional annual demonstration because the pilot study had identified missed leaks that were above the DTU, resulting in the need for additional sensor nodes. However, we are also confident that there will be a point where the LDSN is operating as required in this proposed AMEL such that this additional requirement can sunset.

Specifically, the EPA is proposing to require annual EPA Method 21 on all pumps located in the Meta-Xylene and Mid-Crude process units subject to this AMEL. Additionally, the EPA is proposing to require annual EPA Method 21 on a random sample of valves within the verification zone (defined as the zone that is 40 to 50 feet from an individual sensor node) such that at least 20 percent of the total population of valves in the process unit are monitored. If any leaks are identified above 18,000 ppm, except those in an active PSL, the LDSN would be considered out of compliance with the AMEL and corrective actions, including submission of a plan to get back into compliance, would be required. The EPA does propose to sunset this requirement after FHR demonstrates for two consecutive calendar years that no leaks are identified above 18,000 ppm with this annual EPA Method 21 demonstration. Further details are specified in section IV.E of the proposed AMEL.

### III. EPA Framework for Streamlining Evaluation of Future LDSN–DRF AMEL Requests

The EPA is also soliciting comment on a general framework sources may use in the future to submit an AMEL request to the EPA for the use of a LDSN–DRF to comply with the LDAR requirements under 40 CFR parts 60, 61, and 63. A similar framework approach was outlined for multipoint ground flares once we started receiving multiple AMEL requests.<sup>20</sup> In recent years,

various stakeholder groups<sup>21</sup> have worked to identify general frameworks to aid in an evaluation of equivalency for future alternatives for fugitive emissions detection.

The EPA is proposing the following framework that applicants may use to streamline requests and our review of those requests. This proposed framework will ensure the application provides the information necessary for the EPA to review the request and determine if an equivalent means of emissions limitation is demonstrated by the alternative requested. Determination of equivalence to the applicable LDAR requirements will be evaluated by the following guidelines. The applicant must provide information that is sufficient for demonstrating the AMEL achieves emission reductions that are at least equivalent to the emission reductions that would be achieved by complying with the relevant standards. At a minimum, the application must include the following information:

(1) Site-specific information related to all process unit(s) included in the alternative request.

(a) Site name and location and applicable process units.

(b) Detailed list or table of applicable regulatory subparts for each included process unit, the citations within each subpart that will be replaced or changed by the AMEL and, if changed, how it will be changed, and the authority that allows for use of an AMEL.

(c) Details of the specific equipment or components that will be inspected and repaired as part of the AMEL and whether any equipment within the process unit will not be covered by the AMEL.

(d) A diagram showing the location of each sensor in the process unit and the minimum spacing that achieves equivalence (*i.e.*, the furthest distance a component can be located from a sensor while demonstrating equivalence), taking into consideration multi-level and elevated components.

(e) Information on how management of change (MOC) will be addressed. At a minimum, the MOC must include a determination of whether the changes are within the LDSN coverage area (*i.e.*, within the specified radius of coverage for each individual sensor, including coverage based on elevation) or if changes will result in components added to an applicable EPA Method 21

work practice where the LDSN would not provide coverage. The MOC must also address updates to the diagrams of each sensor or the list of equipment identification numbers, as applicable.

(2) Identification of monitoring techniques used for both the LDSN and DRF.

(a) Identification of the sensors that will be used to detect and locate leaks, including the sensor measurement principle, type, and manufacturer.

(b) Data recording frequency, the minimum data availability for the system and for each sensor, and the process for dealing with periods where data is not available.

(c) Initial and ongoing QA/QC measures and the timeframes for conducting such measures.

(d) Restrictions on where the sensors cannot be used.

(e) How meteorological data will be collected, the specific data that will be collected, and how it will be paired with the sensor data.

(3) Defined work practice.

(a) Description of what triggers action, description of the action(s) that is triggered, and the timeline for performing the action(s).

(b) Definition for when a leak requires repair.

(c) Identification of repair deadlines, including verification of repair.

(d) Description for how repairs will be verified.

(e) Actions that will be taken if an alert is issued by the system, but a leak cannot be found.

(f) Initial and continuous compliance procedures, including recordkeeping and reporting, if the compliance procedures are different than those specified in the applicable subpart(s).

(g) Compliance assurance procedures to ensure the LDSN is operating as designed and corrective actions (including timeframes) in response to findings.

(4) Demonstration of Equivalency

(a) Demonstration of the emission reduction achieved by the alternative work practice including restrictions and downtime. Restrictions should include any conditions which are not demonstrated as equivalent in the request, such as replacement of AVO monitoring or no detectable emissions standards.

(b) Determination of equivalency between the standard work practice and the alternative requested, which may include modeling results.

(c) Results of the pilot study conducted for each unit.

(i) For each PSL generated, the date for each notice, the identified emission source, the date the associated emission

<sup>21</sup> FOX, T.A., Ravikumar, A.P., Hugenholtz, C.H., Zimmerle, D., Barchyn, T.E., Johnson, M.R., Lyon, D. and Taylor, T., 2019. A methane emissions reduction equivalence framework for alternative leak detection and repair programs. *Elem Sci Anth*, 7(1), p.30. DOI: <http://doi.org/10.1525/elementa.369>

<sup>20</sup> 81 FR 23480 (April 21, 2016), pp. 23487–88.



source was found for each PSL, the date the emission source was repaired, the EPA Method 21 reading associated with the emission source, and the date of the last required and next required EPA Method 21 inspection for the emission source (or identification of the source as not subject to inspection).

(ii) For each leak found with an EPA Method 21 inspection that was not found by the LDSN-DRF during the pilot study, the date the leak was found, the EPA Method 21 reading for the leak, the date the leak was repaired, and the inspection frequency of the component.

(iii) The results of all EPA Method 21 inspections for the unit during the pilot study.

The EPA solicits comment on all aspects of this framework. We anticipate this framework would enable the

Agency to evaluate future AMEL requests for LDSN-DRF installations in a more expeditious timeframe because we anticipate that the information required by the framework would provide us with sufficient information to evaluate future AMEL requests on a case-by-case basis. We note that all aspects of future AMEL requests will still be subject to the notice and comment process.

**IV. AMEL for the Mid-Crude and Meta-Xylene Process Units at the FHR West Refinery**

Based on the EPA's review of the AMEL request from FHR, we are seeking the public's input on the alternative LDAR work practice proposed for the LDSN-DRF system for the Mid-Crude and Meta-Xylene process units located

at FHR's West Refinery in Corpus Christi, Texas. Information provided in the AMEL request, and our evaluation of such information, indicate that the following work practice requirements are necessary for the proposed LDSN-DRF system to achieve emissions reductions at least equivalent to the emissions reductions achieved by the portion of the current LDAR work practice specified in Table 5. If approved, this AMEL would replace the portions of the work practice standards outlined in Table 5. Should the work practice standards be revised, this AMEL would need to be reviewed to determine if it is still equivalent. If in the future the work practice standard is replaced by an emissions standard, an AMEL could not be used in place of the emissions standard.

TABLE 5—SUMMARY OF LDAR REQUIREMENTS TO BE REPLACED WITH THE PROPOSED LDSN-DRF SYSTEM

Applicable rules with LDAR requirements	Citation	Requirement replaced with LDSN-DRF system
NSPS VV .....	60.482-2(a)(1) ..... 60.482-7(a) and (c) ... 60.482-7(h)(3) .....	EPA Method 21 monitoring of pumps in light liquid service. EPA Method 21 monitoring of valves in gas/vapor service and in light liquid service. EPA Method 21 monitoring at a reduced frequency for valves in gas/vapor service and in light liquid service that are designated as difficult-to-monitor.
NSPS VVa .....	60.486(g) ..... 60.482-2a(a)(1) ..... 60.482-7a(a) and (c) ..... 60.482-7a(h)(3) .....	Schedule of monitoring and leak percentage for valves utilizing skip periods. EPA Method 21 monitoring of pumps in light liquid service. EPA Method 21 monitoring of valves in gas/vapor service and in light liquid service. EPA Method 21 monitoring at a reduced frequency for valves in gas/vapor service and in light liquid service that are designated as difficult-to-monitor.
HON .....	60.482-11a(a), (b), (b)(1), (b)(3), (b)(3)(i)-(iv), and (c). 60.486a(g) ..... 63.163(b)(1) ..... 63.168(b)-(d) ..... 63.168(f)(3) .....  63.173(a)(1) ..... 63.173(h) .....  63.174(a)-(c) ..... 63.175(c)(3), (d)(1), and (d)(4)(ii). 63.178(c)(1)-(3) .....  63.181(b)(1)(ii) ..... 63.181(b)(7)(i) and (ii) ..... 63.181(d)(7) ..... 63.181(d)(8) .....	EPA Method 21 monitoring of connectors in gas/vapor service and in light liquid service.  Schedule of monitoring and leak percentage for valves utilizing skip periods. EPA Method 21 monitoring of pumps in light liquid service. EPA Method 21 monitoring of valves in gas/vapor service and in light liquid service. EPA Method 21 monitoring following successful repair of valves in gas/vapor service and in light liquid service. EPA Method 21 monitoring of agitators in gas/vapor service and in light liquid service. EPA Method 21 monitoring at a reduced frequency for agitators in gas/vapor service and in light liquid service that are designated as difficult-to-monitor. EPA Method 21 monitoring of connectors in gas/vapor service and in light liquid service. Quality improvement program for valves where the leak rate is equal to or exceeds 2%. EPA Method 21 monitoring of components using the alternative means of emission limitation for batch processes. Schedule by process unit for connector monitoring. Identification, explanation, and monitoring schedule of difficult-to-monitor components. Listing of connectors subject to EPA Method 21 monitoring. EPA Method 21 monitoring for batch processes.

In order to achieve emission reductions at least equivalent to those achieved in the requirements listed in Table 5, the proposed LDSN-DRF must meet the following requirements.

**A. LDSN Specifications**

(a) *Sensor selection.* A sensor meeting the following specifications is required:

(1) The sensor must respond to the compounds being processed. The average response factor of each process stream must be less than or equal to three. If the average response factor of a process stream is greater than three, the components in that service are not covered by this AMEL.

(2) The sensor must be capable of maintaining a detection floor of less

than 10 ppbe on a rolling 10-minute average, when adjusted for the system response to the most recent successful bump test conducted in accordance with IV.A(e)(2). The detection floor is determined at three times the standard deviation of the previous 10 minutes of data excluding excursions related to emissions peaks.

$$\text{Detection Floor}_{\text{Sensor } n} = 3 \times \text{SD}_{\text{Local } n} \times \frac{\text{Bump Test Gas Conc}}{\text{Bump Test Response}_{\text{Sensor } n}}$$

Detection Floor<sub>Sensor n</sub> = Calculated detection floor of sensor n (ppbe)

SD<sub>Local n</sub> = Local (previous ten minutes) standard deviation of measurements excluding transient spikes (sensor raw output typically mV)

Bump Test Gas Conc = Concentration of the isobutylene bump test gas per manufacturer (ppb)

Bump Test Response<sub>Sensor n</sub> = the peak of the sensor response over the baseline to the most recent bump test (sensor raw output typically mV)

(3) The sensor must record data at a rate of once per second.

(4) Records of sensor selection must be maintained as specified in IV.C(c) and records of detection floor must be maintained as specified in IV.C(g).

(b) *Sensor placement.* The sensor placement must meet the following specifications:

(1) The Mid-Crude process unit must have a minimum of 44 sensors and the Meta-Xylene process unit must have a minimum of 10 sensors. All components covered by the LDSN-DRF must be no further than 50 feet from a sensor node in the horizontal plane, and sensor nodes must be placed at least every 20 feet vertically. Sensor nodes must be placed and must remain in accordance with the single level and multi-level records required in IV.C(d).

(2) As part of the management of change procedure, FHR must identify if the changes to process equipment are within the 50-foot radius and 20-foot elevation of any single sensor within the process unit or whether new process streams exist within the LDSN. FHR must identify any LDAR-applicable components associated with the changes to the process equipment that are outside of the 50-foot radius and 20-foot elevation requirements for the LDSN or that contain process streams with a response factor of greater than three and comply with the standard EPA Method 21 LDAR requirements for those components as required in the applicable subpart(s). FHR must maintain the management of change records in IV.C(e). review the placement of sensors and the need for additional sensors when there are changes to process equipment and systems that are expected to affect the DTU as part of the management of change procedures.

(c) *PSL notifications.* The system must perform a 72-hour lookback a minimum of once per day that includes the previous 24-hour period to determine the percent of time positive detections were registered. Positive detections are

defined as peak excursions above the detection floor. If positive detections are registered for at least 5 percent of the time during the rolling 72-hour lookback, a PSL notification must be issued. Records of raw sensor readings and PSL notifications must be maintained in accordance with IV.C(g) and (i), respectively.

(d) *Meteorological Data.* FHR must continuously collect wind speed and wind direction data in each process unit at least once every 15 minutes. FHR must maintain records in accordance with IV.C(h).

(e) *QA/QC.* The following QA/QC must be employed for the sensors in the network:

(1) Sensors must be calibrated by the manufacturer prior to deployment. Once installed, each sensor must be tested for responsivity and wireless communication by challenging it with isobutylene gas or another appropriate standard. FHR must maintain records in accordance with IV.C(f).

(2) FHR must conduct a bump test on each sensor quarterly. At a minimum, quarterly bump tests must be conducted no more than 100 days apart.

(i) The bump test must be conducted with isobutylene gas or another appropriate standard and include a mechanism to provide nominally ambient level moisture to the gas.

(ii) The bump test is successful if the response of the sensor exceeds 50 percent of the nominal value of the standard and the adjusted detection floor does not exceed 10 ppbe. The bump test may be repeated up to two additional times if the first bump test is unsuccessful.

(iii) If the bump test is unsuccessful after the third try, the sensor must be recalibrated or replaced with a calibrated sensor within 24 hours of the third unsuccessful try. After recalibration, a new bump test must be conducted following the procedure outlined above.

(iv) FHR must maintain records of the bump test in accordance with IV.C(f) and records of the detection floor must be maintained in accordance with IV.C(g).

(3) The health of each sensor must be confirmed for power and data transmission at least once every 15 minutes. Data transmission, which includes data recorded by the sensor every second as noted in IV.A(a)(3), must occur at least once every 15 minutes. The rolling 10-minute average

detection floor data collected in accordance with IV.A(a)(2) must be updated with each new minute of data every 15 minutes. Sensors that fail to collect data in accordance with IV.A(a)(2) and (3) and transmit data in accordance with this paragraph must be reset, repaired, or replaced. Following a sensor reset or repair, FHR must test the responsivity and wireless communication of the sensor through a bump test according to the procedure specified in IV.A(e)(2). FHR must maintain records of sensor health in accordance with IV.C(f).

(4) At least once each calendar quarter, conduct a check for wind direction to ensure the wind sensor is properly oriented to the north. If the wind sensor is not within 15 degrees of true north, it must be adjusted to point to true north. At a minimum, quarterly wind direction checks must be conducted no more than 100 days apart. The results of the quarterly check for wind direction must be kept in accordance with IV.C(h).

(f) *Downtime.* The sensor network must continuously collect data as specified in paragraph IV.A(e)(3), except as specified in this paragraph:

(1) The rolling 12-month average operational downtime of each individual sensor must be less than or equal to 10 percent.

(2) Operational downtime is defined as a period of time for which the sensor fails to collect or transmit data as specified in IV.A(e)(3) or the sensor is out of control as specified in IV.A(f)(3).

(3) A sensor is out of control if it fails a bump test or if the sensor output is outside of range. The beginning of the out of control period for a failed bump test is defined as the time of the failure of a bump test. The end of the out-of-control period is defined as the time when either the sensor is recalibrated and passes a bump test, or a new sensor is installed and passes the responsivity and communication challenge. The out-of-control period for a sensor outside of range starts at the time when the sensor first reads outside of range and ends when the sensor reads within range again.

(4) The downtime for each sensor must be calculated each calendar month. Once 12 months of data are available, at the end of each calendar month, FHR must calculate the 12-month average by averaging that month with the previous 11 calendar months. FHR must determine the rolling 12-

month average by recalculating the 12-month average at the end of each month.

(5) FHR must maintain records of the downtime for each sensor in accordance with IV.C(m).

#### B. DRF Specifications

When a new PSL notification is received, the following actions apply:

(a) An initial screening investigation must begin within three calendar days of receiving a new PSL notification.

(1) The initial screening investigation must utilize technology that can detect hydrocarbons or that is capable of responding to the compounds or mixture of compounds in the process streams at levels appropriate for locating leaks. This technology must be maintained per manufacturer recommendations. Technologies that the EPA finds appropriate for use are PIDs, FIDs, and OGI cameras.

(2) Each potential leak source identified in the initial screening investigation must be monitored by EPA Method 21 as specified in section 60.485a(b) of 40 CFR part 60, subpart VVa.

(3) If an instrument reading equal to or greater than the concentrations listed in Table 2 is measured, a leak is detected. The maximum instrument reading must be recorded for each leak identified. A weatherproof and readily visible identification shall be attached to the leaking equipment. The identification may be removed once the component has been repaired, with the repair confirmed through follow up EPA Method 21 monitoring.

(4) When a leak is detected, it shall be repaired as specified in the applicable subpart(s), except as specified in this paragraph. If the leak source is not applicable to LDAR, repairs must be completed and verified within 30 calendar days of identification. If the leak source is determined to be associated with authorized emissions (e.g., regulated emissions from a stack or process equipment that are not fugitive emissions), the facility must document this information for the record, and the PSL can be closed.

(5) If a single leak is detected at 3,000 ppm or greater by EPA Method 21, the investigation is complete, and the PSL can be closed once the leak has been repaired in accordance with the applicable subpart(s).

(6) If a total of three leaks are detected below 3,000 ppm but above the leak definitions specified in Table 2 by EPA Method 21, the investigation is complete, and the PSL can be closed once the leaks have been repaired in accordance with the applicable subpart(s).

(7) For each initial screening investigation in which a potential leak source is not identified after 30 minutes of active screening within the PSL, record the latitude and longitude coordinates in decimal degrees to an accuracy and precision of five decimals of a degree using the *North American Datum of 1983* for the path taken during the screening investigation. Include the date and time stamp of the start and end of the investigation. The PSL must remain open, but the initial screening investigation may stop.

(b) A second screening investigation must be conducted within seven calendar days of stopping the initial screening investigation as described in IV.B(a)(7). The conditions specified in IV.B(a)(1) through (6) apply to this second screening investigation.

(c) If no potential leak sources are identified during the second screening investigation, and the PSL detection level increases by two times the initial detection level, a PSL update notification must be sent to facility personnel based on the higher detection level. A new screening investigation must occur within three calendar days of receiving the PSL update notification with the higher detection level, following the conditions specified in paragraphs IV.B(a)(1) through (6). This step must be repeated every time the PSL notification is sent, and a leak source is not found on the second screening. The PSL must remain open until the conditions in IV.B(b)(5) or (6) are met.

(d) If no potential leak source has been identified following the screening investigations in IV.B(b) and (c) and 90 days have passed since the original PSL notification, all sensors used to create the PSL must be bump tested in accordance with IV.A(e)(2) and a full survey of the LDAR-applicable components within the PSL must be conducted with EPA Method 21 within 10 calendar days. A leak is defined by the applicable subpart(s). All leaks identified during this survey must be repaired and verified after which the PSL will be closed. If no leaks are identified in this final screening, "no leak source found" must be recorded and the PSL will be closed.

(e) FHR must maintain the records in accordance with IV.C(i)–(l).

#### C. Recordkeeping

The following records related to the LDSN–DRF must be maintained in addition to the records from the relevant subparts, except as noted in Table 5.

(a) Fugitive Emission Management Plan (FEMP) detailing the boundaries of the Meta-Xylene and Mid-Crude process

units which are complying with this AMEL. The plan must include the records for the LDSN specified in paragraph IV.C(d), a list of identification numbers for equipment subject to the EPA Method 21, no detectable emissions, or AVO work practice requirements of the applicable subparts, and a map clearly depicting which areas in each process unit are covered by the LDSN–DRF and which are covered by the EPA Method 21, no detectable emissions, or AVO work practices.

(b) Records of the sensor response factors for the applicable process streams.

(c) Manufacturer, measurement principle, response factors, and detection level for each sensor.

(d) Records of sensor placement, including geographic information system (GIS) coordinates and elevation of the sensor from the ground, and diagrams showing the location of each sensor and the detection radius of each sensor. One diagram must show all sensors, with an indication of the level each sensor is located on. Additional diagrams showing sensor layout must be provided for each level of the process unit.

(e) Records of each MOC. For each MOC, records of the determination that either IV.C(e)(1) or (e)(2) applies. The MOC must also address updates to the diagrams in the FEMP of each sensor or the list of equipment identification numbers, as applicable:

(1) The changes are within the LDSN coverage area (i.e., within 50-foot radius and 20-foot elevation of coverage for each individual sensor) and the response factor of any new process streams is less than or equal to three; or

(2) The components will be added to an applicable EPA Method 21, no detectable emissions, or AVO work practice where the LDSN would not provide coverage.

(f) Records of initial and subsequent calibrations, bump tests for responsivity and wireless communication initially and upon sensor repair or reset, quarterly bump tests, bump tests prior to PSL closure where leaks have not been found within 90 days, and bump tests following out of control periods, including dates and results of each calibration and bump test, as well as a description of any required corrective action and the date the corrective action was performed. Records of calibration gases used for the bump tests, the ambient moisture level during the bump tests, and the mechanism for providing nominally ambient level moisture to the gas during the bump tests. Records of sensor health related to power and data transmission.

(g) Raw sensor readings. Additionally, for each sensor, the percent of time positive detections were registered during the 72-hour lookback must be recorded each day and the minimum, average, and maximum detection floor.

(h) Network meteorological data, including wind direction and wind speed. Record the results of each quarterly check of the wind sensor orientation. Record the latitude and longitude coordinates of the original location of the wind sensor. The wind sensor must remain within 300 feet of the original location. Record each movement of the wind sensor, the latitude and longitude coordinates for the new location, and the distance in feet between the new location and the original location.

(i) PSL documentation. For each PSL, the record must include the notification date, investigation start date, investigation results including the date each leak was found, leaking component location description, EPA Method 21 reading, repair action taken, date of repair, and EPA Method 21 reading after repair.

(j) PSL documentation where PSL is not closed out after the initial investigation. For each PSL that cannot be closed out after the initial investigation, a record must include the initial screening performed, including the latitude and longitude coordinates indicating the path taken during the screening investigation, the start and end date and times of the investigation, any OGI video taken during the investigation, and any Method 21 readings observed during the investigation.

(k) If a PSL is caused by an authorized emission source, the documentation must include the notification date, investigation start date, investigation results, emission source identification, and description of "authorized emissions".

(l) Records of PSLs closed out where no cause of the PSL was determined.

(m) For each sensor, the date and time of the beginning and end of each period of operational downtime.

(n) For each additional annual compliance demonstration conducted under the compliance assurance provisions of IV.E below, the documentation must include the date of survey, the plot plan showing the verification zone of each sensor, the list of valves in the verification zones, the total population of valves in the process unit, the EPA Method 21 reading for each valve and pump monitored, and the corrective action taken if the LDSN is found to be in violation of the sensor placement requirements.

(o) Records of deviations where a deviation means FHR fails to meet any requirement or obligation established in this AMEL or fails to meet any term or condition that is adopted to implement an applicable requirement or obligation in this AMEL and that is included in the operating permit for the Mid-Crude or Meta-Xylene process units at FHR.

#### D. Reporting

Semiannual reports must be submitted via the Compliance and Emissions Reporting Data Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov>) following the requirements in section 63.9(k). Unless the report is submitted by electronic media, via mail it must be addressed to the attention of the Group Leader of the Refining and Chemicals Group. Semiannual reports must include the following information:

(a) All of the information required in the relevant subparts.

(b) For each PSL, the notification date, investigation start date, investigation results including the date each leak was found, type of component, EPA Method 21 reading, and date of repair.

(c) The number of PSLs that were closed out where no cause of the PSL was determined.

(d) The operational downtime percentage for each sensor determined each month.

(e) For each sensor that fails a bump test, identification of the sensor, date of failed bump test, and corrective action taken.

(f) Any changes to the sensor network, including those resulting from the compliance assurance actions in IV.E.

(g) The date of each EPA Method 21 survey for the additional annual compliance demonstration in IV.E, number of valves and pumps monitored, number of leaks identified, number of leaks identified above 18,000 ppm, corrective action taken if leaks are identified above 18,000 ppm and the date the corrective action was taken or is planned to be taken.

(h) Once the criteria in IV.E(b) is met, a statement that FHR has met the criteria and additional annual compliance demonstration are no longer required.

(i) Reports of deviations recorded under IV.C(o) which occurred in the semi-annual reporting period, including the date, start time, duration, description of the deviation, and corrective active.

#### E. Additional Annual Compliance Demonstration

In addition to continuous compliance with the LDSN-DRF as required by the sections IV.A-D, the following annual compliance demonstration actions are required for the LDSN-DRF system located in the Meta-Xylene and Mid-Crude process units:

(a) Method 21 of appendix A-7 of part 60 must be conducted in each process unit equipped with the LDSN-DRF according to the following requirements:

(1) The first survey must be conducted within 12 calendar months of approval of the AMEL. Subsequent surveys must be conducted no sooner than 10 calendar months and no later than 12 calendar months after the preceding survey.

(2) Identify each verification zone on a plot plan. The verification zone is the area between the radii that are 45 and 50 feet from each individual sensor. Monitor the valves located in these verification zones as described in IV.E(a)(2)(i) through (v) using EPA Method 21 as specified in section 60.485a(b) of 40 CFR part 60, subpart VVa, with the exception that the high scale calibration gas must be approximately 20,000 ppm.

(i) Determine the total number of valves located in the individual process unit. The minimum number of valves monitored must equal 20 percent of the total population of valves in the process unit.

(ii) Determine the total number of valves that occur in only one sensor verification zone (*i.e.*, verification zones that have no overlap with other verification zones). If the number of valves that occur in only one sensor verification zone is greater than the minimum number of valves that must be monitored, monitor a random selection of these valves according to IV.E(a)(2)(v).

(iii) If the number of valves that occur in only one sensor verification zone is less than the minimum number of valves that must be monitored, determine the total number of valves that occur in all verification zones, including those that overlap. If the total number of valves in all verification zones is greater than the minimum number of valves that must be monitored, monitor all the valves that occur in only one sensor verification zone. Additionally, monitor a random selection of valves, chosen in accordance with IV.E(a)(2)(v), that appear in verification zones that overlap until the 20 percent minimum is achieved.

(iv) If the number of valves in all verification zones is less than 20 percent

of the total population, then monitor all of the valves in all verification zones. Additionally, monitor a random sample of additional valves within the LDSN but outside of the verification zones, chosen in accordance with IV.E (a)(2)(v), until the 20 percent minimum is achieved.

(v) Random sampling of valves. To determine the random selection of valves to monitor, determine the population of valves that must be randomly sampled as determined in IV.E(a)(2)(ii), (iii), or (iv) (*i.e.*, 20 percent of the total valve population or 20 percent of the total valve population minus the number of valves in the verification zones). Divide the population of valves by the number of valves that must be sampled and round to the nearest integer to establish the sampling interval. Using the valve IDs sequentially, monitor valves at this sequential interval (*e.g.*, every 5 valves). Alternatively, use the valve IDs and a random number generator to determine the valves to monitor. Each survey conducted under IV.E(a)(1) must start on a different valve ID such that the same population of valves is not monitored in each survey.

(3) Monitor each pump located in the process unit using EPA Method 21 as specified in section 60.485a(b) of 40 CFR part 60, subpart VVa.

(4) For purposes of this monitoring, a leak is identified as an instrument reading above the leak definitions in Table 2 of this AMEL. All identified leaks must be repaired within 15 calendar days of detection, with a first attempt completed within five calendar days of detection.

(5) If any components are identified with EPA Method 21 screening values above 18,000 ppm, the LDSN is not in compliance with the approved AMEL, except components under current investigations in an active PSL with screening values above 18,000 ppm may be excluded provided the PSL has been open for less than 14 days or the components have been identified and placed on delay of repair. The period of noncompliance with the AMEL extends until the actions in IV.E(5)(i)–(ii) are completed and the actions in IV.E(5)(iii) result in all components identified with EPA Method 21 to have screening values less than or equal to 18,000 ppm.

(i) Within 30 days of the survey conducted in IV.E(a)(4), which identifies components with EPA Method 21 screening values above 18,000 ppm, FHR must submit a plan to revise the sensor network to *CCG-AWP@epa.gov*. Revisions to the sensor network must include the addition of new sensors to reduce the detection radius of

each sensor, location changes of any previously deployed sensors, and/or the deployment of a different sensor type. The plan must also include the location of the controlled release specified in IV.E(a)(5)(ii) to verify the performance of the revised network.

(ii) Within 30 days of completing the approved sensor network changes, FHR must conduct a controlled release of 1.4 g/hr isobutylene to determine the performance of the network.

(iii) Within 60 days of completing the approved sensor network changes, FHR must repeat the actions in IV.E(a)(2) through (a)(4). If any components are identified with EPA Method 21 screening values above 18,000 ppm, FHR remains in noncompliance with the approved AMEL, and FHR must repeat the actions required in IV.E(a)(5)(i) and (ii).

(b) FHR may stop conducting the additional annual compliance demonstration required in IV.E(a) if no leaks above 18,000 ppm are identified with Method 21 of appendix A–7 of part 60 over a period of 2 consecutive calendar years.

#### V. Request for Comments

The EPA solicits comment on all aspects of this AMEL request. We specifically seek comment regarding whether the proposed alternative LDAR requirements listed in Section IV of this preamble would be adequate for ensuring the LDSN–DRF will achieve detection and location of component-level leaks. Additionally, we seek comment regarding whether the proposed alternative will achieve emissions reductions at least equivalent to the emissions reductions that would be achieved through compliance with the applicable LDAR requirements in 40 CFR 60 Subparts VV, VVa, GGG, GGGa; 63 Subparts H and CC. Finally, as noted in Section III, we also solicit comment on the EPA's proposed framework for evaluation of future LDSN–DRF AMEL requests. Commenters should include data or specific examples in support of their comments.

#### Panagiotis Tsirigotis,

*Director, Office of Air Quality Planning and Standards.*

[FR Doc. 2021–22233 Filed 10–12–21; 8:45 am]

**BILLING CODE 6560–50–P**

#### FEDERAL MARITIME COMMISSION

#### National Shipper Advisory Committee October 2021 Meeting

**AGENCY:** Federal Maritime Commission.

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** Notice is hereby given of a meeting of the National Shipper Advisory Commission (NSAC), pursuant to the Federal Advisory Committee Act.

**DATES:** The Committee will meet by video conference on October 27, 2021, from 1:00 p.m. until 4:00 p.m. Eastern. Please note that this meeting may adjourn early if the Committee has completed its business.

**ADDRESSES:** The meeting will be held via video conference. The link will be provided by email to registrants in advance. Requests to register should be submitted to [nsac@fmc.gov](mailto:nsac@fmc.gov) and contain “REGISTER FOR NSAC MEETING” in the subject line. The deadline for members of the public to register to attend the meeting is by 5:00 p.m. Eastern on Friday, October 22. Members of the public are encouraged to submit registration requests via email in advance of the deadline. The number of lines may be limited and will be available on a first-come, first-served basis. If you have accessibility concerns and require assistance, contact [secretary@fmc.gov](mailto:secretary@fmc.gov).

**FOR FURTHER INFORMATION CONTACT:** Mr. Dylan Richmond, Designated Federal Officer of the National Shipper Advisory Committee, phone: (202) 523–5810; email: [drichmond@fmc.gov](mailto:drichmond@fmc.gov).

#### SUPPLEMENTARY INFORMATION:

*Background:* The National Shipper Advisory Committee is a federal advisory committee. It operates under the provisions of the Federal Advisory Committee Act, 5 U.S.C. App., and 46 U.S.C. chapter 425. The Committee was established on January 1, 2021, when the National Defense Authorization Act for Fiscal Year 2021 became law. Public Law 116–283, section 8604, 134 Stat. 3388 (2021). The Committee will provide information, insight, and expertise pertaining to conditions in the ocean freight delivery system to the Commission. Specifically, the Committee will advise the Federal Maritime Commission on policies relating to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system. 46 U.S.C. 42502(b).

The purpose of the meeting is for the Committee to organize itself and to begin discussions on issues of interest to the agency. Potential agenda items include remarks from Federal Maritime Commission leadership, the election of a Chair and Vice-Chair, and roundtable discussions on detention and demurrage, information sharing, and

current observations of the state of the supply chain.

*Written Comments:* Members of the public may submit written comments to NSAC at any time. Comments would be most useful to the Committee if they address the objectives outlined in their charter. Comments should be addressed to NSAC, c/o Dylan Richmond, Federal Maritime Commission, 800 North Capitol St. NW, Washington, DC 20573 or [nsac@fmc.gov](mailto:nsac@fmc.gov).

A copy of all meeting documentation will be available at [www.fmc.gov](http://www.fmc.gov) following the meeting.

By the Commission.

**Rachel E. Dickon,**

*Secretary.*

[FR Doc. 2021-22200 Filed 10-12-21; 8:45 am]

BILLING CODE 6730-02-P

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than October 28, 2021.

*A. Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *The Dean A. Holmes General Trust, Dean Holmes, as trustee, The Arlene E.*

*Holmes General Trust, Arlene E. Holmes, as trustee, and Neil Holmes, all of Lena, Illinois; Craig Holmes, Pearl City, Illinois; David Holmes, Erie, Pennsylvania; Kevin Holmes, Mesa, Arizona; and Kay Overson, San Diego, California;* to become the Holmes family control group, a group acting in concert, to retain voting shares of First Lena Corporation, and thereby indirectly retain voting shares of Citizens State Bank, both of Lena, Illinois.

*B. Federal Reserve Bank of Kansas City* (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *Leslie Vezner, Lewisville, Texas;* to retain voting shares of Nebraska Bankshares, Inc., and thereby indirectly retain voting shares of First State Bank, both of Farnam, Nebraska.

*C. Federal Reserve Bank of Dallas* (Karen Smith, Director, Applications) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *James Cook, San Antonio, Texas; the Sue Craft McMahan Trust, Sue Craft McMahan, individually, and as trustee, both of Austin, Texas; the Clint Creighton Craft Trust, Clint Creighton Craft, as trustee, both of Celina, Texas; Malinda R. Crumley, Kay R. Murphey, and Malinda Murphey Cowan, all of Fort Worth, Texas; Bryan Bumpas, Margaret Sue Cherryhomes, Jerry Craft, Debbie J. Reaves, Karen Buckley Ramage, Paula Williams, Mallory Tolleson, Jerry Graybill, and the Amended and Restated Voting Trust Agreement, C. Blain Ramage, individually, and as trustee, all of Jacksboro, Texas; the Davis Revocable Trust, Danna Ritter, as trustee, both of La Vernia, Texas; the Jay David Craft Trust, Jay David Craft, as trustee, both of Christiansted, Virgin Islands; Dayna Geer Gunter, Azle, Texas; Charles Tyson, Bellevue, Texas; Alan Miller, Bowie, Texas; Willis G. Stamper, Jr., Frisco, Texas; William W. Ramage, Gunter, Texas; Jennifer Louise Stayton, Murphy, Texas; Stephen Stamper, Wichita Falls, Texas; James Rhodes Murphey and Emily Loomis Murphey, both of Willow Park, Texas; Craig Anderle, Windthorst, Texas; and Stella Jeanette McClure Matthews, Medford, Oregon;* to join Edwin C. Ramage, and to become members of the Voting Trust Control Group, a group acting in concert, to retain voting shares of Jacksboro National Bancshares, Inc., and thereby indirectly retain voting shares of Jacksboro National Bank, both of Jacksboro, Texas.

Board of Governors of the Federal Reserve System, October 7, 2021.

**Ann E. Misback,**

*Secretary of the Board.*

[FR Doc. 2021-22261 Filed 10-12-21; 8:45 am]

BILLING CODE P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Supplemental Evidence and Data Request on Telehealth During COVID-19

**AGENCY:** Agency for Healthcare Research and Quality (AHRQ), HHS.

**ACTION:** Request for supplemental evidence and data submissions.

**SUMMARY:** The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on *Telehealth During COVID-19*, which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

**DATES:** *Submission Deadline* on or before November 12, 2021.

**ADDRESSES:**

*Email submissions:* [epc@ahrq.hhs.gov](mailto:epc@ahrq.hhs.gov).

*Print submissions:*

*Mailing Address:* Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857

*Shipping Address (FedEx, UPS, etc.):*

Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857

**FOR FURTHER INFORMATION CONTACT:**

Jenae Benms, Telephone: 301-427-1496 or Email: [epc@ahrq.hhs.gov](mailto:epc@ahrq.hhs.gov).

**SUPPLEMENTARY INFORMATION:** The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for *Telehealth During COVID-19*. AHRQ is conducting this technical brief pursuant to Section 902 of the Public Health Service Act, 42 U.S.C. 299a.

The EPC Program is dedicated to identifying as many studies as possible

that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (e.g., details of studies conducted). We are looking for studies that report on *Telehealth During COVID-19*, including those that describe adverse events. The entire research protocol is available online at: <https://effectivehealthcare.ahrq.gov/products/virtual-health-covid/protocol>.

This is to notify the public that the EPC Program would find the following information on *Telehealth During COVID-19* helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*

- *For completed studies that do not have results on ClinicalTrials.gov, a summary, including the following elements: Study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.*

- *A list of ongoing studies that your organization has sponsored for this indication. In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.*

- *Description of whether the above studies constitute ALL Phase II and above clinical trials sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.*

Your contribution is very beneficial to the Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: <https://www.effectivehealthcare.ahrq.gov/email-updates>.

*The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.*

**Key Questions (KQ)**

KQ 1. What are the characteristics of patient, provider, and health systems using telehealth during the COVID-19 era, specifically:

- a. What are the characteristics of patients (e.g., age, race/ethnicity, gender, socioeconomic status, education, geographic location (urban versus rural))?

- b. What are the provider and health system characteristics (e.g., specialty, geographic location, private practice, hospital-based practice)?

- c. How do the characteristics of patients, providers, and health systems differ between the first four months of the COVID-19 era versus the remainder of the COVID-19 era?

KQ 2. What are the benefits and harms of telehealth during the COVID-19 era?

- a. Does this vary by type of telehealth intervention (i.e., telephone, video visits)?

- b. Does this vary by patient characteristic (i.e., age, gender, race/ethnicity, type of clinical condition or health concern, geographic location)?

- c. Does this vary by provider and health system characteristic (e.g., specialty, geographic location, private practice, hospital-based practice)?

KQ 3. What is considered a successful telehealth intervention during the COVID-19 era:

- a. From the patient or caregiver perspective?

- b. From the provider perspective?

- c. From the health system perspective?

KQ 4. What strategies have been used to implement telehealth interventions during the COVID-19 era?

- a. What are the barriers and enablers of a successful telehealth strategy (e.g., setting, reimbursement, access to technology)?

- o From the patient or caregiver perspective?

- o From the provider perspective?

- o From the health system perspective?

**Contextual Questions (CQ)**

CQ 1. What are the costs of implementation and return on investment for telehealth during the COVID-19 era to the provider/healthcare system?

CQ 2. What are the policy and reimbursement considerations for telehealth during the COVID-19 era?

- a. How are these policy and reimbursement considerations for telehealth changing in the post-COVID-19 era (from March 2020, when the World Health Organization declared COVID-19 a pandemic to present); at the federal level (policies such as Medicare), state level (policies such as Medicaid), and by private insurance payers?

- b. How do changes in reimbursement policies impact telehealth strategies?

**PICOTS (Population, Intervention, Comparator, Outcome, Timing, Setting)**

TABLE 1—PICOTS: INCLUSION AND EXCLUSION CRITERIA

PICOT	Inclusion	Exclusion
Population .....	All KQ: <ul style="list-style-type: none"> <li>• Patients of any age (or their caregivers for KQ3 KQ4)</li> <li>• Health systems</li> <li>• Hospitals</li> <li>• Providers</li> </ul>	All KQ: Patients receiving inpatient care. Providers providing inpatient care.
Interventions .....	KQ 1-3: <ul style="list-style-type: none"> <li>• Remotely delivered synchronous medical services (e.g., telephone, video visits) between a patient and a healthcare provider in an ambulatory setting (e.g., outpatient and community-based clinics) or ED providing.</li> </ul>	All KQ: Remotely delivered, non-synchronous medical services (e.g., remote monitoring devices, health apps, wearable devices, patient portals).

TABLE 1—PICOTS: INCLUSION AND EXCLUSION CRITERIA—Continued

PICOT	Inclusion	Exclusion
Comparators .....	<ul style="list-style-type: none"> <li>○ acute/urgent care (e.g., symptom management); routine/chronic care (e.g., preventive services, chronic disease management); mental health services; wellness visits; post-hospital discharge care (e.g., routine follow-up and care for nonacute issues).</li> <li>● Patient and specialist communications facilitated by an ED physician in an ED (particularly important in rural care setting).</li> </ul> <p>KQ4: Implementation strategies for telehealth. KQ 1–3: In-person care, no care, no comparison KQ 4: Implementation strategies for telehealth</p>	NA.
Outcomes .....	<p>KQ 1: Not applicable KQs 2 and 3:</p> <ul style="list-style-type: none"> <li>○ Patient/provider-level outcomes                             <ul style="list-style-type: none"> <li>■ Patient satisfaction/perceptions</li> <li>■ Physician/provider satisfaction/engagement/burnout</li> </ul> </li> <li>○ System outcomes                             <ul style="list-style-type: none"> <li>■ Healthcare access (e.g., insurance coverage, WIFI and smartphone access)</li> <li>■ Healthcare utilization (e.g., hospitalization, readmission, ED visit)</li> <li>■ Healthcare performance and quality measures (e.g., adhering or meeting Healthcare Effectiveness Data and Information Set (HEDIS) standards or other validated quality measures), e.g.:                                     <ul style="list-style-type: none"> <li>● Practice efficiency</li> <li>● No-show rates</li> <li>● Staffing hours</li> <li>● Cycle times   <ul style="list-style-type: none"> <li>■ Communication</li> </ul> </li> </ul> </li> <li>○ Clinical outcomes(any)                             <ul style="list-style-type: none"> <li>■ Medication adherence</li> <li>■ Up to date lab values</li> </ul> </li> <li>○ Adverse effects/patient safety issues                             <ul style="list-style-type: none"> <li>■ Inappropriate treatment</li> <li>■ Misdiagnosis/delayed diagnosis/care</li> <li>■ Case resolution/Duplication of services (telehealth followed immediately by in-person visit)</li> <li>■ Privacy/confidentiality breaches</li> </ul> </li> <li>○ Cost (see Appendix A for detailed cost outcomes)</li> </ul> <p>KQ4:</p> <ul style="list-style-type: none"> <li>○ Barriers and enablers</li> </ul> </li></ul>	NA.
Timing .....	<p>All KQ: the era of COVID–19 (March 2020–present) KQ1d: During the first 4 months or beyond the initial phase.*</p>	Studies completed prior to the era of COVID–19.
Setting .....	<p>ALL KQ:</p> <ul style="list-style-type: none"> <li>○ Healthcare provided outside of a medical office via phone or video.</li> <li>○ Healthcare provided in an ED by a specialist via phone or video.</li> <li>○ U.S.-like outpatient population (including ED) (see Appendix B for a list of included countries)</li> </ul>	Inpatient setting. Non-U.S. based studies with different patient population or health system characteristics.
Study Design † ..	<p>KQ1: Claims and EHR data KQ 2 and 4</p> <ul style="list-style-type: none"> <li>○ Qualitative studies: Focus groups, interviews</li> <li>○ Quantitative studies: RCT, CT, observational studies, and surveys</li> </ul> <p>KQ3: Qualitative studies: Focus groups, interviews.</p>	

\* Studies that began before the era of COVID–19 (11 March 2020) and extend into the era of COVID–19 will be excluded unless they meet the following criteria: Data from the pre and post COVID–19 era are stratified—the stratified data will be extracted; studies initiated as early as 1 January 2020 can be included if they are studies of telehealth in response to COVID–19.

† To be eligible for inclusion as a qualitative study, the Sampling, data collection, and data analyses must be systematically conducted; data must be analyzed using methods of qualitative data analysis (such as thematic analysis).

CT = controlled trial; ED = emergency department; EHR = electronic health record; HEDIS = Healthcare Effectiveness Data and Information Set; KQ = key question(s); NA = not applicable, RCT = randomized controlled trial.



Dated: October 7, 2021.

**Marquita Cullom,**

*Associate Director.*

[FR Doc. 2021–22239 Filed 10–12–21; 8:45 am]

BILLING CODE 4160–90–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Request for Information: AHRQ's Role in Climate Change and Environmental Justice

**AGENCY:** Agency for Healthcare Research and Quality (AHRQ), HHS.

**ACTION:** Notice of request for information.

**SUMMARY:** The Agency for Healthcare Research and Quality (AHRQ) is seeking information from the public on how the agency may have the greatest impact in addressing climate change through its core competencies of health systems research, practice improvement, and data & analytics. Specifically, AHRQ wants to learn how the agency can best use its resources to help build the healthcare system's resilience to climate threats, reduce the healthcare industry's contribution to climate change while increasing sustainability, and address environmental justice issues in healthcare.

**DATES:** Comments on this notice must be received by December 13, 2021. AHRQ will not respond individually to responders but will consider all comments submitted by the deadline.

**ADDRESSES:** Please submit all responses via email to [ClimateChange@AHRQ.HHS.gov](mailto:ClimateChange@AHRQ.HHS.gov) as a Word document or in the body of an email.

**FOR FURTHER INFORMATION CONTACT:** Brent Sandmeyer, Social Science Analyst, Email: [Brent.Sandmeyer@AHRQ.HHS.gov](mailto:Brent.Sandmeyer@AHRQ.HHS.gov), Telephone: 301–427–1441.

**SUPPLEMENTARY INFORMATION:** The Agency for Healthcare Research and Quality's mission is to produce evidence to make healthcare safer, higher quality, more accessible, equitable, and affordable, and to work within the U.S. Department of Health and Human Services and with other partners to make sure that the evidence is understood and used.

In pursuit of that mission, AHRQ recognizes that climate change is a large and growing threat to public health and the ability of the U.S. healthcare system to provide high quality, equitable care. Climate change has contributed to heat

waves, wildfires, hurricanes, droughts, flooding, and associated infrastructure failures. All of these have detrimental physical and behavioral health consequences and place increased demands on the healthcare system as it also struggles to respond to the COVID–19 pandemic. Both climate change and the COVID–19 pandemic have highlighted and exacerbated long-standing racial, ethnic, and economic health disparities.

AHRQ is seeking the public's input on how the agency may have the greatest impact in addressing climate change through its core competencies of health systems research, practice improvement, and data & analytics. Specifically, AHRQ wants to learn how the agency can best use its resources to help build the healthcare system's resilience to climate threats, reduce the healthcare industry's contribution to climate change while increasing sustainability, and address environmental justice issues in healthcare.

AHRQ is requesting information from the public regarding the following broad questions:

1. What should AHRQ's role be at the intersection of climate change, healthcare, and environmental justice to maximize the agency's impact?

2. How can AHRQ incorporate climate change and environmental justice issues into its core competencies of healthcare systems research, practice improvement, and data & analytics?

3. What are the most pressing healthcare-related areas of climate change and environmental justice research and actions that AHRQ could address? Relatedly, what evidence do healthcare systems and policymakers need to make decisions on responding to climate change?

4. How can AHRQ help healthcare systems prepare for and respond to the impacts of climate change on patient care, especially for vulnerable populations?

5. What role could AHRQ play in identifying, gathering, and disseminating data on climate-related risks and impacts, and making the information timely and easily available for researchers, healthcare systems, and policy makers?

6. What practice improvement resources (e.g., tools, strategies) could AHRQ provide to help healthcare systems improve patient safety and system resiliency during climate-related emergencies?

7. What are the training and education needs of healthcare professionals related to climate change and what role could AHRQ play in addressing those needs?

8. What key research has been conducted to assess or mitigate the impact that healthcare has on climate change? What are effective strategies to measure and reduce the carbon footprint and other environmental impacts of the healthcare sector?

9. What has been learned about health systems' capacity and limitations during the COVID–19 pandemic that can help care delivery organizations better address climate change impacts and reduce disparities?

10. How might AHRQ take advantage of the existing national infrastructure to advance quality and safety (e.g., measurement standards, accrediting bodies, learning networks, incentives) to accelerate work on climate health and equity?

11. Which organizations working on climate change response in healthcare should AHRQ learn from and collaborate with? Please describe the nature of the organization's work, evidence, and solutions, as applicable.

AHRQ is interested in all of the questions listed above, but respondents are welcome to address as many or as few as they choose and to address additional areas of interest not listed.

This RFI is for planning purposes only and should not be construed as a policy, solicitation for applications, or as an obligation on the part of the Government to provide support for any ideas identified in response to it. AHRQ will use the information submitted in response to this RFI at its discretion and will not provide comments to any responder's submission. However, responses to the RFI may be reflected in future solicitation(s) or policies. The information provided will be analyzed and may appear in reports. Respondents will not be identified in any published reports. Respondents are advised that the Government is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted. No proprietary, classified, confidential, or sensitive information should be included in your response. The contents of all submissions will be made available to the public upon request. Materials submitted must be publicly available or can be made public.

Dated: October 6, 2021.

**Marquita Cullom,**

*Associate Director.*

[FR Doc. 2021–22166 Filed 10–12–21; 8:45 am]

BILLING CODE 4160–90–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60Day–22–2110; Docket No. CDC–2021–0108]

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled “Evaluation Reporting Template for National and State Tobacco Control Program.” This data collection project supports the evaluation of CDC–RFA–DP20–2001: The National and State Tobacco Control Program.

**DATES:** CDC must receive written comments on or before December 13, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2021–0108 by any of the following methods:

- *Federal eRulemaking Portal:* [Regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to [Regulations.gov](https://www.regulations.gov).

**Please note:** *Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; phone: 404–639–7570; Email: [omb@cdc.gov](mailto:omb@cdc.gov).

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and
5. Assess information collection costs.

#### Proposed Project

Evaluation Reporting Template for National and State Tobacco Control Program—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

#### Background and Brief Description

CDC’s Office on Smoking and Health (OSH) created the National and State Tobacco Control Program (NTCP) in 1999 to encourage coordinated, national efforts to reduce tobacco-related diseases and deaths. The NTCP provides funding and technical support to state and territorial health departments. NTCP funds 50 states, Washington, DC, Puerto Rico, and Guam. NTCP-funded programs are working to eliminate exposure to secondhand smoke, promote quitting among adults and

youth, prevent initiation among youth and young adults, and identify and eliminate tobacco-related disparities. To reach these goals, the programs implement State and Community Interventions, Mass-Reach Health Communication Interventions, Tobacco Use and Dependence Treatment Interventions, and conduct Surveillance and evaluation.

This information collection project supports the NTCP state and territorial tobacco program managers, administrators, and evaluators by specifying which information should be included in their annual evaluation reports. Furthermore, the information collected via this form will allow CDC’s OSH to monitor and evaluate program performance; document facilitators and barriers, lessons learned, and promising practices; establish processes to support continuous program improvement and development; and assess the effectiveness and outcomes of the NTCP.

This new information collection request (ICR) pertains to the form titled “Evaluation Reporting Template (ERT) for National and State Tobacco Control Program.” The collection of this information is part of a federal reporting requirement for funds received by NTCP recipients. The information collection form will consolidate information necessary for evaluation of the NTCP. The data collected through ERT was compared to all other potential evaluation data sources and designed not to duplicate any information collected in other tools. Although other NTCP data collection tools are currently in use to collect data for NTCP (Monitoring and Reporting System for the National Tobacco Control Program; OMB Control #: 0920–1097, Exp. 04/30/2023), these existing data collection tools are focused on financial and programmatic management, program implementation, and performance measurement. By contrast, the ERT will collect process and outcome evaluation findings resulting from individual evaluations designed by each NTCP recipient. Findings will include contextual factors, indicators, lessons learned, and information about health equities and health disparities. Recipients will use the ERT to report information to CDC about their Tobacco Control Program evaluation findings. Each recipient will submit an Annual Evaluation Report template using the Microsoft Word-based Evaluation Reporting Tool.

Current respondents are 53 cooperative agreement recipients. The estimated burden per response is eight hours for each Annual Evaluation

Report. Over the three-year period of this information collection request, the

total estimated annualized burden for the current 53 current recipients is 424

hours. A three-year approval period is requested for the proposed collection.

## ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
State and Territorial Health Department Tobacco Control Program Staff.	Evaluation Reporting Template for National and State Tobacco Control Program.	53	1	8	424
Total .....	.....	.....	.....	.....	424

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2021-22178 Filed 10-12-21; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Mine Safety and Health Research Advisory Committee (MSHRAC)

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Mine Safety and Health Research Advisory Committee (MSHRAC). This is a virtual meeting. It is open to the public, limited only by web conference lines (500 web conference lines are available).

**DATES:** The meeting will be held on December 8, 2021, from 10:30 a.m. to 3:30 p.m., EST, and December 9, 2021, from 10:30 a.m. to 2:30 p.m., EST.

**ADDRESSES:** If you wish to attend, please contact Ms. Berni Metzger by email at [M.Metzger@cdc.hhs.gov](mailto:M.Metzger@cdc.hhs.gov) or by telephone at (412) 386-4541 at least 5 business days in advance of the meeting. She will provide you with the Zoom web conference access information.

**FOR FURTHER INFORMATION CONTACT:** George W. Luxbacher, P.E., Ph.D., Designated Federal Officer, MSHRAC, National Institute for Occupational Safety and Health (NIOSH), CDC, 2400 Century Parkway NE, Atlanta, GA 30345, Telephone: (404) 498-2808; Email: [GLuxbacher@cdc.gov](mailto:GLuxbacher@cdc.gov).

**SUPPLEMENTARY INFORMATION:**

*Purpose:* This committee is charged with providing advice to the Secretary,

Department of Health and Human Services; the Director, CDC; and the Director, NIOSH, on priorities in mine safety and health research, including grants and contracts for such research, 30 U.S.C. 812(b)(2), Section 102(b)(2).

*Matters To Be Considered:* The agenda will include discussions on NIOSH mining safety and health research organizational structure, capabilities, projects, and outcomes; updates on MINER Act extramural research; and the Mining Program Strategic Plan. The meeting will also include an update from the NIOSH Associate Director for Mining. Agenda items are subject to change as priorities dictate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2021-22180 Filed 10-12-21; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60Day-22-1255; Docket No. CDC-2021-0109]

#### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Emergency Cruise Ship Outbreak Investigations (CSOIs). This collection is designed to allow the CDC Vessel Sanitation Program (VSP) to prevent the introduction, transmission, or spread of acute gastroenteritis (AGE) via cruise ships entering the United States from foreign countries.

**DATES:** CDC must receive written comments on or before December 13, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC-2021-0109 by any of the following methods:

- *Federal eRulemaking Portal:* [Regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-8, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to [Regulations.gov](https://www.regulations.gov).

*Please note: Submit all comments through the Federal eRulemaking portal ([regulations.gov](https://www.regulations.gov)) or by U.S. mail to the address listed above.*

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS

H21-8, Atlanta, Georgia 30329; phone: 404-639-7118; Email: [omb@cdc.gov](mailto:omb@cdc.gov).

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses; and
5. Assess information collection costs.

#### Proposed Project

Emergency Cruise Ship Outbreak Investigations (CSOIs) (OMB Control No. 0920-1255, Exp. 03/31/2022)—Extension—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

#### Background and Brief Description

Established in 1975 as a cooperative activity with the cruise ship industry, the Centers for Disease Control and

Prevention (CDC) Vessel Sanitation Program (VSP) develops and implements comprehensive sanitation programs to minimize the risk of gastrointestinal diseases, by coordinating and conducting operational inspections, ongoing surveillance of gastrointestinal illness, and outbreak investigations on vessels.

Under the authority of the Public Health Service Act (42 U.S.C. 264 and 269), the VSP is requesting a three-year Extension Information Collection Request (ICR) for an existing generic clearance. This ICR will provide for the quick turn-around necessary to conduct emergency Cruise Ship Outbreak Investigations (CSOIs) in response to acute gastroenteritis (AGE) outbreaks. CSOIs are used to determine the causative agents and their sources, modes of transmission, or risk factors. The VSP's jurisdiction includes passenger vessels carrying 13 or more people sailing from foreign ports and within 15 days of arriving at a U.S. port.

VSP uses its syndromic surveillance system called the "Maritime Illness and Death Reporting System (MIDRS)" (OMB Control No. 0920-1260, Expiration date 04/30/2022) to collect aggregate data about the number of people onboard ships in VSP's jurisdiction who are experiencing AGE symptoms. When the levels of illness meet VSP's alert threshold (*i.e.*, at least 2% in either the passenger or crew populations), a special report is made to VSP via MIDRS and remote environmental health and epidemiologic assistance is provided. VSP considers an outbreak to be  $\geq 3\%$  of reportable AGE cases in either guest or crew populations. When assistance is needed due to AGE outbreaks on cruise ships, this often requires VSP to deploy a response team to meet the ship in port within 24 hours of reaching the outbreak threshold, and in some cases, deploying the response team to board the ship before its U.S. arrival, and sail back to the U.S. port of disembarkation to conduct a more detailed and comprehensive epidemiologic and environmental health evaluation of the outbreak.

Causative agent, sources of exposure, modes of transmission, and risk factors can be ascertained by gathering the following types of information from both the affected and (seemingly) unaffected populations:

- Demographic information,
- Pre-embarkation travel information,
- Symptoms, including type, onset, duration,
- Contact with people who were sick or their body fluids,
- Participation in ship and shore activities,
- Locations of eating and drinking, and
- Foods and beverages consumed both on the ship and on shore. Rapid and flexible data collection is imperative given the mobile environment, the remaining duration of the voyage left for investigation, and the loss to follow-up if delays allow passengers to disembark and leave the ship, including those returning to locations outside of the U.S.

This generic clearance will cover investigations that meet all of the following criteria:

- The investigation is urgent in nature (*i.e.*, timely data are needed to inform rapid public health action to prevent or reduce morbidity or mortality).
  - The investigation is characterized by undetermined agents, undetermined sources, undetermined modes of transmission, or undetermined risk factors.
  - One or more CDC staff (including trainees and fellows) will be deployed to the field.
  - Most CSOIs involve two to five days of data collection; data collection is completed in 30 days or less.
- This generic clearance excludes each of the following:
- Investigations related to non-urgent outbreaks or events.
  - Investigations conducted for the primary purpose of program evaluation, surveillance, needs assessment, or research (*e.g.*, to contribute to generalizable knowledge).
  - Investigations with data collection expected for greater than 30 days.

The VSP estimates 10 CSOIs annually in response to cruise ship AGE outbreaks. The estimated number of respondents is 2,500 per CSOI, for a total of 25,000 respondents per year. The average time burden is 15 minutes for each respondent. Therefore, the total estimated annual burden in hours is 6,250. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Cruise Ship Passengers or Crew .....	Questionnaire .....	24,750	1	15/60	6,188
Cruise Ship Passengers or Crew .....	Interview .....	250	1	15/60	62
Total .....	.....	.....	.....	.....	6,250

**Jeffrey M. Zirger,**  
*Lead, Information Collection Review Office,  
 Office of Scientific Integrity, Office of Science,  
 Centers for Disease Control and Prevention.*

[FR Doc. 2021-22179 Filed 10-12-21; 8:45 am]

**BILLING CODE 4163-18-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

[60Day-22-1304; Docket No. CDC-2021-0110]

**Proposed Data Collection Submitted for Public Comment and Recommendations**

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Outbreak Reporting System (NORS). NORS collects data on all waterborne and foodborne disease outbreaks and enteric disease outbreaks transmitted by contact with environmental sources, infected persons or animals, or unknown modes of transmission.

**DATES:** CDC must receive written comments on or before December 13, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC-2021-0110 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.

- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for

Disease Control and Prevention, 1600 Clifton Road NE, MS H21-8, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

*Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-8, Atlanta, Georgia 30329; phone: 404-639-7570; Email: *omb@cdc.gov*.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and

5. Assess information collection costs.

**Proposed Project**

National Outbreak Reporting System (NORS) (OMB Control No. 0920-1304, Exp. 9/30/2023)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The National Outbreak Reporting System (NORS) is a web-based platform that is used by local, state, and territorial health departments in the United States to report all waterborne and foodborne disease outbreaks and enteric disease outbreaks transmitted by contact with environmental sources, infected persons or animals, or unknown modes of transmission to the Centers for Disease Control and Prevention (CDC). CDC analyzes outbreak data to determine trends and develop and refine recommendations for prevention and control of foodborne, waterborne, and enteric disease outbreaks.

This Revision request is being submitted to improve clarity and readability, combining two separate but related outbreak reporting forms (52.12 and 52.13) into a single outbreak reporting form (Form 52.14). Overlapping sections have been combined, and existing questions reorganized for clarity. Some additional questions have been added to the form to address current gaps in national outbreak surveillance.

CDC requests approval for 1,160 annual burden hours. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Epidemiologist .....	Form 52.14 .....	59	59	20/60	1,160
Total .....	.....	.....	.....	.....	1,160

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2021-22181 Filed 10-12-21; 8:45 am]

BILLING CODE 4163-18-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

[30Day-22-1244]

**Agency Forms Undergoing Paperwork Reduction Act Review**

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Assessment of Occupational Injury among Fire Fighters Using a Follow-back Survey to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on July 19, 2021 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

- (a) 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;
- (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) Enhance the quality, utility, and clarity of the information to be collected;
- (d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-5806. Provide written comments within 30 days of notice publication.

**Proposed Project**

Assessment of Occupational Injury among Fire Fighters Using a Follow-back Survey (OMB Control No. 0920-1244, Exp. 10/31/2021)—Extension—National Institute for Occupational Safety and Health (NIOSH) Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Studies have reported that firefighters have high rates of non-fatal injuries and illnesses as compared to the general worker population. As firefighters undertake many critical public safety activities and are tasked with protecting the safety and health of the public, it follows that understanding and preventing injuries and exposures among firefighters will have a benefit reaching beyond the workers to the general public.

As mandated in the Occupational Safety and Health Act of 1970 (Pub. L. 91-596), the mission of NIOSH is to conduct research and investigations on occupational safety and health. Related

to this mission, the purpose of this project is to conduct research that will provide a detailed description of non-fatal occupational injuries and exposures incurred by firefighters. This information will offer detailed insight into events that lead to the largest number of nonfatal injuries and exposures among firefighters.

The project will use two related data sources. The first source is data abstracted from medical records of firefighters treated in a nationally stratified sample of emergency departments. These data are routinely collected through the occupational supplement to the National Electronic Injury Surveillance System (NEISS-Work). The second data source, for which NIOSH is seeking an extension of OMB approval for one additional year, is responses to telephone interview surveys of the injured and exposed firefighters identified within NEISS-Work.

The proposed one-year Extension of the telephone interview surveys will supplement NEISS-Work data with a description of firefighter injuries and exposures, including worker characteristics, injury types, injury circumstances, injury outcomes, and use of personal protective equipment for firefighters who opt to participate.

Previous reports describing occupational injuries and exposures to firefighters provide limited details on specific regions or sub-segments of the population. As compared to these earlier studies, the scope of the telephone interview data is broader, as it includes sampled cases nationwide and has no limitations regarding type of employment (i.e., volunteer versus career). Results from the telephone interviews will be analyzed and reported as a case series.

The sample size for the telephone interview survey is estimated to be 35 firefighters annually for the proposed one-year extension. This is based on the current survey completion rate of 10 to 11%. While this completion rate is lower than originally expected, the project team still expects to gain valuable insight into injuries and exposures that firefighters incur. Each

telephone interview will take approximately 30 minutes to complete, resulting in an annualized burden estimate of 18 hours. Using the routine NEISS-Work data, an analysis of firefighters will be performed to determine if any differences can be identified between the telephone interview responder and non-responder groups.

The Division of Safety Research (DSR) within NIOSH is conducting this project. DSR has a strong interest in improving surveillance of firefighter injuries and exposures to provide the information necessary for effectively targeting and implementing prevention efforts and, consequently, reducing occupational injuries and exposures to firefighters. The Consumer Product

Safety Commission (CPSC) continues to contribute to this project, as they are responsible for coordinating the collection of all NEISS-Work data and for overseeing the collection of all telephone interview data.

CDC requests approval for an estimated 18 annual burden hours with this Extension. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Firefighters .....	Follow-back survey .....	35	1	30/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021-22177 Filed 10-12-21; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2021-N-1088]

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) announces a forthcoming public advisory committee meeting of the Vaccines and Related Biological Products Advisory Committee (VRBPAC). The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. Members will participate via teleconference. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on October 26, 2021, from 8:30 a.m. to 5 p.m. Eastern Time. Submit either electronic or written comments on this public meeting by October 25, 2021. Comments received on or before October 21, 2021, will be provided to the committee. Comments received after October 21, 2021, and by October 25,

2021, will be taken into consideration by FDA.

ADDRESSES: Please note that due to the impact of this COVID-19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. The online web conference meeting will be available at the following link on the day of the meeting: [https://youtu.be/laaLO\\_xKmmA](https://youtu.be/laaLO_xKmmA).

FDA is establishing a docket for public comment on this meeting. The docket number is FDA-2021-N-1088. The docket will close on October 25, 2021. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of October 25, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications, submissions, or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any

confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2021-N-1088 for "Vaccines and Related Biological Products; Notice of Meeting; Establishment of a Public Docket; Request for Comments." Received comments, those filed in a timely manner (see ADDRESSES), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

**FOR FURTHER INFORMATION CONTACT:** Prabhakara Atreya or Kathleen Hayes, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 6307C, Silver Spring, MD 20993-0002, 301-796-7864; via email at [CBERVRBPAC@fda.hhs.gov](mailto:CBERVRBPAC@fda.hhs.gov), or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency’s website at <https://www.fda.gov/AdvisoryCommittees/default.htm> and scroll down to the appropriate advisory

committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

**SUPPLEMENTARY INFORMATION:** Consistent with FDA’s regulations, this notice is being published with less than 15 days prior to the date of the meeting based on a determination that convening a meeting of the VRBPAC as soon as possible is warranted. This **Federal Register** notice could not be published 15 days prior to the date of the meeting due to a recent request to amend the Pfizer-BioNTech’s Emergency Use Authorization (EUA) for administration of their COVID-19 mRNA vaccine to children 5 through 11 years of age and the need for prompt discussion of this request given the COVID-19 pandemic.

**Agenda:** The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. On October 26, 2021, the committee will meet in open session to discuss a request to amend Pfizer-BioNTech’s EUA for administration of their COVID-19 mRNA vaccine to children 5 through 11 years of age.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, background material will be made publicly available on FDA’s website at the time of the advisory committee meeting. Background material and the link to the online teleconference meeting room will be available at <https://www.fda.gov/advisory-committees/advisory-committee-calendar>. Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

**Procedure:** Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before October 21, 2021, will be provided to the committee. Comments received after October 21, 2021, and by October 25, 2021, will be taken into consideration by FDA. Oral presentations from the public will be scheduled between approximately 12:45 p.m. and 1:45 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to

present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 19, 2021. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 20, 2021.

For press inquiries, please contact the Office of Media Affairs at [fdaoma@fda.hhs.gov](mailto:fdaoma@fda.hhs.gov) or 301-796-4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Prabhakara Atreya or Kathleen Hayes ([CBERVRBPAC@fda.hhs.gov](mailto:CBERVRBPAC@fda.hhs.gov)) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at: <https://www.fda.gov/advisory-committees/about-advisory-committees/public-conduct-during-fda-advisory-committee-meetings> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 8, 2021.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2021-22452 Filed 10-8-21; 4:15 pm]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2020-D-1106]

#### Alcohol-Based Hand Sanitizer Products; Withdrawal of Three Temporary Guidance Documents Issued During the Public Health Emergency of the Coronavirus Disease 2019

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; withdrawal.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the withdrawal of three guidance documents entitled



“Temporary Policy for Preparation of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID–19),” “Policy for Temporary Compounding of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency,” and “Temporary Policy for Manufacture of Alcohol for Incorporation Into Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID–19),” which were issued in March 2020 (and updated March 27, 2020, April 15, 2020, June 1, 2020, August 7, 2020, and February 10, 2021). FDA is withdrawing these three guidance documents because current data indicate that consumers and healthcare personnel are no longer experiencing difficulties accessing alcohol-based hand sanitizer products, and these temporary policies are no longer needed to help meet demand for alcohol-based hand sanitizer products or for alcohol for use in alcohol-based hand sanitizer.

**DATES:** The withdrawal date for the three guidances is December 31, 2021. Firms manufacturing alcohol under the temporary policies for use in alcohol-based hand sanitizers and firms preparing alcohol-based hand sanitizers under the temporary policies must cease production of these products by December 31, 2021. Firms must cease, by March 31, 2022, distribution of any remaining hand sanitizer products that were prepared under the temporary policies before or on December 31, 2021. After March 31, 2022, FDA intends to cease its temporary policy of not taking action with regard to distribution of hand sanitizers, or alcohol for use in alcohol-based hand sanitizers, prepared consistent with the circumstances described in the guidance documents.

**FOR FURTHER INFORMATION CONTACT:** Kimberly Thomas, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–3600.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

As part of FDA’s commitment to providing timely guidance to support continuity and response efforts to the Coronavirus Disease 2019 (COVID–19) <sup>1</sup> pandemic, in March 2020, the Agency published three guidance documents to provide regulatory flexibility to certain firms to help meet the demand for alcohol-based hand sanitizer during the COVID–19 public health emergency

<sup>1</sup> The virus has been named “SARS–CoV–2” and the disease it causes has been named “Coronavirus Disease 2019” (COVID–19).

(PHE).<sup>2</sup> The guidance documents communicate the Agency’s temporary policies on the manufacture of alcohol for use in alcohol-based hand sanitizers, or alcohol-based hand sanitizers for consumer use and for use as healthcare personnel hand rubs <sup>3</sup> for the duration of the PHE declared by the Secretary of Health and Human Services on January 31, 2020, and subsequently renewed. The following is a brief description of each guidance:

- The first guidance,<sup>4</sup> “Temporary Policy for Preparation of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID–19),” communicates FDA’s policy for the temporary preparation of certain alcohol-based hand sanitizer products by firms that register their establishment with FDA as a nonprescription over-the-counter (OTC) drug manufacturer, re-packager, or re-labeler, under the circumstances described in the guidance.

- The second guidance,<sup>5</sup> “Policy for Temporary Compounding of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency,” communicates FDA’s policy for the temporary compounding of certain alcohol-based hand sanitizer products by pharmacists in State- or territory-licensed pharmacies or Federal facilities and registered outsourcing facilities, under the circumstances described in the guidance.

- The third guidance,<sup>6</sup> “Temporary Policy for Manufacture of Alcohol for

<sup>2</sup> For example, as explained in the guidance entitled “Temporary Policy for Preparation of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID–19),” provided that circumstances described in the guidance are present, FDA does not intend to take action against firms, for the duration of the public health emergency, for violations of sections 319(a)(2) of the Public Health Service Act (42 U.S.C. 247d(a)(2)) or sections 501(a)(2)(B), 502(f)(1), 505, or 582 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 351(a)(2)(B), 352(f)(1), 355, and 360eee–1), which include certain aspects of current good manufacturing practice, certain labeling requirements, new drug application requirements, and pharmaceutical distribution supply chain requirements.

<sup>3</sup> FDA uses the term “hand sanitizer” throughout this Notice of Withdrawal, and the referenced guidance documents, to refer to OTC topical antiseptic rubs for use by consumers, as well as those for use by healthcare personnel in hospital and healthcare settings.

<sup>4</sup> Available at: <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-temporary-policy-preparation-certain-alcohol-based-hand-sanitizer-products-during>.

<sup>5</sup> Available at: <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/policy-temporary-compounding-certain-alcohol-based-hand-sanitizer-products-during-public-health>.

<sup>6</sup> Available at: <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/>

Incorporation Into Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID–19),” communicates FDA’s policy for the temporary manufacture of alcohol (*i.e.*, ethanol or ethyl alcohol) by firms for use as the active pharmaceutical ingredient in alcohol-based hand sanitizers under the circumstances described in the guidance.

We appreciate industry’s willingness to help supply hand sanitizer to the market in response to the COVID–19 PHE.

As explained in these guidance documents, FDA has continually assessed the needs and circumstances related to these temporary policies, and as relevant needs and circumstances evolved, FDA made updates and modifications to these temporary policies. The guidance documents also state that this assessment includes withdrawing these temporary policies as appropriate.

Based on our review of currently available data, we have determined that the needs and circumstances related to these temporary policies have evolved such that the temporary policies are no longer needed and the three guidance documents should be withdrawn.<sup>7</sup> As explained in this document, this determination is based on current data that show that demand for alcohol-based hand sanitizer has decreased and the supply of hand sanitizer from traditional manufacturers (*i.e.*, firms other than those that entered into the OTC drug industry for the first time in order to supply hand sanitizers during the COVID–19 PHE) has increased. Most consumers and healthcare personnel are no longer experiencing difficulties accessing alcohol-based hand sanitizer products.

During the course of the COVID–19 PHE, FDA has conducted several surveys of hospital systems to monitor

*temporary-policy-manufacture-alcohol-incorporation-alcohol-based-hand-sanitizer-products-during*.

<sup>7</sup> We note that withdrawal of these guidance documents will not cause an assessment of fees on manufacturers of OTC hand sanitizers under the Over-the-Counter Monograph Drug User Fee Program (OMUFA). OMUFA fees are distinct from these guidance documents and are addressed in FDA’s **Federal Register** notice of March 26, 2021 (86 FR 16223), entitled “Fee Rates Under the Over-the-Counter Monograph Drug User Fee Program for Fiscal Year 2021.” As this **Federal Register** notice explains, “FDA will not assess OMUFA facility fees upon those firms that first registered with FDA on or after the January 27, 2020 declaration of the COVID–19 Public Health Emergency (PHE), solely for purposes of manufacturing hand sanitizer products during the PHE” (86 FR 16223 at 16225). Additional information is available in this **FDA Federal Register** notice and the Health and Human Services **Federal Register** notice of January 12, 2021 (86 FR 2420).

the supply and sources of alcohol-based hand sanitizer products. Based on the results of these surveys, current data show that the hand sanitizer supply disruption in hospitals has decreased significantly and that hand sanitizer from traditional manufacturers now comprise the majority of these hospital systems' supply. Specifically, all the hospital systems that responded to FDA's July 2021 survey on hand sanitizer supply stated that they are not experiencing a current disruption in their supply of hand sanitizer, and only 9 percent of these hospital systems anticipated a future disruption in supply. In addition, 94 percent of the hospital systems responding to the July 2021 survey reported that the majority of their current hand sanitizer product is produced by traditional manufacturers. Recent reports also indicate that there is now a surplus of hand sanitizer products on retail shelves.<sup>8</sup> Moreover, certain traditional hand sanitizer manufacturers indicate that they are able to meet demand and fully supply the marketplace with hand sanitizer products.<sup>9</sup> A large manufacturer of hand sanitizer products has expanded production capacity and is producing and shipping 300 percent more hand sanitizer product than in 2019.<sup>10</sup>

FDA published its temporary policies for alcohol-based hand sanitizers in response to the increase in demand for alcohol-based hand sanitizer products during the COVID-19 PHE and with the understanding that some consumers and healthcare personnel were experiencing difficulties accessing alcohol-based hand sanitizer products. Although the PHE is still ongoing<sup>11</sup> and there

currently is an increase in COVID-19 cases, the data indicate that: (1) Supply from traditional manufacturers has increased; (2) the demand for alcohol-based hand sanitizer that existed earlier in the pandemic has significantly decreased; and (3) most consumers and healthcare personnel are no longer having difficulty accessing alcohol-based hand sanitizer products. Additionally, since declaration of the COVID-19 PHE,<sup>12</sup> some hand sanitizer products made by firms that entered the market during the COVID-19 PHE have been recalled, placed on import alert, and/or been the subject of compliance actions due to quality and other issues. Accordingly, the needs and circumstances related to these temporary policies have evolved such that the temporary policies are no longer warranted and the guidance documents should be withdrawn.

We note that the recently enacted Coronavirus Aid, Relief, and Economic Security Act (Pub. L. 116-136) added section 505G to the FD&C Act (21 U.S.C. 355g). Under section 505G(a)(3) of the FD&C Act, drugs that were classified as category III<sup>13</sup> in a tentative final monograph (TFM) that is the most recently applicable proposal or determination for such drugs issued under 21 CFR part 330—and that were not classified in such a TFM as category II for safety or effectiveness—are not required to have an approved application under section 505 to be marketed, as long as they are in conformity with the relevant conditions of use outlined in the applicable TFM and comply with all other applicable requirements. This includes topical antiseptic products marketed in conformity with the 1994 TFM for OTC topical antiseptics (59 FR 31402, June 17, 1994) as further amended by the 2016 Consumer Antiseptic Rub proposed rule (81 FR 42912, June 30, 2016) and the 2015 Health Care Antiseptics proposed rule (80 FR 25166, May 1, 2015), as long as they also comply with other applicable requirements.

Accordingly, although the temporary policies are being withdrawn as described above, firms may continue to manufacture alcohol-based hand sanitizer products without an approved

application, provided they comply with the applicable TFM and other applicable requirements, including current good manufacturing practice (CGMP) requirements under section 501(a)(2)(B) of the FD&C Act. Under CGMP, among other things, drug product manufacturers are required<sup>14</sup> to test their drug products prior to release to assure that the drug products meet the requirements for safety and have the identity and strength, and meet the quality and purity characteristics, that the drug products purport to possess. We remind distributors, re-packagers, and importers that they are also responsible for the safety and quality of the drugs they introduce into interstate commerce.

Firms preparing alcohol-based hand sanitizer products under FDA's temporary policies (other than compounding pharmacies) had to register their facility and list these products in the FDA Drug Registration and Listing System (DRLS, <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/drug-registration-and-listing-system-drls-and-edrls>).<sup>15</sup> We remind firms that registered and submitted drug product listing(s) for hand sanitizer(s) only but no longer manufacture such product, or plan to cease manufacturing such product, to deregister and delist their hand sanitizer product listing(s) by following the instructions on the Electronic Drug Registration and Listing Instructions page (<https://www.fda.gov/drugs/electronic-drug-registration-and-listing-system-edrls/electronic-drug-registration-and-listing-instructions>).

To deregister an establishment using CDER Direct:

- Log into your account and open the previously accepted version of the registration submission.
- Click on CREATE NEW VERSION. This will create a copy of the file, keeping the same SetID, but generate a new RootID, Version Number, and Effective Date.
- For Document type, Select ESTABLISHMENT DE-REGISTRATION from the drop-down list.
- Click SUBMIT SPL.

<sup>8</sup> See, e.g., the newspaper articles at <https://www.wsj.com/articles/america-is-awash-in-hand-sanitizer-11621522829>; [https://www.washingtonpost.com/local/last-year-hand-sanitizer-was-a-precious-commodity-now-theyre-giving-it-away/2021/06/24/351f1278-d504-11eb-9f29-e9e6c9e843c6\\_story.html](https://www.washingtonpost.com/local/last-year-hand-sanitizer-was-a-precious-commodity-now-theyre-giving-it-away/2021/06/24/351f1278-d504-11eb-9f29-e9e6c9e843c6_story.html); <https://www.usatoday.com/story/money/2021/04/08/hand-sanitizer-deals-donations-surplus-panic-buying-pandemic/7120815002/> (Refs. 1, 2, and 3).

<sup>9</sup> See April 28, 2021, letter from the American Cleaning Institute/Consumer Healthcare Products Association to FDA, available at <https://www.regulations.gov/comment/FDA-2020-D-1106-0164> (Ref. 4) (stating that their members "have the capacity to fully supply the marketplace" and have "increased production of cGMP-compliant products to meet the demand for both consumer and healthcare markets," at 3).

<sup>10</sup> See <https://www.gojo.com/en/Newsroom/Press-Releases/2021/PURELL-Brand-Strongly-Positioned-to-Support-Safe-Reopening-of-Schools> (Ref. 5).

<sup>11</sup> Secretary of Health and Human Services, "Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus" (originally issued January 31, 2020, and subsequently renewed), available at <https://www.phe.gov/emergency/news/healthactions/phe/Pages/default.aspx> (Ref. 6).

<sup>12</sup> The HHS Declaration of a Public Health Emergency is available at <https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx>.

<sup>13</sup> Under the OTC Drug Review, FDA classified drugs as category III where FDA determined that the available data are insufficient to classify the drug as generally recognized as safe and effective, and further testing is required (see 21 CFR 330.10(a)(5)(iii) and (a)(6)(iii)).

<sup>14</sup> See 21 CFR 211.165 Testing and release for distribution.

<sup>15</sup> Every person required to register with FDA must, at the time of initial registration, list all drugs manufactured, prepared, propagated, compounded, or processed for commercial distribution. See section 510(j)(1) of the FD&C Act (21 U.S.C. 360(j)(1)); see also 21 CFR 207.17 and 207.41. Firms that are required to register their foreign establishment with FDA must list all known importers in the United States in their registration in accordance with section 510(i)(1)(A) of the FD&C Act. See also 21 CFR 207.25(h)(2).

To deregister an establishment from other software applications:

- Create an establishment deregistration SPL document.
- Fill in the SetID with the SetID from your previously accepted version.
- Enter the appropriate effective date and version number (generally, one number higher than the previous submission).
- Submit.

To delist a product using CDER Direct:

- Log into your account and open the previously accepted version of drug listing submission.
- Click on CREATE NEW VERSION.

This will create a copy of the file, keeping the same SetID, but generate a new RootID, Version Number, and Effective date.

- Click on the product to edit the Product Data Elements. Change the Marketing Status from “ACTIVE” to “COMPLETED” and enter a Marketing End Date no later than March 31, 2022.
- Save changes and click SUBMIT SPL.

To delist a product from other software applications:

- Open the previously accepted version of drug listing submission.
- Create a new version with the same SetID from your previous submission, but generate a new RootID.
- Enter the appropriate effective date and version number (generally, one number higher than the previous submission).
- Edit the product data elements.

Change the Marketing Status from “ACTIVE” to “COMPLETED” and enter a Marketing End Date no later than March 31, 2022.

- Save and Submit.

To request additional assistance with deregistration and delisting, please contact [edrls@fda.hhs.gov](mailto:edrls@fda.hhs.gov).

## II. Withdrawal Date

The withdrawal date for the three guidance documents discussed in this document is December 31, 2021. Accordingly, firms manufacturing alcohol under the temporary policies for use in alcohol-based hand sanitizers and firms and compounders preparing alcohol-based hand sanitizers under the temporary policies must cease production of these products by December 31, 2021. In addition, firms must by March 31, 2022, cease distribution of any remaining hand sanitizer products that were prepared under the temporary policies before or on December 31, 2021. After March 31, 2022, FDA intends to cease its temporary policy of not taking action with regard to distribution of hand

sanitizers or alcohol for use in alcohol-based hand sanitizers prepared consistent with the circumstances described in the withdrawn guidance documents. The COVID-19 pandemic is a constantly evolving situation. FDA continues to assess these circumstances and should the current data change to indicate that hand sanitizer demand has again outstripped supply prior to December 31, 2021, FDA may alter these dates. However, firms should assume these dates will not change and prepare accordingly for cessation of manufacture and distribution of these products.

## III. References

The following references marked with an asterisk (\*) 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 <http://www.regulations.gov>. References in the Notice without asterisks are not available electronically at <https://www.regulations.gov> because they have copyright restrictions, but they are on display at the Dockets Management Staff and available for viewing at the location and times noted above. Some may be available at the website address, if any, listed with the reference or such website may provide further information on obtaining copies. 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. Kang, J., “Retailers Couldn’t Stock Hand Sanitizer Fast Enough. Now They Can’t Give It Away,” *The Wall Street Journal*, May 20, 2021, (available at <https://www.wsj.com/articles/america-is-awash-in-hand-sanitizer-11621522829>), accessed August 30, 2021.
2. Dvorak, P., “Last Year, Hand Sanitizer Was a Precious Commodity. Now They’re Giving It Away,” *The Washington Post*, June 24, 2021 (available at [https://www.washingtonpost.com/local/last-year-hand-sanitizer-was-a-precious-commodity-now-theyre-giving-it-away/2021/06/24/351f1278-d504-11eb-9f29-e96c9e843c6\\_story.html](https://www.washingtonpost.com/local/last-year-hand-sanitizer-was-a-precious-commodity-now-theyre-giving-it-away/2021/06/24/351f1278-d504-11eb-9f29-e96c9e843c6_story.html)), accessed August 30, 2021.
3. Bomey, N., “Panic Buying? Not Anymore. Suddenly There’s a Surplus of Hand Sanitizer,” *USA Today*, April 8, 2021 (available at <https://www.usatoday.com/story/money/2021/04/08/hand-sanitizer-deals-donations-surplus-panic-buying-pandemic/7120815002/>), accessed August 30, 2021.
4. \*Letter from James Kim and Barbara Kochanowski, ACI/CHPA, to Theresa Michele, FDA, April 28, 2021 (available

at <https://www.regulations.gov/comment/FDA-2020-D-1106-0164>), accessed August 30, 2021.

5. Gojo, “PURELL Brand Strongly Positioned to Support Safe Reopening of Schools,” February 22, 2021 (available at <https://www.gojo.com/en/Newsroom/Press-Releases/2021/PURELL-Brand-Strongly-Positioned-to-Support-Safe-Reopening-of-Schools>), accessed August 30, 2021.
6. \*Secretary of the Department of Health and Human Services, “Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus,” originally issued January 31, 2020, and subsequently renewed (available at <https://www.phe.gov/emergency/news/healthactions/phe/Pages/default.aspx>), accessed August 30, 2021.

Dated: October 5, 2021.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2021-22108 Filed 10-12-21; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR-20-125: Native American Research Centers for Health (NARCH).

*Date:* November 3–5, 2021.

*Time:* 10:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Suzan Nadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301-435-1259, [nadis@csr.nih.gov](mailto:nadis@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; RFA-RM-21-011: Expert-Driven Small Projects to

Strengthen Gabriella Miller Kids First Discovery (R03).

*Date:* November 8, 2021.

*Time:* 10:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* John Harold Laity, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301-402-8254, john.laity@nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Disease Prevention and Management, Risk Reduction and Health Behavior Change.

*Date:* November 9–10, 2021.

*Time:* 9:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Michael J. McQuestion, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114 MSC 7808, Bethesda, MD 20892, (301) 480-1276, mike.mcquestion@nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR, Shared Instrumentation: Microscopy (S10).

*Date:* November 9–10, 2021.

*Time:* 9:00 a.m. to 7:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Sulagna Banerjee, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 612-309-2479, sulagna.banerjee@nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular and Surgical Devices.

*Date:* November 16–17, 2021.

*Time:* 9:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Willard Wilson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, 301-867-5309, willard.wilson@nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Immune responses and Vaccines to Microbial Infections.

*Date:* November 17–18, 2021.

*Time:* 10:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301-451-2796, bdey@mail.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Immunological Mechanisms in Host Defense.

*Date:* November 17, 2021.

*Time:* 1:00 p.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Deborah Hodge, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4207 MSC 7812, Bethesda, MD 20892, (301) 435-1238, hodged@mail.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Cell Biology of Aging and Signaling Mechanisms.

*Date:* November 17, 2021.

*Time:* 1:00 p.m. to 6:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Rass M. Shaiq, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435-2359, shaiqr@csr.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Development and Function of Nervous System.

*Date:* November 17, 2021.

*Time:* 12:00 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Jacek Topczewski, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1002A1, Bethesda, MD 20892, (301) 594-7574, topczewskij2@csr.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Topics in Bacteriology.

*Date:* November 18–19, 2021.

*Time:* 9:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Marci Scidmore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301-435-1149, marci.scidmore@nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; BRAIN

Initiative: Targeted BRAIN Circuits Projects R01/R34.

*Date:* November 18, 2021.

*Time:* 9:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301-435-1242, kgt@mail.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Digestive Sciences Small Business Activities.

*Date:* November 18–19, 2021.

*Time:* 9:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Santanu Banerjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2106, Bethesda, MD 20892, (301) 435-5947, banerjees5@mail.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Biomaterials, Delivery, and Nanotechnology.

*Date:* November 18–19, 2021.

*Time:* 9:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* David Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892 301-435-2902, filpuladr@mail.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Neuro/Psychopathology, Lifespan Development, and STEM Education.

*Date:* November 18–19, 2021.

*Time:* 9:30 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Elia K. Ortenberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7816, Bethesda, MD 20892, (301) 827-7189, femiaee@csr.nih.gov.

*Name of Committee:* Infectious Diseases and Immunology B Integrated Review Group; HIV Coinfections and HIV Associated Cancers Study Section.

*Date:* November 18, 2021.

*Time:* 9:30 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, Bethesda, MD 20892, 301-451-5953, [tuo@csr.nih.gov](mailto:tuo@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Neuroscience AREA Grant Applications.

*Date:* November 18–19, 2021.

*Time:* 10:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Peter B. Guthrie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7850, Bethesda, MD 20892, (301) 435-1239, [guthrie@csr.nih.gov](mailto:guthrie@csr.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

*Dated:* October 6, 2021.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-22212 Filed 10-12-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel; NRSA Institutional Research Training (T32).

*Date:* November 10, 2021.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

*Contact Person:* Varsha Shukla, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, (984) 287-3288, [Varsha.shukla@nih.gov](mailto:Varsha.shukla@nih.gov).

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel; Career Development & Pathway to Independence in Biomedical/Clinical Research Review.

*Date:* November 16–17, 2021.

*Time:* 10:00 a.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

*Contact Person:* Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC-30/Room 3171, Research Triangle Park, NC 27709, 984-287-3340, [worth@niehs.nih.gov](mailto:worth@niehs.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

*Dated:* October 6, 2021.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-22211 Filed 10-12-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel; Proteogenomic Tumor Analysis, November 3, 2021, 9:30 a.m. to 7:00 p.m., National Cancer Institute at Shady Grove, Room 7W114, 9609 Medical Center Drive, Rockville, MD 20850 which was published in the **Federal Register** on August 26, 2021, FR Doc 2021-18399, 86 FR 47652.

This notice is being amended to change the meeting date from November

3, 2021 to December 1, 2021. The meeting times and location will stay the same. The meeting is closed to the public.

*Dated:* October 6, 2021.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-22213 Filed 10-12-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Member SEP.

*Date:* October 29, 2021.

*Time:* 2:00 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* Natalia Strunnikova, Ph.D., Scientific Review Officer, National Institutes of Health, National Institute of Neurological Disorders and Stroke, 6001 Executive Blvd., Suite 3208, Rockville, MD 20852, (301) 496-3755, [natalia.strunnikova@nih.gov](mailto:natalia.strunnikova@nih.gov).

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Clinical Trials and Comparative Effectiveness Studies in Neurology.

*Date:* November 1–2, 2021.

*Time:* 9:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities,

NINDS/NIH NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, (301) 435-6033, [rajarams@mail.nih.gov](mailto:rajarams@mail.nih.gov).

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NST-1 Conflict SEP.

*Date:* November 8, 2021.

*Time:* 12:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892-9529, (301) 496-0660, [benzing@mail.nih.gov](mailto:benzing@mail.nih.gov).

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Blueprint Therapeutics Network Small Molecule Drug Discovery and Development for Disorders of the Nervous System.

*Date:* November 18, 2021.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* Joel A. Saydoff, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Room 3205, MSC 9529, Bethesda, MD 20892, (301) 496-9223, [joel.saydoff@nih.gov](mailto:joel.saydoff@nih.gov).

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Diversity K01 & MOSAIC K99/R00 Review Meeting.

*Date:* November 19, 2021.

*Time:* 12:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* Lataisia Cherie Jones, Ph.D., Scientific Review Officer, NINDS Scientific Review Branch, 6001 Executive Blvd., Suite 3208, Rockville, MD 20852, (301) 496-9223, [lataisia.jones@nih.gov](mailto:lataisia.jones@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: October 6, 2021.

**Tyeshia M. Roberson-Curtis,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-22196 Filed 10-12-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Clinically Relevant Genes and Variants Expert Curation Panels.

*Date:* November 12, 2021.

*Time:* 9:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Methode Bacanamwo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2200, Bethesda, MD 20892, 301-827-7088, [methode.bacanamwo@nih.gov](mailto:methode.bacanamwo@nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Biobehavioral and Behavioral Processes Member Conflict.

*Date:* November 12, 2021.

*Time:* 2:00 p.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Raj K. Krishnaraju, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, Bethesda, MD 20892, 301-435-1047, [kkrishna@csr.nih.gov](mailto:kkrishna@csr.nih.gov).

*Name of Committee:* Infectious Diseases and Immunology B Integrated Review Group; HIV Immunopathogenesis and Vaccine Development Study Section.

*Date:* November 15-16, 2021.

*Time:* 10:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301-443-5779, [prasads@csr.nih.gov](mailto:prasads@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Instrumentation, Environmental, and Occupational Safety.

*Date:* November 16-17, 2021.

*Time:* 9:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Joonil Seog, SCD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-402-9791, [joonil.seog@nih.gov](mailto:joonil.seog@nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Research in Vaccine Hesitancy and Uptake.

*Date:* November 17-18, 2021.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Sarah Vidal, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 710Q, Bethesda, MD 20892, (301) 402-6746, [sarah.vidal@nih.gov](mailto:sarah.vidal@nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Infectious Disease Epidemiology and Field Research.

*Date:* November 18, 2021.

*Time:* 11:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Michelle Marie Arnold, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-435-1199, [michelle.arnold@nih.gov](mailto:michelle.arnold@nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Skeletal Muscle and Rehabilitation Sciences.

*Date:* November 18, 2021.

*Time:* 12:00 p.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, (301) 435-1781, [liuyh@csr.nih.gov](mailto:liuyh@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Medical Imaging Investigations.

*Date:* November 19, 2021.

*Time:* 9:00 a.m. to 9:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, (301) 237-9870, [xuguofen@csr.nih.gov](mailto:xuguofen@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Healthcare Delivery and Methodologies.

*Date:* November 19, 2021.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Angela D. Thrasher, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000J, Bethesda, MD 20892, (301) 480-6894, [thrasherad@csr.nih.gov](mailto:thrasherad@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Gastroenterology.

*Date:* November 19, 2021.

*Time:* 1:00 p.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Jianxin Hu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2156, MSC 7818, Bethesda, MD 20892, (301) 827-4417, [jianxin@csr.nih.gov](mailto:jianxin@csr.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 7, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-22221 Filed 10-12-21; 8:45 am]

**BILLING CODE 4140-01-P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C.,

as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Mechanistic Ancillary Studies Review Meeting.

*Date:* November 15, 2021.

*Time:* 11:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Arthritis And Musculoskeletal And Skin Diseases, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Yasuko Furumoto, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Suite 820, Bethesda, MD 20892, 301-827-7835, [yasuko.furumoto@nih.gov](mailto:yasuko.furumoto@nih.gov).

*Name of Committee:* National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; NIAMS P50 CORT Center Grant Review.

*Date:* November 18-19, 2021.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Arthritis And Musculoskeletal And Skin Diseases, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Kan Ma, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 814, Bethesda, MD 20892, 301-451-4838, [mak2@mail.nih.gov](mailto:mak2@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: October 7, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-22222 Filed 10-12-21; 8:45 am]

**BILLING CODE 4140-01-P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; Osteoimmunology and Aging.

*Date:* October 28, 2021.

*Time:* 11:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Greg Bissonette, Ph.D., Scientific Review Officer, National Institute on Aging, National Institutes of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301-402-1622, [bissonettegb@mail.nih.gov](mailto:bissonettegb@mail.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: October 7, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-22220 Filed 10-12-21; 8:45 am]

**BILLING CODE 4140-01-P**

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[Docket No. USCG-2021-0743]

#### National Chemical Transportation Safety Advisory Committee; November 2021 Teleconference

**AGENCY:** U.S. Coast Guard, Department of Homeland Security.

**ACTION:** Notice of Federal Advisory Committee teleconference meeting.

**SUMMARY:** The National Chemical Transportation Safety Advisory Committee (Committee) will meet via teleconference to discuss matters relating to the safe and secure marine transportation of hazardous materials. The meeting will be open to the public.

**DATES:**

*Meeting:* The Committee will hold an inaugural meeting by teleconference on

Tuesday, November 2, 2021, from 1 p.m. until 3 p.m. Eastern Standard Time. Please note the teleconference may close early if the Committee has completed its business.

*Comments and supporting*

*documents:* To ensure your comments are reviewed by Committee members before the teleconference, submit your written comments no later than October 26, 2021.

**ADDRESSES:** To join the teleconference or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. on October 26, 2021, to obtain the needed information. The number of teleconference lines is limited and will be available on a first-come, first-served basis.

*Instructions:* You are free to submit comments at any time, including orally at the teleconference as time permits, but if you want Committee members to review your comment before the teleconference, please submit your comments no later than October 26, 2021. We are particularly interested in comments on the issues in the “Agenda” section below. We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG–2021–0743]. Comments received will be posted without alteration at <https://www.regulations.gov>, including any personal information provided. You may wish to review the Privacy and Security notice available on homepage of <https://www.regulations.gov> and DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

*Docket Search:* Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website’s instructions.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Ethan T. Beard, Alternate Designated Federal Officer of the National Chemical Transportation Safety Advisory Committee, 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509, telephone 202–372–1419, fax 202–372–8382 or [Ethan.T.Beard@uscg.mil](mailto:Ethan.T.Beard@uscg.mil).

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given in accordance with the *Federal Advisory Committee Act*, (5 U.S.C. Appendix). The National Chemical Transportation Safety Advisory Committee was established on December 4, 2018, by section 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018* (Pub. L. 115–282, 132 Stat. 4192). That authority is codified in 46 U.S.C. 15101. The Committee operates under the provisions of the *Federal Advisory Committee Act* and, in addition, the administrative provisions of 46 U.S.C. 15109. The Committee provides advice and recommendations to the Department of Homeland Security on matters related to the safe and secure marine transportation of hazardous materials.

### Agenda

The agenda for the November 2, 2021, teleconference is as follows:

- (1) Call to Order.
- (2) Roll call and determination of quorum.
- (3) Opening Remarks.
- (4) Swearing-in of new members.
- (5) Election by Committee members of Chairman and Vice-Chairman
- (6) Presentation of Task.
 

The Coast Guard will present the task to the Committee:

LNG Carrier Loading Limits and Formation of Isolated Vapor Pockets.
- (7) Public Comment period.
- (8) Closing remarks/plans for next meeting.
- (9) Adjournment of meeting.

A copy of all meeting documentation will be available at: [https://homeport.uscg.mil/missions/federal-advisory-committees/national-chemical-transportation-safety-advisory-committee-\(nctsa\)/committee-meetings](https://homeport.uscg.mil/missions/federal-advisory-committees/national-chemical-transportation-safety-advisory-committee-(nctsa)/committee-meetings) no later than October 26, 2021. Alternatively, you may contact Lieutenant Ethan Beard as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

During the November 2, 2021, teleconference, a public comment period will be held from approximately 2:45 p.m. to 3 p.m. Speakers are requested to limit their comments to 3 minutes. Please note that this public comment period may start before 2:45 p.m. if all other agenda items have been covered and may end before 3 p.m. if all of those wishing to comment have done so. Please contact Lieutenant Ethan T. Beard, listed in the **FOR FURTHER INFORMATION CONTACT** section to register as a speaker.

Dated: October 7, 2021.

**Jeffrey G. Lantz,**

*Director of Commercial Regulations and Standards.*

[FR Doc. 2021–22234 Filed 10–12–21; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### Availability of Electronic Viewing of Certain Bills in the Automated Commercial Environment and the Adoption of an Enhanced Bill Format

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This document announces that U.S. Customs and Border Protection (CBP) is making available to the public an option to electronically view certain bills, specifically supplemental bills, certain reimbursable bills, and non-reimbursable/miscellaneous bills. CBP will deploy a new report within the Automated Commercial Environment (ACE) that will allow importers of record, licensed customs brokers, and other ACE account users to electronically view unpaid, open bills starting at the time that physical bills are created until the bills are paid. Additionally, this document announces that CBP will transition from the current bill format, known as CBP Form 6084, to a new CBP Bill Form that is enhanced to include additional information for the public. CBP’s adoption of the new CBP Bill Form will enable the public to identify the legal authority for the bill, the origin of the bill, contact information for additional questions about the bill, and the consequences for not paying the bill.

**DATES:** The deployment of the electronic viewing functionality for certain bills, as announced in this document, will become operational on October 18, 2021. Additionally, the transition to the new CBP Bill Form will be implemented on October 18, 2021.

**ADDRESSES:** Comments concerning this notice may be submitted at any time via email to the ACE Collections Team, Investment Analysis Office, Office of Finance, U.S. Customs and Border Protection, at [ACECollections@cbp.dhs.gov](mailto:ACECollections@cbp.dhs.gov), with a subject line identifier reading “Updates to Bill Notice.”

**FOR FURTHER INFORMATION CONTACT:** Steven J. Grayson, Program Manager, Investment Analysis Office, Office of



Finance, U.S. Customs and Border Protection, at (202) 579-4400, or [steven.j.grayson@cbp.dhs.gov](mailto:steven.j.grayson@cbp.dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. Ongoing Modernization of the Collections System at U.S. Customs and Border Protection*

U.S. Customs and Border Protection (CBP) is modernizing its collections system, allowing CBP to eventually retire the Automated Commercial System (ACS) and transfer all collections processes into the Automated Commercial Environment (ACE). This modernization effort, known as ACE Collections, includes the consolidation of the entire collections system into the ACE framework, which will enable CBP to utilize trade data from ACE modules, benefitting both the trade community and CBP with more streamlined and better automated payment processes. The new collections system in ACE will reduce costs for CBP, create a common framework that aligns with other initiatives to reduce manual collection processes, and provide additional flexibility to allow for future technological enhancements. ACE Collections will also provide the public with more streamlined and better automated payment processes with CBP, including better visibility into data regarding specific transactions.

ACE Collections supports the goals of the Customs Modernization Act (Pub. L. 103-182, 107 Stat. 2057, 2170, December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act), of modernizing the business processes that are essential to securing U.S. borders, speeding up the flow of legitimate shipments, and targeting illicit goods that require scrutiny. ACE Collections also fulfills the objectives of Executive Order 13659 (79 FR 10655, February 25, 2014), to provide the trade community with an integrated CBP trade system that facilitates trade, from entry of goods to receipt of duties, taxes, and fees.

CBP is implementing ACE Collections through phased releases in ACE. Release 1, which was deployed on September 7, 2019, dealt with statements integration, the collections information repository (CIR) framework, and ACH (automated clearinghouse) processing. *See* 84 FR 46749 and 84 FR 46678 (September 5, 2019), and 84 FR 49650 (September 23, 2019). Release 2 was deployed on February 5, 2021, and focused on non-ACH electronic receivables and collections, for Fedwire and Pay.gov, that included user fees, Harbor Maintenance Fee (HMF), and Seized

Assets and Case Tracking System (SEACATS) payments. All of the changes in Release 2 were internal to CBP and did not affect the trade community. Release 3 was deployed on May 1, 2021, and primarily implemented technical changes to the liquidation process, and deferred tax bills, that were internal to CBP. Release 3 also harmonized the determination of the due date for deferred tax payments with the entry summary date, streamlined the collections system, and provided importers of record with more flexibility and access to data when making deferred payments of internal revenue taxes owed on distilled spirits, wines, and beer imported into the United States. *See* 86 FR 22696 (April 29, 2021).

As explained more fully below, Release 4 will be deployed on October 18, 2021, and focuses on the billing processes for supplemental bills, certain reimbursable bills, and non-reimbursable/miscellaneous bills issued by CBP to the public. Release 4 includes mainly internal, technical changes to the production and management of certain bills by CBP, but also makes available to importers of record, licensed customs brokers, and other ACE account users, an option to electronically view unpaid, open bill details as reports in ACE Reports and adopts a new, enhanced format for bills issued by CBP. These enhancements will benefit the public by providing a streamlined and transparent billing process that will improve the accuracy and usefulness of bills. Additional releases for ACE Collections will follow, and any further changes affecting the public will be announced by notice in the **Federal Register**, as needed.

*B. Overview of the Billing Process and the Types of Bills Affected by Release 4 of ACE Collections*

CBP is authorized to collect duties, taxes, and fees from customs activities. *See generally* 19 U.S.C. 58a, 58b, 58b-1, 58c, 1505, 26 U.S.C. 4461. The regulations found in part 24 of title 19 of the Code of Federal Regulations (CFR) address the financial and accounting procedures for when CBP collects the duties, taxes, fees, interest, and other applicable charges from the public due to customs activities. *See generally* 19 CFR 24.1-24.36. Currently, CBP notifies individuals and entities of monies owed to CBP through a physical bill on the CBP Form 6084, which is sent by mail, in accordance with 19 CFR 24.3(a). Each bill is generated from data elements available within ACE or ACS and/or appearing on certain CBP forms. CBP officials collect, organize, and forward

the data elements to a third-party print vendor (the third-party). The third-party uses the data elements to generate the bill and then mails the bill to the corresponding party at the end of the week with a batch of other bills.

CBP collects and manages numerous types of bills and uses several systems and processes to manage them. CBP separates the bills it collects into broad categories. *See generally* 19 CFR 24.3a. The categories include accrual bills, supplemental bills, reimbursable bills, non-reimbursable/miscellaneous bills, debit vouchers, and fines, penalties, and forfeiture bills. Release 4 specifically concerns supplemental bills, certain reimbursable bills, and non-reimbursable/miscellaneous bills. A more detailed description of these types of bills is provided below. However, it should be noted that Release 4 does not include accrual bills,<sup>1</sup> debit vouchers,<sup>2</sup> or fines, penalties, and forfeiture bills,<sup>3</sup> except where those bills would utilize the enhanced CBP Bill Form. CBP will address these bills in future releases for ACE Collections, as needed.

Supplemental bills are described in 19 CFR 24.3a and constitute the majority of bills CBP generates for collections purposes. These bills arise from the liquidation and reliquidation processes and are generated because of the nonpayment or underpayment of duties, taxes, and fees at the time of entry for imported merchandise. Supplemental bills also include vessel repair duties, consumption duties, antidumping/countervailing duties, as well as any interest that is owed.<sup>4</sup>

Reimbursable bills are described in 19 CFR 24.16-17. Generally, reimbursable bills arise from certain activities and services performed by CBP employees

<sup>1</sup> Accrual bills are described in 19 CFR 24.3a and 24.4 and record/recognize revenue transactions during the period service was provided and revenue was technically earned instead of when actual payment was received. The most notable example are deferred tax payments of internal revenue taxes owed on distilled spirits, wines, and beer imported into the United States. The majority of accrual bills were addressed in Release 3.

<sup>2</sup> Debit vouchers are described in 19 CFR 24.3(e) and 24.3a and arise when a CBP account is debited because of a dishonored or "bounced" check or ACH transaction.

<sup>3</sup> Fines, penalties, and forfeiture bills arise from activities governed by other statutes and regulations, such as 19 CFR 133.27, which allows CBP to impose civil fines "on any person who . . . aids and abets the importation of merchandise . . . that bears a counterfeit mark" or 19 CFR 146.81, which allows the assessment of penalties for violating the rules governing foreign trade zones. The full extent of fines, penalties, and forfeiture bills that CBP collects is too numerous and varied to list here.

<sup>4</sup> CBP assesses interest on the underpayment of estimated duties, taxes, fees, or interest owed by importers of record, as set forth in 19 CFR 24.3a(b)(2).

in partnership with private sector entities. The activities include, but are not limited to, agricultural processing or border security, administrative support, and immigration inspection at ports of entry. Reimbursable bills generally cover the salaries of additional staff, overtime hours, administration, and transportation expenses. Most reimbursable bills are already managed through the SAP enterprise resource planning software.<sup>5</sup> This notice concerns the reimbursable bills that do not use the SAP system, which include, but are not limited to, bills that CBP collects on behalf of certain other government agencies, certain internal revenue tax collections, and baggage declarations on the CBP Collection Receipt Form (Form 368 or 368A).

Non-reimbursable/miscellaneous bills are described in 19 CFR 24.3(e) and 24.3a. These bills are also known as “manual bills” or “manual receivables” and include certain user fees, such as commercial Consolidated Omnibus Budget Reconciliation Act (COBRA) fees, Customs Inspection User Fees (CUF), and other non-tariff debts. This is a catchall category that covers unique and varied bills.

CBP has determined that providing a new option to electronically view these bills in ACE, as described in more detail below, will provide the public with more transparency and tools to manage certain outstanding bills. CBP has reviewed and assessed the collections requirements from fiscal year (FY) 2018, and after a thorough evaluation, identified the requirements and modernization opportunities to support users of CBP’s collections system. Throughout this evaluation, CBP has collaborated with stakeholders within CBP, as well as members of the trade community, and received valuable feedback, which was incorporated in the new ACE Collections requirements for billing. The resulting benefits to the public that are announced in this document will be implemented on October 18, 2021.

## II. Enhancements to the Billing Process

CBP is announcing two enhancements to the billing process for the public as part of Release 4. The first enhancement is the creation of a new report for the types of bills that are affected by Release 4. This new report will enable ACE account users to view their unpaid,

open bill details in ACE Reports, which is the data repository for ACE Collections. The second enhancement is the replacement of the current bill format (as set forth on the CBP Form 6084), in all instances when the current bill format is used, with a new CBP Bill Form, which will provide the public with additional information to better facilitate the billing process.

### *A. Availability of an Option for Electronic Viewing of Certain Bills in ACE*

Currently, CBP sends physical bills on the CBP Form 6084, via mail to officially notify the public of amounts owed for duties, taxes, fees, and other charges. Given timing considerations, the public often relies upon their own recordkeeping systems to track amounts owed and make prompt payments to CBP. CBP’s deployment of Release 4 will enable ACE to pull, organize, and process data elements appearing in other CBP systems and forms necessary to produce bills in ACE. As such, CBP now has the capability to organize and turn that processed data into a report that displays unpaid, open bill details, which ACE account users may view in ACE Reports. This new option to view consolidated bills in ACE Reports will, *inter alia*, reduce the amount of time that importers of record and licensed customs brokers spend for identifying and tracking individual entries of imported merchandise and determining the total amounts they owe to CBP. Moreover, the accuracy of the billing and collection processes will be improved because the public will be able to identify, prepare for, and then address a physical bill during the time that it is in transit through the mail.

Within a business day after initial processing of billing data, ACE will reproduce the bill data in ACE Reports. The data elements appearing in a consolidated report, which covers all unpaid, open bill details for a particular debtor, will include: The debtor’s name, the bill number, the bill version, the bill date,<sup>6</sup> the last notice date, the port of service/charge name, the Center of Excellence and Expertise (Center) associated with the bill, the team associated with the bill, the date of the transaction that produced the bill, the transaction identification number, reference name, the type of charge, the amount owed, the interest accrued to

date, the full amount due upon receipt, the due date, the amount due after the due date, the surety code, the date the associated interest rate becomes effective, the interest rate, and the address and special addresses where the physical bill was mailed. Specific bill numbers and data will be removed from the unpaid, open bill detail report as early as two business days after the corresponding bill is paid and has been processed by CBP.

As bills are processed in ACE, the same bill data will appear in a consolidated format alongside all other outstanding and unpaid bills attributed to the same debtor number<sup>7</sup> that appears on the physical bill. The unpaid, open bill details will be viewable only in ACE Reports.<sup>8</sup> It is important to note that CBP will continue its current processes for mailing physical bills. The CBP Bill Form for the physical bills, subject to the enhancements described elsewhere in this document, will remain the primary source of legal notice of monies owed due to customs activity, as required by 19 CFR 24.3(a). Information and data that appear on the physical bill will supersede the data elements that appear in ACE Reports and the public should continue to consult the physical bill to ensure the proper payments of bills.<sup>9</sup>

Only members of the public who have an ACE Portal account will be able to view their unpaid, open billing details in the new report that will be available in ACE Reports. CBP encourages affected members of the public (including, but not limited to, importers of record and licensed customs brokers) who do not already have an ACE Portal account to apply for access to be able to view the necessary data to make timely bill payments.<sup>10</sup> CBP will provide any needed support for setting up ACE Portal accounts. The public may access the ACE Reports application through the

<sup>7</sup> A unique identifying number, the debtor number, is assigned to each party, by CBP’s Finance Division, that owes or owed money for customs activity. The debtor number is used by CBP to identify parties, their payment histories, their outstanding debts, and the number appears on all mailed CBP Form 6084s, and, in the future, CBP Bill Forms.

<sup>8</sup> The unpaid, open bill details report will not include the deferred tax consolidated bill details which are instead accessible in ACE Reports as a separate report. The consolidated deferred tax bill was announced, and more information can be found, in Release 3, 86 FR 22696 (April 29, 2021).

<sup>9</sup> A debtor may request an electronic copy of a mailed CBP Form 6084 by calling the appropriate port of entry or CBP’s Finance Division at (317) 614-4811.

<sup>10</sup> The step-by-step instructions to apply for an ACE Portal account are available online at: <https://www.cbp.gov/trade/automated/getting-started/portal-applying>.

<sup>5</sup> For example, CBP services rendered under the Reimbursable Services Program (RSP) are billed through the SAP system. Additional information about the Reimbursable Services Program may be found at <https://www.cbp.gov/border-security/ports-entry/resource-opt-strategy/public-private-partnerships/reimbursable-services-program>.

<sup>6</sup> The bill date is the date upon which the bill and the CBP Bill Form, described below, are generated by ACE. Thirty days after the bill date is the bill due date for most bills, except for bills resulting from dishonored checks or dishonored ACH transactions, which are due within 15 days of the date of issuance of the bill (19 CFR 24.3(e)).

ACE Secure Data Portal at <https://ace.cbp.dhs.gov>.<sup>11</sup> Within ACE Reports, ACE account users may navigate to and access their unpaid, open bill detail report (the report) in the Workspace Module. The Workspace Module is a window in ACE Reports that provides ACE account users access to their standard reports categorized by subject area (such as Cargo Release, Entry Summary, Manifest, etc.) and includes a navigation list (a folder structure of standard reports) and a viewer that displays the report selected.<sup>12</sup>

#### *B. Adoption of an Enhanced CBP Bill Form To Replace the Current CBP Form 6084*

Pursuant to 19 CFR 24.3(a), any bill or account for money due the United States must be rendered by an authorized CBP officer or employee on an official form. A bill informs the recipient of the amount owed on a given date, the reason for the amount, the port of service/charge, the late payment date, and the interest rate, among other information, and it also includes a “bill number” to allow for its unique identification. The required contents of the bill, which are captured on the current CBP Form 6084, are described in 19 CFR 24.3a(d) and additional requirements for certain bills described in 19 CFR 24.4(f) and 24.4(h).

As part of Release 4, CBP is replacing the current CBP Form 6084 with a new CBP Bill Form to provide the public with additional information to identify the authenticity of the bill and status information, as well as better access to CBP resources to address questions. The new CBP Bill Form will have the same structure as the current CBP Form 6084, and it will contain all of the same information.<sup>13</sup> However, the new CBP Bill Form will be enhanced with additional language to inform the recipient that the bill is produced pursuant to 19 CFR 24.3a(d) and the inclusion of three new data fields to

identify the “Center ID” and “Team Number” that produced the bill, as well as the date the bill was printed.<sup>14</sup> CBP is also adding email and internet addresses alongside the existing telephone number to better enable the bill recipient to address questions related to billing directly with CBP. For overdue bills only, CBP is including a warning message concerning the consequences of continued non-payment or a formal demand for payment and information about sanctions pursuant to 19 CFR 142.26.

The CBP Bill Form will also have a specific version dedicated to the recipients of bills for deferred payments of internal revenue taxes owed on distilled spirits, wines, and beer imported into the United States. This new deferred tax CBP Bill Form (CBP Bill Form (DT)), will have the same format as the CBP Bill Form, but it will inform the recipient that, in accordance with 19 CFR 24.4, this bill is being issued for the deferred tax payment on imported alcoholic beverages and that any accrued interest for late payment will be assessed on a separate bill as required by 19 CFR 24.4(f)(2). As bills for deferred tax payments are subject to specific regulations that do not apply to other bills, importers of record who pay deferred taxes will benefit from a more customized CBP Bill Form.<sup>15</sup>

The new CBP Bill Form and CBP Bill Form (DT) will provide the public with additional clarity about the billing process. The recipients of bills will know under what authority the bill is produced through the addition of citations to regulations, and they will be able to identify the origin of the bill more easily because of the new data fields. Moreover, the recipients of bills will be able to better address billing questions because the bill will list additional informational resources and the recipients will be better advised as to the consequences for failing to timely pay.

The enhanced CBP Bill Form, as described herein, may be found on CBP’s website at <https://www.cbp.gov/trade/priority-issues/revenue/bill-payments> and will be adopted by CBP on October 18, 2021. Please note that this CBP Bill Form will continue to also be identifiable as the CBP Form 6084

<sup>14</sup> The print date is the date upon which the third-party print vendor, described above, prints, and mails the CBP Bill Form. The print date reflects the date of mailing of notice of demand for payment against the bond pursuant to 19 U.S.C. 1514(c)(3).

<sup>15</sup> For additional information about changes to the payment of deferred taxes on imported alcoholic beverages, please see the **Federal Register** notice published for Release 3, 86 FR 22696 (April 29, 2021).

unless and until the associated numerical designation of 6084 becomes obsolete under a future rulemaking that would be published in the **Federal Register**.

Dated: October 6, 2021.

**Jeffrey Caine,**

*Chief Financial Officer, U.S. Customs and Border Protection.*

[FR Doc. 2021-22231 Filed 10-12-21; 8:45 am]

**BILLING CODE 9111-14-P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Federal Emergency Management Agency**

[Docket ID FEMA-2021-0002; Internal Agency Docket No. FEMA-B-2172]

#### **Proposed Flood Hazard Determinations**

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** Comments are to be submitted on or before January 11, 2022.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA

<sup>11</sup> For more information about accessing, navigating, and personalizing ACE Reports, please review the ACE Reports Trainings at <https://www.cbp.gov/trade/ace/training-and-reference-guides>.

<sup>12</sup> For additional information about the Workspace Module, please consult the specific ACE Report training at <https://www.cbp.gov/trade/ace/training-and-reference-guides> or the quick reference card at <https://www.cbp.gov/document/guidance/ace-reports-qrc-navigating-workspace-module>.

<sup>13</sup> Additionally, the CBP Bill Form will harmonize the presentation of interest accrued before liquidation, and determined at liquidation, appearing on supplemental bills. The CBP Bill Form will present a summary of that interest accrued as a single, consolidated amount for all items appearing on the bill. This is separate from the interest itemized and accruing as a result of delinquency.

Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2172, to Rick Sacbabit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbabit@fema.dhs.gov](mailto:patrick.sacbabit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbabit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbabit@fema.dhs.gov](mailto:patrick.sacbabit@fema.dhs.gov); or visit the FEMA Mapping and Insurance eXchange (FMIX) online at [https://www.floodmaps.fema.gov/fhm/fmx\\_main.html](https://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be

construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been

engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at [https://www.floodsrp.org/pdfs/srp\\_overview.pdf](https://www.floodsrp.org/pdfs/srp_overview.pdf).

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

Community	Community map repository address
<b>Prince Edward County, Virginia and Incorporated Areas Project: 19-03-0018S Preliminary Date: April 14, 2021</b>	
Town of Farmville .....	Town Hall, 116 North Main Street, Farmville, VA 23901.
Unincorporated Areas of Prince Edward County .....	Prince Edward County Administrator's Office, 111 South Street, Farmville, VA 23901.

[FR Doc. 2021-22161 Filed 10-12-21; 8:45 am]

**BILLING CODE 9110-12-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Docket ID FEMA-2021-0002; Internal Agency Docket No. FEMA-B-2171]

**Changes in Flood Hazard Determinations**

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area

(SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and

must be used for all new policies and renewals.

**DATES:** These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

**ADDRESSES:** The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at

both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbbit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbbit@fema.dhs.gov](mailto:patrick.sacbbit@fema.dhs.gov); or visit the FEMA Mapping and Insurance eXchange (FMIX) online at [https://www.floodmaps.fema.gov/fhm/fmx\\_main.html](https://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood

hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more

stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

**Michael M. Grimm,**  
Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Colorado:						
Larimer .....	Town of Johnstown, (21-08-0288P).	Mr. Matt LeCerf, Manager, Town of Johnstown, 450 South Parish Avenue, Johnstown, CO 80534.	Planning and Development Department, 450 South Parish Avenue, Johnstown, CO 80534.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 27, 2021 ....	080250
Larimer .....	Unincorporated areas of Larimer County, (21-08-0288P).	The Honorable John Kefalas, Chairman, Larimer County Board of Commissioners, 200 West Oak Street, Suite 2200, Fort Collins, CO 80521.	Larimer County Engineering Department, 200 West Oak Street, Suite 3000, Fort Collins, CO 80521.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 27, 2021 ....	080101
Connecticut: New Haven.	Town of Guilford, (21-01-0936P).	The Honorable Matthew T. Hoey, III, First Selectman, Town of Guilford Board of Selectmen, 31 Park Street, Guilford, CT 06437.	Engineering Department, 50 Boston Street, Guilford, CT 06437.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 17, 2021 ....	090077
Florida:						
Charlotte .....	Unincorporated areas of Charlotte County, (21-04-5021P).	The Honorable Bill Truex, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Suite 536, Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18400 Murdock Circle, Port Charlotte, FL 33948.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jan. 10, 2022 .....	120061
Miami-Dade ....	City of Doral, (21-04-2105P).	The Honorable Juan Carlos Bermudez, Mayor, City of Doral, 8401 Northwest 53rd Terrace, Doral, FL 33166.	Building Department, 8401 Northwest 53rd Terrace, Doral, FL 33166.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 27, 2021 ....	120041
Polk .....	Unincorporated areas of Polk County, (20-04-4035P).	Mr. Bill Beasley, Polk County Manager, 330 West Church Street, Bartow, FL 33831.	Polk County Floodplain Management Department, 330 West Church Street, Bartow, FL 33831.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jan. 6, 2022 .....	120261
Sarasota .....	Unincorporated areas of Sarasota County, (21-04-4167P).	The Honorable Alan Maio, Chairman, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Planning and Development Services Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34236.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 29, 2021 ....	125144

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Georgia: Richmond	City of Augusta, (21-04-3238X).	The Honorable Hardie Davis, Jr., Mayor, City of Augusta, 535 Telfair Street, Suite 200, Augusta, GA 30901.	Planning and Development Department, 535 Telfair Street, Suite 300, Augusta, GA 30901.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 27, 2021 ....	130158
Kentucky: Jefferson	Louisville-Jefferson County Metro Government, (21-04-2298P).	The Honorable Greg Fischer, Mayor, Louisville-Jefferson County Metro Government, 527 West Jefferson Street, Louisville, KY 40202.	Louisville-Jefferson County Metropolitan Sewer District, 700 West Liberty Street, Louisville, KY 40203.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jan. 3, 2022 .....	210120
Louisiana: Jefferson .....	City of Harahan, (20-06-2494P).	The Honorable Tim Baudier, Mayor, City of Harahan, 6437 Jefferson Highway, Harahan, LA 70123.	City Hall, 6437 Jefferson Highway, Harahan, LA 70123.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 29, 2021 ....	225200
Jefferson .....	Unincorporated areas of Jefferson Parish, (20-06-2494P).	The Honorable Cynthia Lee Sheng, Jefferson Parish President, 1221 Elmwood Park Boulevard, 10th Floor, Jefferson, LA 70123.	Jefferson Parish Joseph S. Yenni Building, 1221 Elmwood Park Boulevard, Suite 310, Jefferson, LA 70123.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 29, 2021 ....	225199
Maryland: Prince George's.	City of Laurel, (21-03-0404P).	The Honorable Craig A. Moe, Mayor, City of Laurel, 8103 Sandy Spring Road, Laurel, MD 20707.	City Hall, 8103 Sandy Spring Road, Laurel, MD 20707.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 27, 2021 ....	240053
Massachusetts: Barnstable.	Town of Falmouth, (21-01-1047P).	The Honorable Douglas C. Brown, Chairman, Town of Falmouth Board of Selectmen, 59 Town Hall Square, Falmouth, MA 02540.	Inspectional Services Department, 59 Town Hall Square, Falmouth, MA 02540.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jan. 10, 2022 ....	255211
Montana: Lewis and Clark.	Unincorporated areas of Lewis and Clark County, (21-08-0279P).	The Honorable Andy Hunthausen, Chairman, Lewis and Clark County Board of Commissioners, 316 North Park Avenue, Suite 345, Helena, MT 59623.	Lewis and Clark County Municipality Building, 316 North Park Avenue, Suite 230, Helena, MT 59623.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 20, 2021 ....	300038
New Hampshire: Rockingham.	Town of Salem, (21-01-0607P).	The Honorable Cathy A. Stacey, Chair, Town of Salem Board of Selectmen, 33 Geremonty Drive, Salem, NH 03079.	Town Hall, 33 Geremonty Drive, Salem, NH 03079.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jan. 3, 2022 .....	330142
North Dakota: Cass	City of Harwood, (21-08-0691X).	The Honorable Blake Hankey, Mayor, City of Harwood, 108 Main Street, Harwood, ND 58042.	City Hall, 108 Main Street, Harwood, ND 58042.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 2, 2021 .....	380338
South Carolina: Charleston .....	Town of Mount Pleasant, (21-04-3056P).	The Honorable Will Haynie, Mayor, Town of Mount Pleasant, 100 Ann Edwards Lane, Mount Pleasant, SC 29464.	Town Hall, 100 Ann Edwards Lane, Mount Pleasant, SC 29464.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jan. 6, 2022 .....	455417
Charleston .....	Unincorporated areas of Charleston County, (21-04-3056P).	The Honorable Teddie E. Pryor, Sr., Chairman, Charleston County Council, 4045 Bridge View Drive, North Charleston, SC 29405.	Charleston County Building Department, 4045 Bridge View Drive, North Charleston, SC 29405.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jan. 6, 2022 .....	455413
Texas: Clay .....	City of Henrietta, (20-06-3454P).	The Honorable Roy Boswell, Mayor, City of Henrietta, 101 North Main Street, Henrietta, TX 76365.	City Hall, 101 North Main Street, Henrietta, TX 76365.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 17, 2021 ....	480126
Clay .....	Unincorporated areas of Clay County, (20-06-3454P).	The Honorable Mike Campbell, Clay County Judge, P.O. Box 548, Henrietta, TX 76365.	County-City Municipal Building, 101 North Main Street, Henrietta, TX 76365.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 17, 2021 ....	480742
Comal .....	City of New Braunfels, (21-06-0004P).	The Honorable Rusty Brockman, Mayor, City of New Braunfels, 550 Landa Street, New Braunfels, TX 78130.	City Hall, 550 Landa Street, New Braunfels, TX 78130.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 27, 2021 ....	485493

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Comal .....	Unincorporated areas of Comal County, (21-06-0004P).	The Honorable Sherman Krause, Comal County Judge, 100 Main Plaza, New Braunfels, TX 78130.	Comal County Engineering Department, 195 David Jonas Drive, New Braunfels, TX 78132.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 27, 2021 ....	485463
Denton and Tarrant.	City of Fort Worth, (21-06-1349P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, Engineering Vault, 200 Texas Street, Fort Worth, TX 76102.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 3, 2021 .....	480596
Harris .....	Unincorporated areas of Harris County, (20-06-1514P).	The Honorable Lina Hidalgo, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 20, 2021 ....	480287
Harris .....	Unincorporated areas of Harris County, (21-06-0685P).	The Honorable Lina Hidalgo, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 13, 2021 ....	480287
Kendall .....	Unincorporated areas of Kendall County, (21-06-0592P).	The Honorable Darrel L. Lux, Kendall County Judge, 201 East San Antonio Avenue, Suite 122, Boerne, TX 78006.	Kendall County Courthouse, 201 East San Antonio Avenue, Suite 100, Boerne, TX 78006.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Nov. 17, 2021 ....	480417
Midland .....	City of Midland, (21-06-2222P).	The Honorable Patrick Payton, Mayor, City of Midland, 300 North Lorraine Street, Midland, TX 79701.	City Hall, 300 North Lorraine Street, Midland, TX 79701.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jan. 7, 2022 .....	480477
Tarrant .....	City of Arlington, (20-06-3516P).	The Honorable Jim Ross, Mayor, City of Arlington, P.O. Box 90231, Arlington, TX 76004.	Public Works and Transportation Department, 101 West Abram Street, Arlington, TX 76010.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 3, 2021 .....	485454
Tarrant .....	City of Fort Worth, (20-06-3516P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, Engineering Vault, 200 Texas Street, Fort Worth, TX 76102.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Dec. 3, 2021 .....	480596

[FR Doc. 2021-22164 Filed 10-12-21; 8:45 am]

BILLING CODE 9110-12-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4616-DR; Docket ID FEMA-2021-0001]

### Nebraska; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Nebraska (FEMA-4616-DR), dated September 6, 2021, and related determinations.

**DATES:** The declaration was issued September 6, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated

September 6, 2021, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Nebraska resulting from severe storms and straight-line winds during the period of July 9 to July 10, 2021, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Nebraska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Robert Haywood, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Nebraska have been designated as adversely affected by this major disaster:

Box Butte, Cass, Clay, Douglas, Fillmore, Grant, Hall, Hamilton, Madison, Sarpy, Saunders, Sheridan, Washington, and York Counties for Public Assistance.

All areas within the State of Nebraska are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036,

Disaster Grants—Public Assistance  
(Presidentially Declared Disasters); 97.039,  
Hazard Mitigation Grant.

**Deanne Criswell,**

*Administrator, Federal Emergency  
Management Agency.*

[FR Doc. 2021–22428 Filed 10–12–21; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID: FEMA–2021–0023; OMB No.  
1660–0146]

#### Agency Information Collection Activities: Proposed Collection; Comment Request; Post Disaster Survivor Preparedness Research Survey

**AGENCY:** Federal Emergency  
Management Agency, Department of  
Homeland Security.

**ACTION:** 60-day notice of revision and  
request for comments.

**SUMMARY:** The Federal Emergency  
Management Agency (FEMA), as part of  
its continuing effort to reduce  
paperwork and respondent burden,  
invites the general public to take this  
opportunity to comment on a revision of  
a currently approved information  
collection. In accordance with the  
Paperwork Reduction Act of 1995, this  
notice seeks comments concerning a  
collection to obtain information from  
recent disaster survivors while they  
have current memories of their  
experience to better provide necessary  
direction, coordination, and guidance  
for emergency preparedness for the  
protection of life and property in the  
United States from hazards.

**DATES:** Comments must be submitted on  
or before December 13, 2021.

**ADDRESSES:** Submit comments at  
[www.regulations.gov](http://www.regulations.gov) under Docket ID  
FEMA–2021–0023. Follow the  
instructions for submitting comments.

All submissions received must  
include the agency name and Docket ID.  
Regardless of the method used for  
submitting comments or material, all  
submissions will be posted, without  
change, to the Federal eRulemaking  
Portal at <http://www.regulations.gov>,  
and will include any personal  
information you provide. Therefore,  
submitting this information makes it  
public. You may wish to read the  
Privacy and Security Notice that is  
available via a link on the homepage of  
[www.regulations.gov](http://www.regulations.gov).

#### FOR FURTHER INFORMATION CONTACT:

Christi Collins, Individual and  
Community Preparedness Branch Chief,  
Federal Emergency Management  
Agency, at (202) 646–2500 or [FEMA-  
Prepare@fema.dhs.gov](mailto:FEMA-Prepare@fema.dhs.gov). You may contact  
the Information Management Division  
for copies of the proposed collection of  
information at email address: [FEMA-  
Information-Collections-Management@  
fema.dhs.gov](mailto:FEMA-Information-Collections-Management@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:** The  
Stafford Act, Title VI, Emergency  
Preparedness (42 U.S.C. 5195–5195(a))  
identifies the purpose of emergency  
preparedness “for the protection of life  
and property in the United States from  
hazards.” It directs that the Federal  
Government “provide necessary  
direction, coordination, and guidance”  
as authorized for a comprehensive  
emergency preparedness system for all  
hazards. Emergency preparedness is  
defined as all “activities and measures  
designed or undertaken to prepare or  
minimize the effects of a hazard upon  
the civilian population. . . .” The  
“conduct of research” is among the  
measures to be undertaken in  
preparation for hazards.

#### Collection of Information

*Title:* Post Disaster Survivor  
Preparedness Research Survey.

*Type of Information Collection:*  
Revision of a currently approved  
information collection.

*OMB Number:* 1660–0146

*FEMA Forms:* FEMA Form FF–008–  
FY–21–112 (formerly FEMA Form 519–  
0–54), Post Disaster Survivor

Preparedness Research: Instruments

*Abstract:* The economic and human  
toll of major disasters in the United  
States is increasing and historically  
underserved communities are  
disproportionately impacted. Poverty,  
race, limited English proficiency, age,  
and other demographic, cultural, and  
socio-economic variables can  
significantly inhibit people’s ability to  
take steps to prepare. To reverse this  
trend, emergency managers must ensure  
historically underserved communities  
receive critical information that helps  
each person take steps to prepare  
themselves, their families, and their  
communities. To achieve equity in  
opportunities to prepare for disasters,  
FEMA proposes a series of qualitative  
focus groups, cognitive interviews, and  
targeted surveys to better understand  
individual experiences within  
historically underserved communities  
during recent disasters. FEMA Form  
519–0–54 is a combined instrument that  
contains the script and question bank  
for conducting the focus groups,  
cognitive interviews, and surveys.

*Affected Public:* Individuals or  
households.

*Estimated Number of Respondents:*  
3,120 respondents.

*Estimated Number of Responses:*  
3,120 responses.

*Estimated Total Annual Burden  
Hours:* 740.

*Estimated Total Annual Respondent  
Cost:* \$29,045.

*Estimated Respondents’ Operation  
and Maintenance Costs:* \$0.00.

*Estimated Respondents’ Capital and  
Start-Up Costs:* \$0.00.

*Estimated Total Annual Cost to the  
Federal Government:* \$434,943.

#### Comments

Comments may be submitted as  
indicated in the **ADDRESSES** caption  
above. Comments are solicited to (a)  
evaluate whether the proposed data  
collection is necessary for the proper  
performance of the agency, including  
whether the information shall have  
practical utility; (b) 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;  
(c) enhance the quality, utility, and  
clarity of the information to be  
collected; and (d) 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.

**Millicent L. Brown,**

*Acting, Records Management Branch Chief,  
Office of the Chief Administrative Officer,  
Mission Support, Federal Emergency  
Management Agency, Department of  
Homeland Security.*

[FR Doc. 2021–22216 Filed 10–12–21; 8:45 am]

**BILLING CODE 9111–27–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4587–  
DR; Docket ID FEMA–2021–0001]

#### Oklahoma; Amendment No. 2 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency  
Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice  
of a major disaster declaration for the  
State of Oklahoma (FEMA–4587–DR),



dated February 24, 2021, and related determinations.

**DATES:** This amendment was issued July 30, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of February 24, 2021.

Alfalfa, Bryan, Grant, Kiowa, Latimer, Love, and Marshall Counties for debris removal [Category A] and permanent work [Categories C-G] (already designated for emergency protective measures [Category B], including direct federal assistance, under the Public Assistance program).

Pittsburg and Stephens Counties for debris removal [Category A] and permanent work [Categories C-G] (already designated for Individual Assistance and emergency protective measures [Category B], including direct federal assistance under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2021-22418 Filed 10-12-21; 8:45 am]

**BILLING CODE 9111-23-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA-2021-0002; Internal Agency Docket No. FEMA-B-2169]

### Proposed Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** Comments are to be submitted on or before January 11, 2022.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2169, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov); or visit the FEMA Mapping and Insurance eXchange (FMIX) online at [https://www.floodmaps.fema.gov/fhm/fmx\\_main.html](https://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required

by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at [https://www.floodsrp.org/pdfs/srp\\_overview.pdf](https://www.floodsrp.org/pdfs/srp_overview.pdf).

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

Community	Community map repository address
<b>Hancock County, Georgia and Incorporated Areas</b> Project: 18-04-0003S Preliminary Date: August 28, 2020	
Unincorporated Areas of Hancock County .....	Hancock County Planning and Zoning, 40 Courthouse Square, Sparta, GA 31087.
<b>Morgan County, Georgia and Incorporated Areas</b> Project: 18-04-0003S Preliminary Date: August 28, 2020	
City of Bostwick .....	City Hall, 5941 Bostwick Road, Bostwick, GA 30623.
City of Madison .....	Planning Department, 162 North Main Street, Madison, GA 30650.
City of Rutledge .....	City Hall, 105 Newborn Road, Rutledge, GA 30663.
Town of Buckhead .....	Town Hall, 4741 Buckhead Road, Buckhead, GA 30625.
Unincorporated Areas of Morgan County .....	Morgan County Planning and Development, 150 East Washington Street, Madison, GA 30650.
<b>Putnam County, Georgia and Incorporated Areas</b> Project: 18-04-0003S Preliminary Date: August 28, 2020	
City of Eatonton .....	City Hall, 201 North Jefferson Avenue, Eatonton, GA 31024.
Unincorporated Areas of Putnam County .....	Putnam County Administration, 117 Putnam Drive, Suite B, Eatonton, GA 31024.

[FR Doc. 2021-22163 Filed 10-12-21; 8:45 am]

BILLING CODE 9110-12-P

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Docket ID FEMA-2021-0002; Internal Agency Docket No. FEMA-B-2170]

**Proposed Flood Hazard Determinations**

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** Comments are to be submitted on or before January 11, 2022.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2170, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov); or visit the FEMA Mapping and Insurance eXchange (FMIX) online at [https://www.floodmaps.fema.gov/fhm/fmx\\_main.html](https://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their

floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at [https://www.floodsrp.org/pdfs/srp\\_overview.pdf](https://www.floodsrp.org/pdfs/srp_overview.pdf).

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities

with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online

through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

**Michael M. Grimm,**  
Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
<b>Pottawatomie County, Kansas and Incorporated Areas</b> Project: 15-07-0283S Preliminary Date: January 31, 2020 and June 18, 2021	
City of St. Marys .....	City Hall, 200 South 7th Street, St. Marys, KS 66536.
City of Wamego .....	City Hall, 430 Lincoln Avenue, Wamego, KS 66547.
Unincorporated Areas of Pottawatomie County .....	Pottawatomie County Courthouse, 108 North Main Street, Westmoreland, KS 66549.
<b>Leelanau County, Michigan (All Jurisdictions)</b> Project: 13-05-4238S Preliminary Date: September 30, 2020 and April 30, 2021	
Charter Township of Elmwood .....	Elmwood Township Hall, 10090 East Lincoln Road, Traverse City, MI 49684.
City of Traverse City .....	Governmental Center, 400 Boardman Avenue, Traverse City, MI 49684.
Grand Traverse Band of Ottawa and Chippewa Indians .....	Grand Traverse Band of Ottawa & Chippewa Indians Tribal Government, 2605 North West Bay Shore Drive, Peshawbestown, MI 49682.
Township of Bingham .....	Bingham Township Office, 7171 South Center Highway, Traverse City, MI 49684.
Township of Centerville .....	Centerville Township Office, 5001 South French Road, Cedar, MI 49621.
Township of Cleveland .....	Cleveland Township Hall, 955 East Harbor Highway, Maple City, MI 49664.
Township of Empire .....	Township Hall, 10088 West Front Street, Empire, MI 49630.
Township of Glen Arbor .....	Township Hall, 6394 West Western Avenue, Glen Arbor, MI 49636.
Township of Leelanau .....	Leelanau Township Hall, 119 East Nagonaba Street, Northport, MI 49670.
Township of Leland .....	Leland Township Hall, 123 North Saint Joseph Street, Lake Leelanau, MI 49653.
Township of Suttons Bay .....	Township Office, 95 West Fourth Street, Suttons Bay, MI 49682.
Village of Empire .....	Village Office, 11518 South LaCore Street, Empire, MI 49630.
Village of Northport .....	Village Office, 116 West Nagonaba Street, Northport, MI 49670.
Village of Suttons Bay .....	Village Hall, 420 North Front Street, Suttons Bay, MI 49682.
<b>Blue Earth County, Minnesota and Incorporated Areas</b> Project: 07-05-0439S Preliminary Date: December 09, 2009, April 20, 2011, September 12, 2018 and August 28, 2020	
City of Eagle Lake .....	City Hall, 705 Parkway Avenue, Eagle Lake, MN 56024.

[FR Doc. 2021-22162 Filed 10-12-21; 8:45 am]

BILLING CODE 9110-12-P

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Docket ID: FEMA-2021-0025; OMB No. 1660-0138]

**Agency Information Collection Activities: Proposed Collection; Comment Request; Direct Housing Assistance Forms**

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** 60-day notice of revision and request for comments.

**SUMMARY:** The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning

information collected by FEMA to provide temporary housing units, including manufactured housing units, recreational vehicles and other readily fabricated dwellings to eligible applicants who, as a direct result of a major disaster or emergency, are unable to occupy their primary residence or obtain adequate alternate housing, and therefore require temporary housing.

**DATES:** Comments must be submitted on or before December 13, 2021.

**ADDRESSES:** To avoid duplicate submissions to the docket, please submit comments at [www.regulations.gov](http://www.regulations.gov) under Docket ID FEMA-2021-0025. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Brian Thompson, Supervisory Program Specialist, FEMA, Recovery Directorate, at 540-686-3602 or [Brian.Thompson6@fema.dhs.gov](mailto:Brian.Thompson6@fema.dhs.gov). You may contact the Information Management Division for copies of the proposed collection of information at email address: [FEMA-Information-Collections-Management@fema.dhs.gov](mailto:FEMA-Information-Collections-Management@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:** The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5174, as amended by the Disaster Mitigation Act of 2000 (Pub. L. 106-390), authorizes the President to provide temporary housing units, including manufactured housing units, recreational vehicles and other readily fabricated dwellings to eligible applicants who, as a direct result of a major disaster or emergency, are unable to occupy their primary residence or obtain adequate alternate housing, and therefore require temporary housing. Requirements for disaster-related housing needs of individuals and households who are eligible for temporary housing assistance may be found in Title 44 CFR 206.117—Housing Assistance. The information

collected is used to determine the feasibility of a potential site for placement of temporary housing units (THUs) to ensure the THUs are ready for applicant occupancy, and to confirm applicant understanding of the requirements of occupancy of the THUs. The information will also provide FEMA with access to place the THUs, to document the installation and maintenance of the THUs, and to retrieve the THUs at the end of their use.

### Collection of Information

*Title:* Direct Housing Assistance Forms.

*Type of Information Collection:* Revision of a currently approved information collection.

*OMB Number:* 1660-0138.

*FEMA Forms:* FEMA Form FF-104-FY-21-191 (English) (formerly 009-0-129), Transportable Temporary Housing Unit Ready for Occupancy Status; FF-104-FY-21-192 (English) (formerly 009-0-131), Sales Calculation Worksheet; FF-104-FY-21-193 (English) (formerly 009-0-134), Direct Temporary Housing Assistance Recertification Worksheet; FF-104-FY-21-194 (English) (formerly 009-0-135), Direct Temporary Housing Assistance Temporary Housing Agreement; FF-104-FY-21-195 (English) (formerly 009-0-137), Commercial Park Unit Pad Requirements—Information Checklist; FEMA Form FF-104-FY-21-109 (English) (formerly 010-0-9), Transportable Temporary Housing Unit Request for the Site Inspection; FEMA Form FF-104-FY-21-110 (formerly 010-0-10) Transportable Temporary Housing Unit Landowner's Authorization Ingress-Egress Agreement; FEMA Form FF-104-FY-21-110-A (English/Spanish) (formerly 010-0-10S), Autorización del Propietario/Acuerdo de Entrada y Salida; FF-104-FY-21-111 (English) (formerly 009-0-138), Transportable Temporary Housing Unit Inspection Report; FF-104-FY-21-112 (English) (formerly 009-0-136), Transportable Temporary Housing Unit Installation Work Order; FF-104-FY-21-113 (English) (formerly 009-0-130), Transportable Temporary Housing Unit Maintenance Work Order.

*Abstract:* The information collected is used to determine the feasibility of a potential site for placement of temporary housing units (THUs) to ensure the THUs are ready for applicant occupancy, and to confirm applicant understanding of the requirements of occupancy of the THUs. The information will also provide FEMA with access to place the THUs, to

document the installation and maintenance of the THUs, and to retrieve the THUs at the end of their use.

*Affected Public:* Individuals or households, business or other for-profit.

*Estimated Number of Respondents:* 50,000.

*Estimated Number of Responses:* 50,000.

*Estimated Total Annual Burden Hours:* 12,088.

*Estimated Total Annual Respondent Cost:* \$563,318.

*Estimated Respondents' Operation and Maintenance Costs:* \$0.

*Estimated Respondents' Capital and Start-Up Costs:* \$0.

*Estimated Total Annual Cost to the Federal Government:* \$10,631,850.

### Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

### Millicent L. Brown,

*Acting Branch Chief, Records Management Branch, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2021-22187 Filed 10-12-21; 8:45 am]

**BILLING CODE 9111-23-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS-WASO-NRNL-DTS#-32819; PPWOCRADIO, PCU00RP14.R50000]**

### National Register of Historic Places; Notification of Pending Nominations and Related Actions

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The National Park Service is soliciting electronic comments on the significance of properties nominated before October 2, 2021, for listing or related actions in the National Register of Historic Places.

**DATES:** Comments should be submitted electronically by October 28, 2021.

**ADDRESSES:** Comments are encouraged to be submitted electronically to *National\_Register\_Submissions@nps.gov* with the subject line "Public Comment on <property or proposed district name, (County) State>." If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry\_frear@nps.gov*, 202-913-3763.

**SUPPLEMENTARY INFORMATION:** The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before October 2, 2021. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

### ALABAMA

#### Baldwin County

CLOTILDA (schooner), Address Restricted, Mobile vicinity, SG100007119

### FLORIDA

#### Monroe County

Crane Point, 5550 Overseas Hwy., Marathon, SG100007123

### IDAHO

#### Kootenai County

Hamilton, Boyd and Alta, House, 627 North Government Way, Coeur d'Alene, SG100007118

**MARYLAND****Dorchester County**

Phillips Packing Company Plant F, 411A  
Dorchester Ave., Cambridge, SG100007122

**MONTANA****Flathead County**

Kruse, Billy, Cabin, 15920 North Fork Rd.,  
Polebridge vicinity, SG100007131

**NEW YORK****Monroe County**

Leander McCord Houses Historic District,  
249, 259, 267, 275, and 285 Maplewood  
Dr., Rochester, SG100007111

**SOUTH DAKOTA****Minnehaha County**

Fauske, Ole E., House, 26003 482nd Ave.,  
Corson, SG100007110

**TENNESSEE****Lauderdale County**

Lauderdale High School, 185 Spring St.,  
Ripley, SG100007125

**Marshall County**

Dixie Theatre, 110 West Church St.,  
Lewisburg, SG100007126

**Shelby County**

Hanley, Daniel, House, (Residential  
Resources of Memphis MPS), 3023  
Spottswood Ave., Memphis, MP100007127

**Sumner County**

Parker's Chapel Missionary Baptist Church  
and Cemetery (Rural African-American  
Churches in Tennessee MPS), 387 Airport  
Rd., Portland, MP100007121

**WISCONSIN****La Crosse County**

Caledonia Street Commercial Historic  
District, Both sides of Caledonia St.  
between Clinton and St. Paul Sts., La  
Crosse, SG100007132

**Manitowoc County**

Kiel Mill, 11 East Fremont St., Kiel,  
SG100007129

**Milwaukee County**

TRANSFER (self-unloading barge) Shipwreck  
(Great Lakes Shipwreck Sites of Wisconsin  
MPS), 6 mi. SE of the Milwaukee Harbor  
Breakwater Lighthouse in L. Michigan,  
Milwaukee vicinity, MP100007124

A request for removal has been made  
for the following resources:

**TENNESSEE****Anderson County**

Brannon, Luther, House (Oak Ridge MPS),  
151 Oak Ridge Tpk., Oak Ridge,  
OT91001108

**Blount County**

McNutt-McReynolds House (Blount County  
MPS), 803 West Broadway Ave., Maryville,  
OT89000901

**Cocke County**

Beechwood Hall, North of Newport on  
Rankin Rd., Newport vicinity, OT75001741

**Coffee County**

Manchester Cumberland Presbyterian  
Church, Jct. of Church and West High Sts.,  
Manchester, OT92000781

**Hamilton County**

Trinity Methodist Episcopal Church (Hunt,  
Reuben H., Buildings in Hamilton County  
TR), McCallie Ave., Chattanooga,  
OT80003826

**Tipton County**

Price, Dr. Thomas H., House, 620 North Main  
St., Covington, OT15000118

Nomination submitted by Federal  
Preservation Officer:

The State Historic Preservation  
Officer reviewed the following  
nomination and responded to the  
Federal Preservation Officer within 45  
days of receipt of the nomination and  
supports listing the property in the  
National Register of Historic Places.

**MASSACHUSETTS****Suffolk County**

John F. Kennedy Federal Building, 15 New  
Sudbury St., Boston, SG100007130

*Authority:* Section 60.13 of 36 CFR  
part 60.

Dated: October 5, 2021.

**Sherry A. Frear,**

*Chief, National Register of Historic Places/  
National Historic Landmarks Program.*

[FR Doc. 2021-22186 Filed 10-12-21; 8:45 am]

**BILLING CODE 4312-52-P**

**DEPARTMENT OF THE INTERIOR****Bureau of Reclamation**

[RR04084000, XXXR4081X1,  
RN.20350010.REG0000]

**Colorado River Basin Salinity Control  
Advisory Council Notice of Public  
Meeting**

**AGENCY:** Bureau of Reclamation,  
Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Bureau of Reclamation is  
publishing this notice to announce that  
a Federal Advisory Committee meeting  
of the Colorado River Basin Salinity  
Control Council (Council) will take  
place.

**DATES:** The meeting will be held  
virtually on Wednesday, October 27,  
2021, from 2:30 p.m. to approximately  
5:30 p.m. (MDT), and on Thursday,  
October 28, 2021, from 9:30 a.m. to  
11:30 a.m. (MDT). Individuals wanting  
virtual access to the meeting should

contact Melynda Roberts (see  
**ADDRESSES**) no later than October 22,  
2021, to receive instructions. A public  
comment period will be held on both  
days.

**ADDRESSES:** Due to restrictions put in  
place to address the COVID-19  
pandemic, the meeting will be held  
virtually. To access the meeting, please  
contact Melynda Roberts at (801) 524-  
3727; or by email at [mroberts@usbr.gov](mailto:mroberts@usbr.gov).  
The public may submit comments up to  
30 days after the meeting to the Bureau  
of Reclamation, Attn: UC-242, 125  
South State Street, Room 8100, Salt  
Lake City, Utah 84138.

**FOR FURTHER INFORMATION CONTACT:**  
Melynda Roberts, telephone (801) 524-  
3727; email at [mroberts@usbr.gov](mailto:mroberts@usbr.gov).

**SUPPLEMENTARY INFORMATION:** The  
meeting of the Council is being held  
under the provisions of the Federal  
Advisory Committee Act of 1972. The  
Council was established by the Colorado  
River Basin Salinity Control Act of 1974  
(Pub. L. 93-320) (Act) to receive reports  
and advise Federal agencies on  
implementing the Act.

*Purpose of the Meeting:* The purpose  
of the meeting is to discuss the  
accomplishments of Federal agencies  
and make recommendations on future  
activities to control salinity.

*Agenda:* Council members will be  
briefed on the status of salinity control  
activities. The Bureau of Reclamation,  
Bureau of Land Management, U.S. Fish  
and Wildlife Service, and United States  
Geological Survey of the Department of  
the Interior; the Natural Resources  
Conservation Service of the Department  
of Agriculture; and the Environmental  
Protection Agency will each present a  
progress report and a schedule of  
activities on salinity control in the  
Colorado River Basin. The Council will  
discuss salinity control activities, the  
contents of the reports, and the Basin  
States Program created by Public Law  
110-246, which amended the Act. A  
final agenda will be posted online at  
[https://www.usbr.gov/uc/progact/  
salinity/](https://www.usbr.gov/uc/progact/salinity/) at least one week prior to the  
meeting.

*Meeting Accessibility/Special  
Accommodations:* The meeting is open  
to the public. Individuals wanting  
virtual access to the meeting or those  
requiring special accommodations  
should contact Melynda Roberts (see  
**FOR FURTHER INFORMATION CONTACT**) no  
later than October 22, 2021, to receive  
instructions.

*Public Comments:* The Council  
chairman will provide time for oral  
comments from members of the public  
at the meeting. Individuals wanting to  
make an oral comment should contact

Melynda Roberts (see **FOR FURTHER INFORMATION CONTACT**) to be placed on the public comment list. Members of the public may also file written statements with the Council before, during, or up to 30 days after the meeting either in person or by mail. To allow full consideration of information by Council members at this meeting, written comments must be provided to Melynda Roberts (see **ADDRESSES**) by October 22, 2021.

**Public Disclosure of Personal Information:** 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.

**Authority:** 5 U.S.C. appendix 2.

**Wayne Pullan,**

*Regional Director, Upper Colorado Basin—Interior Region 7, Bureau of Reclamation.*

[FR Doc. 2021-22248 Filed 10-12-21; 8:45 am]

**BILLING CODE 4332-90-P**

**INTERNATIONAL TRADE COMMISSION**

[Investigation No. 337-TA-1209]

**Certain Movable Barrier Operator Systems and Components Thereof  
Notice of Request for Submissions on the Public Interest**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that on September 14, 2021, the presiding administrative law judge (“ALJ”) issued a Final Initial Determination on Violation of Section 337. The ALJ also issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public only.

**FOR FURTHER INFORMATION CONTACT:** Houda Morad, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-4716. Copies of non-confidential

documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States:

unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: A limited exclusion order directed to certain movable barrier operator systems and components thereof imported, sold for importation, and/or sold after importation by respondent The Chamberlain Group, Inc. (“Respondent”); and a cease and desist order directed against Respondent. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ’s Recommended Determination on Remedy and Bonding issued in this investigation on September 14, 2021. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainants, complainants’ licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainants, complainants’ licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on October 22, 2021.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission’s paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (“Inv. No. 337-TA-1209”) in a prominent place on the cover page and/or the first page. (See *Handbook for Electronic Filing Procedures*, [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for

developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: October 7, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021-22244 Filed 10-12-21; 8:45 am]

BILLING CODE 7020-02-P

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-671-672 and 731-TA-1571-1573 (Preliminary)]

### Oil Country Tubular Goods From Argentina, Mexico, Russia, and South Korea; Institution of Anti-Dumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701-TA-671-672 and 731-TA-1571-1573 (Preliminary) pursuant to the Tariff Act of 1930 ("the Act") to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of oil country tubular goods from Argentina, Mexico, Russia, and South Korea, provided for in subheadings 7304.29, 7305.20, and 7306.29 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Governments of Russia and South Korea. Unless the

Department of Commerce ("Commerce") extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by November 22, 2021. The Commission's views must be transmitted to Commerce within five business days thereafter, or by November 30, 2021.

**DATES:** October 6, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Keysha Martinez ((202) 205-2136), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

**Background.**—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on October 6, 2021, by Borusan Mannesmann Pipe U.S., Inc., Baytown, Texas; PTC Liberty Tubulars LLC, Liberty, Texas; U.S. Steel Tubular Products, Inc., Pittsburgh, Pennsylvania; Welded Tube USA, Inc., Lackawanna, New York; and the United States Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC, Pittsburgh, Pennsylvania.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**Participation in the investigations and public service list.**—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level)

representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.**—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Conference.**—In light of the restrictions on access to the Commission building due to the COVID-19 pandemic, the Commission is conducting the staff conference through video conferencing on October 27, 2021. Requests to appear at the conference should be emailed to [preliminaryconferences@usitc.gov](mailto:preliminaryconferences@usitc.gov) (DO NOT FILE ON EDIS) on or before October 25, 2021. Please provide an email address for each conference participant in the email. Information on conference procedures will be provided separately and guidance on joining the video conference will be available on the Commission's Daily Calendar. A nonparty who has testimony that may aid the Commission's deliberations may request permission to participate by submitting a short statement.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

**Written submissions.**—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before November 1, 2021, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties shall file written testimony and supplementary material in connection with their presentation at the conference no later than noon on

October 26, 2021. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf), elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Certification.**—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: October 7, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021-22242 Filed 10-12-21; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1219]

### Certain Non-Invasive Aesthetic Body-Contouring Devices, Components Thereof, and Methods of Using the Same; Notice of a Commission Determination Not To Review an Initial Determination Granting an Unopposed Motion To Terminate the Investigation in Its Entirety Based Upon Settlement; Termination of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission ("Commission") has determined not to review an initial determination ("ID") (Order No. 31) of the presiding administrative law judge ("ALJ") granting an unopposed motion to terminate the investigation in its entirety based upon settlement.

**FOR FURTHER INFORMATION CONTACT:** Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3042. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** On September 9, 2020, the Commission instituted this investigation based on a complaint filed by BTL Industries, Inc. ("BTL") of Marlborough, Massachusetts. 85 FR 55687-88 (Sept. 9, 2020). The complaint alleged violations of section 337 based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain non-invasive aesthetic body-contouring devices, components thereof, and methods of using the same by reason of infringement of claims 1, 2, 4, 6-8, 10, 12-16, 20, 22, 23, and 26-28 of U.S. Patent No. 10,632,321 ("the '321 patent"); claims 1, 9-11, 13, 15, 16, and 20-22 of U.S. Patent No. 10,695,575 ("the '575 patent"); claims 1, 8, 10, 11, 13, 16, 18, 23-25, 27, and 28 of U.S.

Patent No. 10,695,576 ("the '576 patent"); claims 1, 2, 4, 5, 9, 10, 12, 13, 17-21, 23, 24, and 26-29 of U.S. Patent No. 10,709,894 ("the '894 patent"); claims 1, 2-6, 9, 10, and 14-25 of U.S. Patent No. 10,709,895 ("the '895 patent"); and claims 1, 6, 7, 16, 21, and 22 of U.S. Patent No. 10,478,634 ("the '634 patent"). *Id.* at 55687. The Commission's notice of investigation named the following six respondents: Allergan Limited of Dublin, Ireland; Allergan USA, Inc. of Madison, New Jersey; Allergan, Inc. of Madison, New Jersey; Zeltiq Aesthetics, Inc. of Pleasanton, California; Zeltiq Ireland Unlimited Company of Galway, Ireland; and Zimmer MedizinSysteme GmbH of Neu-Ulm, Germany (collectively, "Respondents"). The Office of Unfair Import Investigations was not named as a party in this investigation. *Id.*

On September 10, 2021, BTL and Respondents filed a joint motion to terminate the investigation in its entirety based upon settlement.

The Commission previously determined not to review IDs (Order Nos. 15 and 21) terminating the investigation as to (1) all asserted claims of the '321 patent; (2) all asserted claims of the '575 patent; (3) claims 1, 8, 10, 11, 13, 23-25, 27, and 28 of the '576 patent; (4) claims 1, 2, 4, 5, 10, 18, 19-24, and 26-29 of the '894 patent; (5) claims 3, 4, 6, 9, 10, 15-18, and 20-25 of the '895 patent; and (6) all asserted claims of the '634 patent. *See* Order No. 15, *unreviewed by* Notice (Apr. 27, 2021); Order No. 21, *unreviewed by* Notice (May 19, 2021).

On September 16, 2021, the ALJ issued the subject ID (Order No. 31) granting the motion. The subject ID found that the joint motion complies with Commission Rule 210.21(a)(2), which provides that "[a]ny party may move at any time to terminate an investigation in whole or in part as to any or all respondents on the basis of a settlement, a licensing or other agreement . . . ." ID at 1 (citing 19 CFR 210.21(a)(2)). The ID further found that in accordance with Commission Rule 210.21(b)(1) the parties state that "[A]part from this Settlement Agreement there are no agreements, written or oral, express or implied between BTL and Respondents concerning the subject matter of the investigation." ID at 2 (citing 19 CFR 210.21(b)(1)). In addition, the parties provided confidential and public versions of the settlement agreement. The ID also found that there is no evidence that terminating this investigation based upon settlement would be contrary to the public interest.



*Id.* at 3. No one petitioned for review of the ID.

The Commission has determined not to review the subject ID. The investigation is hereby terminated in its entirety.

The Commission vote for this determination took place on October 6, 2021.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: October 6, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021-22176 Filed 10-12-21; 8:45 am]

BILLING CODE 7020-02-P

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## DEPARTMENT OF JUSTICE

### Office of Justice Programs

[OMB Number 1121-0309]

#### Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: International Terrorism Victim Expense Reimbursement Program Application

**AGENCY:** Office of Justice Programs, Department of Justice.

**ACTION:** 30 Day notice.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs, Office for Victims of Crime, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

**DATES:** The Department of Justice encourages public comment and will accept input until November 12, 2021.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Victoria Jolicoeur, Office for Victims of Crime, 810 Seventh Street NW, Washington, DC 20531; by facsimile at (202) 305-2440 or by email, to [ITVERP@usdoj.gov](mailto:ITVERP@usdoj.gov). Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

**SUPPLEMENTARY INFORMATION:** Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to [OIRA\\_submissions@omb.eop.gov](mailto:OIRA_submissions@omb.eop.gov).

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 Office for Victims of Crime, 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 a currently approved collection.

2. *The Title of the Form/Collection:* International Terrorism Victim Expense Reimbursement Program (ITVERP) Application.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no agency form number for this collection. The applicable component within the Department of Justice is the Department of Justice is the Office for Victims of Crime, in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals victims,

surviving family members or personal representatives. Other: Federal Government. This application will be used to apply for the expense reimbursement by U.S. nationals and U.S. Government employees who are victims of acts of international terrorism that occur(red) outside of the United States. The application will be used to collect necessary information on the expenses incurred by the applicant, as associated with his or her victimization, as well as other pertinent information, and will be used by OVC to make an award determination.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 100 respondents will complete the certification in approximately 45 minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this collection is 75 hours.

*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: October 7, 2021.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2021-22237 Filed 10-12-21; 8:45 am]

BILLING CODE 4410-18-P

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### All Items Consumer Price Index for All Urban Consumers; United States City Average

Pursuant to Section 33105(c) of Title 49, United States Code, and the delegation of the Secretary of Transportation's responsibilities under that Act to the Administrator of the Federal Highway Administration (49 CFR, Section 1.95 (a)), the Secretary of Labor has certified to the Administrator and published this notice in the **Federal Register** that the United States City Average All Items Consumer Price Index for All Urban Consumers (1967=100) increased 149.2 percent from its 1984 annual average of 311.1 to its 2020 annual average of 775.284.

Signed at Washington, DC.

**Martin J. Walsh,**  
Secretary of Labor.

[FR Doc. 2021-22202 Filed 10-12-21; 8:45 am]

BILLING CODE 4510-24-P

## DEPARTMENT OF LABOR

### Office of the Secretary

#### All Items Consumer Price Index for All Urban Consumers; United States City Average

Pursuant to Section 112 of the 1976 amendments to the Federal Election Campaign Act, 52 U.S.C. 30116(c), the Secretary of Labor has certified to the Chairman of the Federal Election Commission and publishes this notice in the **Federal Register** that the United States City Average All Items Consumer Price Index for All Urban Consumers (CPI-U) (1967=100) increased 424.9 percent from its 1974 annual average of 147.7 to its 2020 annual average of 775.284 and that it increased 46.2 percent from its 2001 annual average of 530.4 to its 2020 annual average of 775.284. Using 1974 as a base (1974=100), I certify that the CPI-U increased 424.9 percent from its 1974 annual average of 100 to its 2020 annual average of 524.905. Using 2001 as a base (2001=100), I certify that the CPI-U increased 46.2 percent from its 2001 annual average of 100 to its 2020 annual average of 146.170. Using 2006 as a base (2006=100), I certify that the CPI-U increased 28.4 percent from its 2006 annual average of 100 to its 2020 annual average of 128.380.

Signed at Washington, DC.

**Martin J. Walsh,**  
Secretary of Labor.

[FR Doc. 2021-22201 Filed 10-12-21; 8:45 am]

BILLING CODE 4510-24-P

## DEPARTMENT OF LABOR

### Office of Workers' Compensation Programs

#### Agency Information Collection Activities; Comment Request; Energy Employees Occupational Illness Compensation Program Act Forms EE-1, EE-1-SPA EE-2, EE-2-SPA, EE-3, EE-3-SPA, EE-4, EE-4-SPA, Form EE-7, EE-7-SPA, EE/EN-8, EE/EN-9, EE/EN-10, EE/EN-11A EE/EN-11B, EE/EN-12, EE/EN-13, EE/EN-16, EE-17A, EE-17B AND EE/EN-20

**AGENCY:** Office of Workers' Compensation Programs, Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Energy Employees Occupational Illness Compensation Program Act Forms (EE-1, EE-1-SPA EE-2, EE-2-SPA, EE-3, EE-3-SPA, EE-4, EE-4-SPA, EE-7, EE-7-SPA, EE/EN-8, EE/EN-9, EE/EN-10, EE/EN-11A EE/EN-11B, EE/EN-12, EE/EN-13, EE/EN-16, EE-17A, EE-17B AND EE/EN-20). The Energy Employee forms are required to determine a claimant's eligibility for compensation under the Energy Employees Occupational Illness Compensation Program Act and are required to enable eligible claimants to receive benefits. A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

**DATES:** Consideration will be given to all written comments received on or before December 13, 2021.

**ADDRESSES:** You may submit comments by mail, delivery service, or by hand to Ms. Anjanette Suggs, U.S. Department of Labor, 200 Constitution Ave. NW, Room S-3323, Washington, DC 20210; by fax to (202) 354-9660; or by Email to [Suggs.Anjanette@dol.gov](mailto:Suggs.Anjanette@dol.gov). Please use only one method of transmission for comments (mail/delivery, fax, or Email). Please note that comments submitted after the comment period will not be considered.

**FOR FURTHER INFORMATION:** Contact Anjanette Suggs by telephone at 202-354-9660 or by email at [suggs.anjanette@dol.gov](mailto:suggs.anjanette@dol.gov).

**SUPPLEMENTARY INFORMATION:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in

accordance with the Paperwork Reduction Act of 1995 (PRA95).

### I. Background

The Office of Workers' Compensation Programs (OWCP) is the primary agency responsible for the administration of the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA or Act), 42 U.S.C. 7384 *et seq.* The Act provides for timely payment of compensation to covered employees and, where applicable, survivors of such employees, who sustained either "occupational illnesses" or "covered illnesses" incurred in the performance of duty for the Department of Energy and certain of its contractors and subcontractors. The Act sets forth eligibility criteria for claimants for compensation under Part B and Part E of the Act, and outlines the various elements of compensation payable from the Fund established by the Act. The information collections in this ICR collect demographic, factual and medical information needed to determine entitlement to benefits under the EEOICPA. This information collection is currently approved for use through March 31, 2022.

### II. Review Focus

The Department of Labor is particularly interested in comments which:

- \* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- \* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- \* enhance the quality, utility and clarity of the information to be collected; and

- \* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

### III. Current Actions

The Department of Labor seeks approval for the revision of this information collection in order to carry out its responsibility to determine a claimant's eligibility for compensation under the EEOICPA. Comments submitted in response to this notice will be summarized and/or included in the

request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

*Type of Review:* Extension.

*Agency:* Office of Workers' Compensation Programs.

*Title:* Energy Employees Occupational Illness Compensation Program Act Forms (various).

*OMB Number:* 1240-0002.

*Agency Number:* EE-1, EE-1-SPA EE-2, EE-2-SPA, EE-3, EE-3-SPA, EE-4, EE-4-SPA, EE-7, EE-7-SPA, EE/EN-8, EE/EN-9, EE/EN-10, EE/EN-11A EE/EN-11B, EE/EN-12, EE/EN-13, EE/EN-16, EE-17A, EE-17B and EE/EN-20.

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

*Total Respondents:* 46,827.

*Total Responses:* 48,051.

*Estimated Total Burden Hours:* 16,374.

*Total Burden Cost (capital/startup):* \$0.

*Total Burden Cost (operating/maintenance):* \$36,086.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Anjanette Suggs,

*Agency Clearance Officer.*

[FR Doc. 2021-22006 Filed 10-12-21; 8:45 am]

**BILLING CODE 4510-CR-P**

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## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA-2022-003]

### Renewal of National Industrial Security Program Policy Advisory Committee

**AGENCY:** National Archives and Records Administration.

**ACTION:** Notice of federal advisory committee charter renewal.

**SUMMARY:** The Archivist has renewed the charter for the National Archives and Records Administration's (NARA's) National Industrial Security Program Policy Advisory Committee (NISPPAC) for a 14th term. The General Services Administration (GSA) included the NISPPAC in our ceiling of approved Federal advisory committees.

**DATES:** NARA initially chartered the Committee on January 6, 1993. The current charter renewal will run for two years, until September 30, 2023.

**ADDRESSES:** NARA staff supporting the Committee are located at National Archives and Records Administration,

700 Pennsylvania Avenue NW, Information Security Oversight Office, Washington, DC 20408.

**FOR FURTHER INFORMATION CONTACT:** Tasha Ford, NARA Committee Management Officer, by telephone at 202.357.5496.

**SUPPLEMENTARY INFORMATION:** The Archivist certifies that renewing the National Industrial Security Program Policy Advisory Committee is in the public interest, due to the expertise and valuable advice the Committee members provide. We will use the Committee's recommendations on issues related to policies of the National Industrial Security Program (NISIP), including recommended changes to those policies. NARA renewed the charter in accordance with provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., app.). GSA approved the NISPPAC in accordance with Executive Order 13549.

**David S. Ferriero,**

*Archivist of the United States.*

[FR Doc. 2021-22188 Filed 10-12-21; 8:45 am]

**BILLING CODE 7515-01-P**

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## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts

#### National Council on the Arts 204th Meeting

**AGENCY:** National Endowment for the Arts, National Foundation on the Arts and the Humanities.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that a meeting of the National Council on the Arts will be held open to the public by videoconference or teleconference.

**DATES:** See the **SUPPLEMENTARY**

**INFORMATION** section for meeting time and date. The meeting is Eastern time and the ending time is approximate.

**ADDRESSES:** The National Endowment for the Arts, Constitution Center, 400 Seventh Street SW, Washington, DC 20560. Please see *arts.gov* for the most up-to-date information.

**FOR FURTHER INFORMATION CONTACT:** Victoria Hutter, Office of Public Affairs, National Endowment for the Arts, Washington, DC 20506, at 202/682-5570.

**SUPPLEMENTARY INFORMATION:** If, in the course of the open session discussion, it becomes necessary for the Council to

discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the September 10, 2019 determination of the Chairman. Additionally, discussion concerning purely personal information about individuals, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, to Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact Beth Bienvenu, Office of Accessibility, National Endowment for the Arts, at 202/682-5532 or [accessibility@arts.gov](mailto:accessibility@arts.gov), at least seven (7) days prior to the meeting.

*The upcoming meeting is:* National Council on the Arts 204th Meeting.

This meeting will be held by videoconference or teleconference.

*Date and time:* October 28, 2021; 3:15 p.m. to 4:00 p.m., ET.

There will be opening remarks and voting on recommendations for grant funding and rejection, followed by updates from the NEA Acting Chairman.

*Register in advance for this webinar:* [https://arts.zoomgov.com/webinar/register/WN\\_RvFuMQAwT6aAslSkSrSaUg](https://arts.zoomgov.com/webinar/register/WN_RvFuMQAwT6aAslSkSrSaUg).

Dated: October 7, 2021.

**Sherry P. Hale,**

*Staff Assistant, National Endowment for the Arts.*

[FR Doc. 2021-22264 Filed 10-12-21; 8:45 am]

**BILLING CODE 7537-01-P**

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## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit applications received.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

**DATES:** Interested parties are invited to submit written data, comments, or

views with respect to this permit application by November 12, 2021. This application may be inspected by interested parties at the Permit Office, address below.

**ADDRESSES:** Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314 or [ACApermits@nsf.gov](mailto:ACApermits@nsf.gov).

**FOR FURTHER INFORMATION CONTACT:** Polly Penhale, ACA Permit Officer, at the above address, 703–292–8030.

**SUPPLEMENTARY INFORMATION:** The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

#### Application Details

*Permit Application: 2022–012*

1. *Applicant:* Laura K.O. Smith, Quixote Expeditions, LLC. 1498 Paradise Point Rd., Oakland, MD 21550.

*Activity for Which Permit is Requested:* Waste Management. The applicant, Quixote Expeditions, LLC, seeks and Antarctic Conservation Act permit for waste management activities associated with the operation of the “Ocean Tramp,” a reinforced ketch rigged sailing yacht, and the “Hans Hansson,” a motorized vessel, in the Antarctic Peninsula region. Activities conducted by Quixote include: Passenger landings, kayaking, hiking, photography, coastal camping, wildlife viewing and potential station visits. Wastes generated during shore-based activities would be returned to the vessel for proper disposal and no poultry products shall be brought ashore at any time.

Coastal camping activities, including campsite selection, will follow criteria set forth in the *IATTO Guidelines for Short Overnight Stays in Antarctica* in order to minimize environmental impact. Emergency kits containing food rations and camping stoves will be brought ashore for overnight stays. All wastes, including food waste, generated during overnight stays will be collected and returned to the vessel for proper disposal following the activity. Mitigation measures are in place to

prevent the release of any fuel used in camp stoves if necessary.

The applicant also proposes the operation of unoccupied aerial systems (UAS) for commercial and navigational purposes. UAS will only be flown by experienced pilots with more than 20 hours of flight experience. UAS will not be flown over any bird or wildlife colonies and pilots will follow guidelines and criteria set forth by IATTO. Potential risk will be assessed by crew members prior to each flight to determine feasibility of UAS use in current conditions.

*Location:* Antarctic Peninsula Region.

*Dates of Permitted Activities:* December 1, 2021–March 30, 2026.

*Permit Application: 2022–013*

2. *Applicant:* Lisa Bolton, Scenic Luxury Cruises & Tours, 20 Park Place Ste. 903, Boston, MA 02116.

*Activity for Which Permit is Requested:* Waste Management. The applicant proposes to operate small, battery-operated remotely piloted aircraft systems (RPAS) to collect commercial and educational footage of the Antarctic. The quadcopter would not be flown over concentrations of birds or mammals, or over Antarctic Specially Protected Areas or Historic Sites and Monuments. The RPAS would only be operated by pilots with extensive experience, who are pre-approved by the Expedition Leader. Several measures would be taken to prevent against loss of the RPA, including installing floatation devices in the case of an accidental water landing; only flying when the wind is less than 25 knots; constant monitoring of battery life throughout the duration of all flights; having an observer on the lookout for wildlife, people, and other hazards; and ensuring that the pilot always maintains visual contact with the RPA. The applicant would also operate two helicopters for sightseeing in the Antarctic Peninsula region. No landings would occur, except in the case of emergency. Helicopters will be garaged, fueled, and serviced on board the *Scenic Eclipse*. Helicopter operations will only occur weather conditions, including sufficiently low winds, that allow easy take-off and landing. Helicopters will be operated by trained, certified, and experienced pilots. Helicopters will carry emergency gear including cooking fuel and radios. The applicant is seeking a Waste Permit to cover any accidental releases that may result from operating the RPAS and helicopters.

*Location:* Antarctica Peninsula Region.

*Dates of Permitted Activities:* January 1, 2022–March 31, 2026.

Erika N. Davis,  
*Program Specialist, Office of Polar Programs.*  
[FR Doc. 2021–22204 Filed 10–12–21; 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](mailto:ACApermits@nsf.gov).

**SUPPLEMENTARY INFORMATION:** On August 30, 2021, and August 31, 2021, the National Science Foundation published a notice in the **Federal Register** of permit applications received. The permits were issued on October 4, 2021, to:

1. Dr. Robert Sanders Permit No. 2022–007
2. Jonathan Schwartz Permit No. 2022–008
3. Dr. Steven Emslie Permit No. 2022–009

Erika N. Davis,  
*Program Specialist, Office of Polar Programs.*  
[FR Doc. 2021–22207 Filed 10–12–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NEIGHBORHOOD REINVESTMENT CORPORATION

### Sunshine Act Meetings

**TIME AND DATE:** 2:00 p.m., Thursday, October 21, 2021.

**PLACE:** Via Conference Call.

**STATUS:** Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Regular Board of Directors meeting.

The General Counsel of the Corporation has certified that in his opinion, one or more of the exemptions set forth in the Government in the Sunshine Act, 5 U.S.C. 552b(c)(2) and (4) permit closure of the following portion(s) of this meeting:

- Executive Session

**Agenda**

- I. Call to Order
- II. Executive Session Sunshine Act
- III. Executive Session Other Matter
- IV. Executive Session: Report from CEO
- V. Executive Session: Report from CFO
- VI. Executive Session: NeighborWorks Compass™ Update
- VII. Action Item Approval of Minutes
- VIII. Action Item Final 2022–2024 Strategic Plan
- IX. Action Item Procurement System (NEST) Replacement
- X. Discussion Item Interim CIO Report
- XI. Discussion Item DC Office Lease
- XII. Discussion Item Large AV Event Services Contract
- XIII. Discussion Item Financial Management Systems (FMS) Rebid
- XIV. Discussion Item Events and Training Management System (ETMS)
- XV. Adjournment

**PORTIONS OPEN TO THE PUBLIC:**

Everything except the Executive Session.

**PORTIONS CLOSED TO THE PUBLIC:**

Executive Session

**CONTACT PERSON FOR MORE INFORMATION:**

Lakeyia Thompson, Special Assistant,  
(202) 524–9940; [Lthompson@nw.org](mailto:Lthompson@nw.org).

**Lakeyia Thompson,**  
*Special Assistant.*

[FR Doc. 2021–22313 Filed 10–8–21; 11:15 am]

**BILLING CODE 7570–02–P**

**POSTAL REGULATORY COMMISSION**

[Docket Nos. MC2022–3 and CP2022–3]

**New Postal Product**

**AGENCY:** Postal Regulatory Commission.  
**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* October 14, 2021.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:**  
David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:****Table of Contents**

- I. Introduction
- II. Docketed Proceeding(s)

**I. Introduction**

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.<sup>1</sup>

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

**II. Docketed Proceeding(s)**

1. *Docket No(s).*: MC2022–3 and CP2022–3; *Filing Title:* USPS Request to Add Priority Mail Contract 724 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing*

<sup>1</sup> See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

*Acceptance Date:* October 6, 2021;  
*Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* October 14, 2021.

This Notice will be published in the **Federal Register**.

**Erica A. Barker,**  
*Secretary.*

[FR Doc. 2021–22236 Filed 10–12–21; 8:45 am]

**BILLING CODE 7710–FW–P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–93264; File No. SR–NYSEArca–2021–84]

**Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To List and Trade Shares of the Schwab Ariel ESG ETF**

October 6, 2021.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that, on September 24, 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 following under NYSE Arca Rule 8.601–E: Schwab Ariel ESG ETF. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://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

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

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 has adopted NYSE Arca Rule 8.601-E for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges ("UTP"), of Active Proxy Portfolio Shares, which are securities issued by an actively-managed open-end investment management company.<sup>4</sup> Commentary .01 to Rule 8.601-E requires the Exchange to file separate proposals under Section 19(b) of the Act before listing and trading any series of Active Proxy Portfolio Shares on the Exchange. Therefore, the Exchange is submitting this proposal in order to list and trade shares ("Shares") of Active Proxy Portfolio Shares of the Schwab Ariel ESG ETF (the "Fund") under Rule 8.601-E.

Key Features of Active Proxy Portfolio Shares

While funds issuing Active Proxy Portfolio Shares will be actively-managed and, to that extent, will be similar to Managed Fund Shares, Active Proxy Portfolio Shares differ from

<sup>4</sup> See Securities Exchange Act Release No. 89185 (June 29, 2020), 85 FR 40328 (July 6, 2020) (SR-NYSEArca-2019-95). Rule 8.601-E(c)(1) provides that "[t]he term 'Active Proxy Portfolio Share' means a security that (a) is issued by an investment company registered under the Investment Company Act of 1940 ('Investment Company') organized as an open-end management investment company that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified minimum number of shares, or multiples thereof, in return for a deposit by the purchaser of the Proxy Portfolio and/or cash with a value equal to the next determined net asset value ('NAV'); (c) when aggregated in the same specified minimum number of Active Proxy Portfolio Shares, or multiples thereof, may be redeemed at a holder's request in return for the Proxy Portfolio and/or cash to the holder by the issuer with a value equal to the next determined NAV; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter." Rule 8.601-E(c)(2) provides that "[t]he term 'Actual Portfolio' means the identities and quantities of the securities and other assets held by the Investment Company that shall form the basis for the Investment Company's calculation of NAV at the end of the business day." Rule 8.601-E(c)(3) provides that "[t]he term 'Proxy Portfolio' means a specified portfolio of securities, other financial instruments and/or cash designed to track closely the daily performance of the Actual Portfolio of a series of Active Proxy Portfolio Shares as provided in the exemptive relief pursuant to the Investment Company Act of 1940 applicable to such series."

Managed Fund Shares in the following important respects. First, in contrast to Managed Fund Shares, which are actively-managed funds listed and traded under NYSE Arca Rule 8.600-E<sup>5</sup> and for which a "Disclosed Portfolio" is required to be disseminated at least once daily,<sup>6</sup> the portfolio for an issue of Active Proxy Portfolio Shares will be publicly disclosed within at least 60 days following the end of every fiscal quarter in accordance with normal disclosure requirements otherwise applicable to open-end management investment companies registered under the Investment Company Act of 1940 (the "1940 Act").<sup>7</sup> The composition of the portfolio of an issue of Active Proxy Portfolio Shares would not be available at commencement of Exchange listing and trading. Second, in connection with the creation and redemption of Active

<sup>5</sup> The Commission has previously approved listing and trading on the Exchange of a number of issues of Managed Fund Shares under NYSE Arca Rule 8.600-E. See, e.g., Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR-NYSEArca-2008-31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR-NYSEArca-2009-55) (order approving listing of Dent Tactical ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR-NYSEArca-2010-79) (order approving Exchange listing and trading of Cambria Global Tactical ETF); 63802 (January 31, 2011), 76 FR 6503 (February 4, 2011) (SR-NYSEArca-2010-118) (order approving Exchange listing and trading of the SIM Dynamic Allocation Diversified Income ETF and SiM Dynamic Allocation Growth Income ETF). The Commission also has approved a proposed rule change relating to generic listing standards for Managed Fund Shares. See Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016) (SR-NYSEArca-2015-110) (amending NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares).

<sup>6</sup> NYSE Arca Rule 8.600-E(c)(2) defines the term "Disclosed Portfolio" as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of net asset value at the end of the business day. NYSE Arca Rule 8.600-E(d)(2)(B)(i) requires that the Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

<sup>7</sup> A mutual fund is required to file with the Commission its complete portfolio schedules for the second and fourth fiscal quarters on Form N-CSR under the 1940 Act. Information reported on Form N-PORT for the third month of a fund's fiscal quarter will be made publicly available 60 days after the end of a fund's fiscal quarter. Form N-PORT requires reporting of a fund's complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a series of Active Proxy Portfolio Shares' Statement of Additional Information ("SAI"), its Shareholder Reports, its Form N-CSR, filed twice a year, and its Form N-CEN, filed annually. A series of Active Proxy Portfolio Shares' SAI and Shareholder Reports will be available free upon request from the Investment Company, and those documents and the Form N-PORT, Form N-CSR, and Form N-CEN may be viewed on-screen or downloaded from the Commission's website at [www.sec.gov](http://www.sec.gov).

Proxy Portfolio Shares, such creation or redemption may be exchanged for a Proxy Portfolio and/or cash with a value equal to the next-determined NAV. A series of Active Proxy Portfolio Shares will disclose the Proxy Portfolio on a daily basis, which, as described above, is designed to track closely the daily performance of the Actual Portfolio of a series of Active Proxy Portfolio Shares, instead of the actual holdings of the Investment Company, as provided by a series of Managed Fund Shares.

The Commission has previously approved<sup>8</sup> and noticed for immediate effectiveness<sup>9</sup> proposals for the listing and trading on the Exchange of series of Active Proxy Portfolio Shares under NYSE Arca Rule 8.601-E.

The Shares of the Fund will be issued by the Schwab Strategic Trust (the "Trust"), which is organized as a statutory trust under the laws of the state of Delaware and registered with the Commission as an open-end management investment company.<sup>10</sup>

<sup>8</sup> See Securities Exchange Act Release Nos. 89185 (June 29, 2020), 85 FR 40328 (July 6, 2020) (SR-NYSEArca-2019-95) (Notice of Filing of Amendment No. 6 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 6, to Adopt NYSE Arca Rule 8.601-E to Permit the Listing and Trading of Active Proxy Portfolio Shares and To List and Trade Shares of the Natixis U.S. Equity Opportunities ETF Under Proposed NYSE Arca Rule 8.601-E) (the "Natixis Order"); 89192 (June 30, 2020), 85 FR 40699 (July 7, 2020) (SR-NYSEArca-2019-96) (Notice of Filing of Amendment No. 5 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 5, to List and Trade Two Series of Active Proxy Portfolio Shares Issued by the American Century ETF Trust under NYSE Arca Rule 8.601-E); 89191 (June 30, 2020), 85 FR 40358 (July 6, 2020) (SR-NYSEArca-2019-92) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, to List and Trade Four Series of Active Proxy Portfolio Shares Issued by T. Rowe Price Exchange-Traded Funds, Inc. under NYSE Arca Rule 8.601-E); 89438 (July 31, 2020), 85 FR 47821 (August 6, 2020) (SR-NYSEArca-2020-51) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of Natixis Vaughan Nelson Select ETF and Natixis Vaughan Nelson MidCap ETF under NYSE Arca Rule 8.601-E). See also Securities Exchange Act Release Nos. 88887 (May 15, 2020), 85 FR 30990 (May 21, 2020) (SR-CboeBZX-2019-107) (Notice of Filing of Amendment No. 5 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 5, to Adopt Rule 14.11(m), Tracking Fund Shares, and to List and Trade Shares of the Fidelity Blue Chip Value ETF, Fidelity Blue Chip Growth ETF, and Fidelity New Millennium ETF).

<sup>9</sup> See Securities Exchange Act Release No. 92104 (June 3, 2021), 86 FR 30635 (June 9, 2021) (NYSEArca-2021-46) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to List and Trade Shares of the Nuveen Santa Barbara Dividend Growth ETF, Nuveen Small Cap Select ETF, and Nuveen Winslow Large-Cap Growth ESG ETF Under NYSE Arca Rule 8.601-E (Active Proxy Portfolio Shares)).

<sup>10</sup> The Trust is registered under the 1940 Act. On April 5, 2021, the Trust filed a registration

Charles Schwab Investment Management, Inc., will be the investment adviser to the Fund (the “Adviser”). Ariel Investments, LLC will be the sub-adviser (the “Sub-Adviser”) for the Fund. State Street Bank and Trust Company will serve as the Fund’s custodian and transfer agent. SEI Investments Distribution Co. will act as the distributor (the “Distributor”) for the Fund.

Commentary .04 to NYSE Arca Rule 8.601–E provides that, if the investment adviser to the Investment Company issuing Active Proxy Portfolio Shares is registered as a broker-dealer or is affiliated with a broker-dealer, such investment adviser will erect and maintain a “firewall” between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to such Investment Company’s Actual Portfolio and/or Proxy Portfolio. Any person related to the investment adviser or Investment Company who makes decisions pertaining to the Investment Company’s Actual Portfolio and/or Proxy Portfolio or has access to non-public information regarding the Investment Company’s Actual Portfolio and/or Proxy Portfolio or changes thereto must be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the Actual Portfolio and/or Proxy Portfolio or changes thereto. Commentary .04 is similar to Commentary .03(a)(i) and (iii) to NYSE

statement on Form N–1A under the under the Securities Act of 1933 (the “1933 Act”) and the 1940 Act relating to the Fund (File No. 811–22311) (the “Registration Statement”). The effectiveness of the Registration Statement was delayed by Post-Effective Amendment No. 134 to the Registration Statement, which was filed on July 1, 2021, Post-Effective Amendment No. 135 to the Registration Statement, which was filed on July 29, 2021, and Post-Effective Amendment No. 136 to the Registration Statement, which was filed on August 26, 2021, each filed pursuant to paragraph (a) of Rule 485 of the 1933 Act for the sole purpose of delaying the effectiveness of the Registration Statement. The Trust filed an application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–15216), dated April 5, 2021, and an amendment to the application on May 20, 2021 (the “Application”). On July 7, 2021, the Commission issued an order (the “Exemptive Order”) under the 1940 Act granting the exemptions requested in the Application (Investment Company Act Release No. 34323, July 7, 2021). Investments made by the Fund will comply with the conditions set forth in the Application and the Exemptive Order. The description of the operation of the Fund herein is based, in part, on the Registration Statement, the Application and the Exemptive Order. The Exchange will not commence trading in Shares of the Fund until the Registration Statement is effective.

Arca Rule 5.2–E(j)(3); however, Commentary .04, in connection with the establishment of a “firewall” between the investment adviser and the broker-dealer, reflects the applicable open-end fund’s portfolio, not an underlying benchmark index, as is the case with index-based funds.<sup>11</sup> Commentary .04 is also similar to Commentary .06 to Rule 8.600–E related to Managed Fund Shares, except that Commentary .04 relates to establishment and maintenance of a “firewall” between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, applicable to an Investment Company’s Actual Portfolio and/or Proxy Portfolio or changes thereto, and not just to the underlying portfolio, as is the case with Managed Fund Shares.

In addition, Commentary .05 to Rule 8.601–E provides that any person or entity, including a custodian, Reporting Authority, distributor, or administrator, who has access to non-public information regarding the Investment Company’s Actual Portfolio or the Proxy Portfolio or changes thereto, must be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the applicable Investment Company Actual Portfolio or the Proxy Portfolio or changes thereto. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity will erect and maintain a “firewall” between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or

<sup>11</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser and Sub-Adviser and their related personnel will be subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violations, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

changes to such Investment Company Actual Portfolio or Proxy Portfolio.

The Adviser and Sub-Adviser are not registered as broker-dealers but are affiliated with broker-dealers. The Adviser and Sub-Adviser each have implemented and will maintain a “firewall” with respect to such broker-dealer affiliates regarding access to information concerning the composition of and/or changes to the Fund’s Actual Portfolio and/or Proxy Portfolio.

In the event (a) the Adviser and/or Sub-Adviser becomes registered as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is or becomes a registered broker-dealer, or becomes affiliated with a broker-dealer, it will implement and maintain a “firewall” with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund’s Actual Portfolio and/or Proxy Portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund’s Actual Portfolio and/or Proxy Portfolio or changes thereto. Any person related to the Adviser, Sub-Adviser, or the Fund who makes decisions pertaining to the Fund’s Actual Portfolio or the Proxy Portfolio or has access to non-public information regarding the Fund’s Actual Portfolio and/or the Proxy Portfolio or changes thereto are subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the Fund’s Actual Portfolio and/or the Proxy Portfolio or changes thereto.

In addition, any person or entity, including any service provider for the Fund, who has access to non-public information regarding the Fund’s Actual Portfolio or the Proxy Portfolio or changes thereto, will be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the Fund’s Actual Portfolio and/or the Proxy Portfolio or changes thereto. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity has erected and will maintain a “firewall” between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to the Fund’s Actual Portfolio and/or Proxy Portfolio.

### Description of the Fund

According to the Registration Statement, the Adviser or Sub-Adviser will identify a Proxy Portfolio for the Fund. The Fund's Proxy Portfolio is not the Fund's Actual Portfolio but will be designed to closely track the daily performance of the Fund through a "Factor Model" analysis of the Actual Portfolio. The Fund will generate the Proxy Portfolio by applying the Factor Model to a "Model Universe" comprised of securities that the Fund can purchase. The Proxy Portfolio will only include investments the Fund is permitted to hold. While the Proxy Portfolio and the Actual Portfolio will likely hold some or many of the same securities, the Proxy Portfolio and Actual Portfolio may not include identical securities.

The composition of the Proxy Portfolio will be published on the Fund's website each Business Day<sup>12</sup> before commencement of trading in the Shares and will include the following information for each portfolio holding in the Proxy Portfolio: (1) Ticker symbol; (2) CUSIP or other identifier; (3) description of holding; (4) quantity of each security or other asset held; and (5) percentage weight of the holding in the Proxy Portfolio. The Proxy Portfolio may be reconstituted daily, and the Adviser will not make intra-day changes to the Proxy Portfolio except to correct errors in the published Proxy Portfolio.

In addition to the Proxy Portfolio, the Fund's website will publish a variety of other information metrics regarding the relative behavior of the Proxy Portfolio and the Actual Portfolio, including the "Proxy Overlap"<sup>13</sup> and the "Tracking Error"<sup>14</sup> for the Fund.

### Schwab Ariel ESG ETF

The Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order, and the holdings will be consistent with all requirements in the Application and Exemptive Order.<sup>15</sup>

<sup>12</sup> "Business Day" is defined to mean any day that the Exchange is open, including any day when a Fund satisfies redemption requests as required by Section 22(e) of the 1940 Act.

<sup>13</sup> According to the Registration Statement, "Proxy Overlap" is the percentage weight overlap between the holdings of the prior Business Day's Proxy Portfolio compared to the Actual Portfolio's holdings that formed the basis for the Fund's calculation of NAV at the end of the prior Business Day.

<sup>14</sup> According to the Registration Statement, "Tracking Error" is the standard deviation over the past three months of the daily proxy spread (*i.e.*, the difference, in percentage terms, between the Proxy Portfolio per Share NAV and that of the Actual Portfolio at the end of the trading day).

<sup>15</sup> Pursuant to the Application and Exemptive Order, the permissible investments for the Fund

Any foreign common stocks held by the Fund will be traded on an exchange that is a member of the Intermarket Surveillance Group ("ISG") or with which the Exchange has in place a comprehensive surveillance sharing agreement.

According to the Registration Statement, the Fund's investment objective is to seek long-term capital appreciation. The Fund will invest primarily in exchange-traded equity securities of U.S. companies that have been evaluated based on certain environmental, social, and governance ("ESG") criteria, as determined by the Sub-Adviser. The Fund will normally invest in exchange-traded equity securities of small- and mid-capitalization companies.

### Investment Restrictions

The Shares of the Fund will conform to the initial and continued listing criteria under Rule 8.601-E. The Fund's holdings will be limited to those described herein and consistent with permissible holdings as described in the Application and Exemptive Order and all requirements in the Application and Exemptive Order.<sup>16</sup>

The Fund's investments, including U.S. exchange traded futures, will be consistent with its investment objective and will not be used to enhance leverage (although certain U.S. exchange traded futures and other investments may result in leverage). That is, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.*, 2X or -3X) of the Fund's primary broad-based securities benchmark index (as defined in Form N-1A).<sup>17</sup>

include only the following instruments: ETFs traded on a U.S. exchange; exchange-traded notes ("ETNs") traded on a U.S. exchange; U.S. exchange-traded common stocks; common stocks listed on a foreign exchange that trade on such exchange contemporaneously with the Shares ("foreign common stocks") in the Exchange's Core Trading Session (normally, 9:30 a.m. to 4:00 p.m. Eastern time ("E.T.)); U.S. exchange-traded preferred stocks; U.S. exchange-traded American Depositary Receipts ("ADRs"); U.S. exchange-traded real estate investment trusts; U.S. exchange-traded commodity pools; U.S. exchange-traded metals trusts; U.S. exchange-traded currency trusts; and U.S. exchange-traded futures that trade contemporaneously with the Fund's Shares. In addition, the Fund may hold cash and cash equivalents (short-term U.S. Treasury securities, government money market funds, and repurchase agreements). Pursuant to the Application and Exemptive Order, the Fund will not hold short positions or invest in derivatives other than U.S. exchange-traded futures, will not borrow for investment purposes, and will not purchase any securities that are illiquid investments at the time of purchase.

<sup>16</sup> *Id.*

<sup>17</sup> The Fund's broad-based securities benchmark index will be identified in a future amendment to

### Creations and Redemptions of Shares

According to the Registration Statement, the Trust will issue and sell Shares of the Fund only in specified minimum size "Creation Units" through the Distributor on a continuous basis at their NAV next determined after receipt of an order in proper form on any Business Day. The NAV of the Fund's Shares will be calculated each Business Day as of the close of regular trading on the Exchange, ordinarily 4:00 p.m. E.T. A Creation Unit will generally consist of at least 5,000 Shares.

According to the Registration Statement, Shares of the Fund will be purchased and redeemed in Creation Units. Creation Units are typically purchased and redeemed in-kind, but they may also be purchased and redeemed, in whole or in part, for cash in the Adviser's discretion. Accordingly, purchasers will generally be required to purchase Creation Units by making an in-kind deposit of a designated portfolio of securities (the "Deposit Securities"). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the "Cash Component"). Together, the Deposit Securities and the Cash Component will constitute the "Fund Deposit."

Redemption of Creation Units would work much like the process to purchase Creation Units, but in reverse. Shareholders redeeming their Shares will generally receive an in-kind transfer of specified instruments ("Redemption Instruments").

The names and quantities of the instruments that constitute the Deposit Securities and Redemption Instruments for the Fund (collectively, the "Creation Basket") will be the same as the Fund's Proxy Portfolio, except to the extent purchases and redemptions are made entirely or in part on a cash basis.

Creation Units of the Fund may be purchased and/or redeemed entirely for cash. When full or partial cash purchases or redemptions of Creation Units are available or specified for the Fund, they will be effected in essentially the same manner as in-kind purchases or redemptions thereof. The Fund may determine, upon receiving a purchase or redemption order from an authorized participant ("Authorized Participant"), to have the purchase or redemption, as applicable, be made entirely or in part in cash.

its Registration Statement following the Fund's first full calendar year of performance.



Each Business Day, prior to the opening of trading on the Exchange, the Fund will publish the Creation Basket for that day through the National Securities Clearing Corporation or another method of public dissemination. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intraday changes to the Creation Basket except to correct errors in the published Creation Basket.

All orders to purchase or redeem Creation Units must be placed by or through an Authorized Participant that has entered into an Authorized Participant Agreement with the Fund's Distributor. Orders must be transmitted by an Authorized Participant pursuant to procedures set forth in the Participant Agreement. The date on which an order to purchase or redeem Creation Units is received and accepted is referred to as the "Transmittal Date." All Creation Unit orders must be received no later than the Order Cut-Off Time in order to receive the NAV determined on the Transmittal Date. When the Exchange closes earlier than normal, the Fund may require orders for Creation Units to be placed earlier in the Business Day.

#### Availability of Information

The Fund's website ([www.schwabassetmanagement.com](http://www.schwabassetmanagement.com)), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's website will include on a daily basis, per Share for the Fund, the prior Business Day's NAV and the "Closing Price" or "Bid/Ask Price,"<sup>18</sup> and a calculation of the premium/discount of the Closing Price or Bid/Ask Price against such NAV.<sup>19</sup> The Adviser has represented that the Fund's website will also provide: (1) Any other information regarding premiums/discounts as may be required for other ETFs under Rule 6c-11 under the 1940 Act, as amended, and (2) any information regarding the bid/ask spread for the Fund as may be required for other ETFs under Rule 6c-

11 under the 1940 Act, as amended. The Fund's website also will disclose the information required under Rule 8.601-E(c)(3).<sup>20</sup> The website and information will be publicly available at no charge.

The identity and quantity of investments in the Proxy Portfolio will be publicly available on the Fund's website before the commencement of trading in Shares on each Business Day. The website will also include information relating to the Proxy Overlap and Tracking Error, as discussed above.

Typical mutual fund-style annual, semi-annual and quarterly disclosures contained in the Fund's Commission filings will be provided on the Fund's website on a current basis.<sup>21</sup> Thus, the Fund will publish the portfolio contents of its Actual Portfolio on a periodic basis, and no less than 60 days after the end of every fiscal quarter.

Investors can also obtain the Fund's SAI, Shareholder Reports, Form N-CSR, N-PORT, and Form N-CEN. The prospectus, SAI, and Shareholder Reports are available free upon request by contacting the Fund or each document can be downloaded from the Fund's website, and those documents and the Form N-CSR, N-PORT, and Form N-CEN may be viewed on-screen or downloaded from the Commission's website. The Exchange also notes that, pursuant to the Application, the Fund must comply with Regulation Fair Disclosure, which prohibits selective disclosure of any material non-public information.

Information regarding the market price of Shares and trading volume in Shares, will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for the Shares and U.S. exchange-traded instruments (excluding futures contracts) will be available via the Consolidated Tape Association ("CTA") high-speed line, from the exchanges on which such securities trade, or through major market data vendors or

subscription services. Quotation and last sale information for futures contracts will be available from the exchanges on which they trade. Intraday price information for all exchange-traded instruments, which include all eligible instruments except cash and cash equivalents, will be available from the exchanges on which they trade, or through major market data vendors or subscription services. Intraday price information for cash equivalents is available through major market data vendors, subscription services, and/or pricing services.

#### Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.<sup>22</sup> Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12-E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.601-E(d)(2)(D), which sets forth circumstances under which Shares of the Fund will be halted.

Specifically, Rule 8.601-E(d)(2)(D) provides that the Exchange may consider all relevant factors in exercising its discretion to halt trading in a series of Active Proxy Portfolio Shares. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the series of Active Proxy Portfolio Shares inadvisable. These may include: (a) The extent to which trading is not occurring in the securities and/or the financial instruments composing the Proxy Portfolio and/or Actual Portfolio; or (b) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. If the Exchange becomes aware that the NAV, Proxy Portfolio, or Actual Portfolio with respect to a series of Active Proxy Portfolio Shares is not disseminated to all market participants at the same time, the Exchange shall halt trading in such series until such time as the NAV, Proxy Portfolio, or Actual Portfolio is available to all market participants at the same time.

#### Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of

<sup>18</sup> The records relating to Bid/Ask Prices will be retained by the Fund or its service providers. The "Bid/Ask Price" is the midpoint of the highest bid and lowest offer based upon the National Best Bid and Offer as of the time of calculation of the Fund's NAV. The "National Best Bid and Offer" is the current national best bid and national best offer as disseminated by the Consolidated Quotation System or UTP Plan Securities Information Processor. The "Closing Price" of Shares is the official closing price of the Shares on the Exchange.

<sup>19</sup> The "premium/discount" refers to the premium or discount to the NAV at the end of a trading day and will be calculated based on the last Bid/Ask Price or the Closing Price on a given trading day.

<sup>20</sup> See note 4, *supra*. Rule 8.601-E (c)(3) provides that the website for each series of Active Proxy Portfolio Shares shall disclose the information regarding the Proxy Portfolio as provided in the exemptive relief pursuant to the 1940 Act applicable to such series, including the following, to the extent applicable: (i) Ticker symbol; (ii) CUSIP or other identifier; (iii) Description of holding; (iv) Quantity of each security or other asset held; and (v) Percentage weighting of the holding in the portfolio.

<sup>21</sup> See note 7, *supra*.

<sup>22</sup> See NYSE Arca Rule 7.12-E.

equity securities. Shares will trade on the NYSE Arca Marketplace in all trading sessions in accordance with NYSE Arca Rule 7.34–E(a). As provided in NYSE Arca Rule 7.6–E, 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.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.601–E. The Exchange has appropriate rules to facilitate trading in the Shares during all trading sessions.

A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. In addition, pursuant to Rule 8.601–E(d)(1)(B), the Exchange, prior to commencement of trading in the Shares, will obtain a representation from the Trust that the NAV per Share of the Fund will be calculated daily and that the NAV, Proxy Portfolio, and the Actual Portfolio for the Fund will be made available to all market participants at the same time.

With respect to Active Proxy Portfolio Shares, all of the Exchange member obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with Exchange rules and federal securities laws, and the Exchange and the Financial Industry Regulatory Authority, Inc. (“FINRA”) will continue to monitor Exchange members for compliance with such requirements.

#### 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 FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.<sup>23</sup> 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 and underlying exchange-traded instruments 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 such securities and underlying exchange-traded instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and underlying exchange-traded instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>24</sup>

The Adviser will make available daily to FINRA and the Exchange the Actual Portfolio of the Fund, upon request, in order to facilitate the performance of the surveillances referred to above.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Commentary .03 to NYSE Arca Rule 8.601–E provides that the Exchange will implement and maintain written surveillance procedures for Active Proxy Portfolio Shares. As part of these surveillance procedures, the Investment Company’s investment adviser will, upon request by the Exchange or FINRA, on behalf of the Exchange, make available to the Exchange or FINRA the daily Actual Portfolio holdings of each series of Active Proxy Portfolio Shares. The Exchange believes that the ability to access the information on an as needed basis will provide it with sufficient information to perform the necessary regulatory functions associated with listing and trading series of Active Proxy Portfolio Shares on the Exchange, including the ability to monitor compliance with the initial and continued listing requirements as well as the ability to surveil for manipulation of Active Proxy Portfolio Shares.

The Exchange will utilize its existing procedures to monitor issuer compliance with the requirements of Rule 8.601–E. For example, the Exchange will continue to use intraday alerts that will notify Exchange

personnel of trading activity throughout the day that may indicate that unusual conditions or circumstances are present that could be detrimental to the maintenance of a fair and orderly market. The Exchange will require from the issuer of a series of Active Proxy Portfolio Shares, upon initial listing and periodically thereafter, a representation that it is in compliance with Rule 8.601–E. The Exchange notes that Commentary .01 to Rule 8.601–E requires an issuer of Active Proxy Portfolio Shares to notify the Exchange of any failure to comply with the continued listing requirements of Rule 8.601–E. In addition, the Exchange will require issuers to represent that they will notify the Exchange of any failure to comply with the terms of applicable exemptive and no-action relief. As part of its surveillance procedures, the Exchange will rely on the foregoing procedures to become aware of any non-compliance with the requirements of Rule 8.601–E.

With respect to the Fund, all statements and representations made in this filing regarding (a) the description of the portfolio or reference asset, (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 on the Exchange. The Exchange will obtain a representation from the Trust, prior to commencement of trading in the Shares of the Fund, 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).

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>25</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>26</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market

<sup>23</sup> 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.

<sup>24</sup> For a list of the current members of ISG, see [www.isgportal.org](http://www.isgportal.org).

<sup>25</sup> 15 U.S.C. 78f(b).

<sup>26</sup> 15 U.S.C. 78f(b)(5).

system, and, in general, to protect investors and the public interest.<sup>27</sup>

With respect to the proposed listing and trading of Shares of the Fund, 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 8.601–E. One hundred percent of the value of the Fund’s Actual Portfolio (except for cash and cash equivalents) at the time of purchase will be listed on U.S. or foreign securities exchanges (or, in the limited case of futures contracts, U.S. futures exchanges). The listing and trading of such U.S. securities is subject to rules of the exchanges on which they are listed and traded, as approved by the Commission.

The Fund’s holdings will conform to the permissible investments as set forth in the Application and Exemptive Order, and the holdings will be consistent with all requirements in the Application and Exemptive Order.<sup>28</sup>

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and underlying exchange-traded instruments 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 and underlying exchange-traded instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and underlying exchange-traded instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Any foreign common stocks held by the Fund will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The daily dissemination of the identity and quantity of Proxy Portfolio component investments, together with the right of Authorized Participants to create and redeem each day at the NAV, will be sufficient for market participants to value and trade Shares in a manner that will not lead to significant deviations between the Shares’ Bid/Ask Price and NAV.

The Fund’s investments, including U.S. exchange-traded futures, will be consistent with its investment objective and will not be used to enhance leverage (although certain U.S. exchange-traded futures and other investments may result in leverage). That is, the Fund’s investments will not be used to seek performance that is the multiple or inverse multiple (e.g., 2X or –3X) of the Fund’s primary broad-based securities benchmark index (as defined in Form N–1A).

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the Trust that the NAV per Share of the Fund will be calculated daily and that the NAV, Proxy Portfolio, and Actual Portfolio for the Fund will be made available to all market participants at the same time. Investors can obtain the Fund’s SAI, shareholder reports, and its Form N–CSR, Form N–PORT, and Form N–CEN. The Fund’s SAI and shareholder reports will be available free upon request from the Fund, and those documents and the Form N–CSR, Form N–PORT, and Form N–CEN may be viewed on-screen or downloaded from the Commission’s website.

Commentary .03 to NYSE Arca Rule 8.601–E provides that the Exchange will implement and maintain written surveillance procedures for Active Proxy Portfolio Shares. As part of these surveillance procedures, the Investment Company’s investment adviser will, upon request by the Exchange or FINRA, on behalf of the Exchange, make available to the Exchange or FINRA the daily portfolio holdings of each series of Active Proxy Portfolio Shares. The Exchange believes that the ability to access the information on an as needed basis will provide it with sufficient information to perform the necessary regulatory functions associated with listing and trading series of Active Proxy Portfolio Shares on the Exchange, including the ability to monitor compliance with the initial and continued listing requirements as well as the ability to surveil for manipulation of Active Proxy Portfolio Shares. With respect to the Fund, the Adviser will make available daily to FINRA and the Exchange the portfolio holdings of the Fund upon request in order to facilitate the performance of the surveillances referred to above.

The Exchange will utilize its existing procedures to monitor compliance with the requirements of Rule 8.601–E. For example, the Exchange will continue to use intraday alerts that will notify Exchange personnel of trading activity

throughout the day that may indicate that unusual conditions or circumstances are present that could be detrimental to the maintenance of a fair and orderly market. The Exchange will require from the Trust, upon initial listing and periodically thereafter, a representation that the Fund is in compliance with Rule 8.601–E. The Exchange notes that Commentary .01 to Rule 8.601–E requires the issuer of the Shares to notify the Exchange of any failure to comply with the continued listing requirements of Rule 8.601–E. In addition, the Exchange will require the issuer to represent that it will notify the Exchange of any failure to comply with the terms of applicable exemptive and no-action relief. The Exchange will rely on the foregoing procedures to become aware of any non-compliance with the requirements of Rule 8.601–E.

In addition, with respect to the Fund, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency.

Quotation and last sale information for the Shares and U.S. exchange-traded instruments (excluding futures contracts) will be available via the CTA high-speed line, from the exchanges on which such securities trade, or through major market data vendors or subscription services. Intraday price information for all exchange-traded instruments, which include all eligible instruments except cash and cash equivalents, will be available from the exchanges on which they trade, or through major market data vendors or subscription services. Quotation and last sale information for futures contracts will be available from the exchanges on which they trade. Intraday price information for cash equivalents is available through major market data vendors, subscription services, and/or pricing services.

The website for the Fund will include a form of the prospectus that may be downloaded, and additional data relating to NAV and other applicable quantitative information, updated on a daily basis. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.601–E(d)(2)(D), which sets forth circumstances under which Shares of the Fund will be halted. In addition, as noted above, investors will have ready access to the Proxy Portfolio and quotation and last sale information for the Shares. The identity and quantity of

<sup>27</sup> The Exchange represents that, for initial and continued listing, the Fund will be in compliance with Rule 10A–3 under the Act, as provided by NYSE Arca Rule 5.3–E.

<sup>28</sup> See note 14 [sic], *supra*.

investments in the Proxy Portfolio will be publicly available on the Fund's website before the commencement of trading in Shares on each Business Day. The Shares will conform to the initial and continued listing criteria under Rule 8.601–E.<sup>29</sup>

The Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order, and the holdings will be consistent with all requirements in the Application and Exemptive Order.<sup>30</sup> Any foreign common stocks held by the Fund will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The components of the Fund's Actual Portfolio will (a) be listed on an exchange and the primary trading session of such exchange will trade synchronously with the Exchange's Core Trading Session, as defined in Rule 7.34–E(a); (b) with respect to exchange-traded futures, be listed on a U.S. futures exchange; or (c) consist of cash and cash equivalents.

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 actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange will obtain a representation from the Adviser, prior to commencement of trading in the Shares of the Fund, 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).

As noted above, with respect to the Fund, 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, with respect to the Fund, investors will have ready access to information regarding the Proxy

Portfolio and quotation and last sale information for the Shares.

#### *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 would permit listing and trading of another type of actively-managed ETF that has characteristics different from existing actively-managed and index ETFs and would introduce additional competition among various ETF products to the benefit of investors.

#### *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 of 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<sup>31</sup> and Rule 19b–4(f)(6) thereunder.<sup>32</sup>

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.

### **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:

<sup>31</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>32</sup> 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

#### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR–NYSEArca–2021–84 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–2021–84. 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–2021–84 and should be submitted on or before November 3, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>33</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

[FR Doc. 2021–22170 Filed 10–12–21; 8:45 am]

**BILLING CODE 8011–01–P**

<sup>33</sup> 17 CFR 200.30–3(a)(12).

<sup>29</sup> See note 4, *supra*.

<sup>30</sup> See note 14 [sic], *supra*.

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #17215 and #17216; Pennsylvania Disaster Number PA-00115]

**Administrative Declaration of a Disaster for the Commonwealth of Pennsylvania**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Pennsylvania dated 10/6/2021.

*Incident:* Remnants of Tropical Depression Ida.

*Incident Period:* 09/01/2021 through 09/03/2021.

**DATES:** Issued on 10/6/2021.

*Physical Loan Application Deadline Date:* 12/6/2021.

*Economic Injury (EIDL) Loan Application Deadline Date:* 07/06/2022.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Berks.

*Contiguous Counties:*

*Pennsylvania:* Chester, Lancaster, Lebanon, Lehigh, Montgomery, Schuylkill.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere .....	3.125
Homeowners without Credit Available Elsewhere .....	1.563
Businesses with Credit Available Elsewhere .....	5.710
Businesses without Credit Available Elsewhere .....	2.855
Non-Profit Organizations with Credit Available Elsewhere .....	2.000
Non-Profit Organizations without Credit Available Elsewhere .....	2.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere .....	2.855

	Percent
Non-Profit Organizations without Credit Available Elsewhere .....	2.000

The number assigned to this disaster for physical damage is 17215 8 and for economic injury is 17216 0.

The States which received an EIDL Declaration # is Pennsylvania.

(Catalog of Federal Domestic Assistance Number 59008)

**Isabella Guzman,**  
*Administrator.*

[FR Doc. 2021-22189 Filed 10-12-21; 8:45 am]

**BILLING CODE 8026-03-P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #17157 and #17158; North Carolina Disaster Number NC-00128]

**Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of North Carolina**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of North Carolina (FEMA-4617-DR), dated 09/08/2021.

*Incident:* Remnants of Tropical Storm Fred.

*Incident Period:* 08/16/2021 through 08/18/2021.

**DATES:** Issued on 10/01/2021.

*Physical Loan Application Deadline Date:* 11/08/2021.

*Economic Injury (EIDL) Loan Application Deadline Date:* 06/08/2022.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of North Carolina, dated 09/08/2021, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:* Ashe, Graham, Jackson, Mitchell.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

**James Rivera,**  
*Associate Administrator for Disaster Assistance.*

[FR Doc. 2021-22183 Filed 10-12-21; 8:45 am]

**BILLING CODE 8026-03-P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #17213 and #17214; NEW HAMPSHIRE Disaster Number NH-00057]

**Presidential Declaration of a Major Disaster for Public Assistance Only for the State of New Hampshire**

**AGENCY:** Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Hampshire (FEMA-4624-DR), dated 10/04/2021.

*Incident:* Severe Storm and Flooding.

*Incident Period:* 07/29/2021 through 07/30/2021.

**DATES:** Issued on 10/04/2021.

*Physical Loan Application Deadline Date:* 12/03/2021.

*Economic Injury (EIDL) Loan Application Deadline Date:* 07/05/2022.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 10/04/2021, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Cheshire, Sullivan

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Non-Profit Organizations with Credit Available Elsewhere ...	2.000
Non-Profit Organizations without Credit Available Elsewhere .....	2.000
<i>For Economic Injury:</i>	

	Percent
Non-Profit Organizations without Credit Available Elsewhere .....	2.000

The number assigned to this disaster for physical damage is 17213 B and for economic injury is 17214 0.

(Catalog of Federal Domestic Assistance Number 59008)

**James Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2021–22174 Filed 10–12–21; 8:45 am]

**BILLING CODE 8026–03–P**

## DEPARTMENT OF STATE

[Public Notice: 11562]

### Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Gillian Wearing: Wearing Masks” Exhibition

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Gillian Wearing: Wearing Masks” at the Solomon R. Guggenheim Museum, New York, New York, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: [section2459@state.gov](mailto:section2459@state.gov)). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and

Delegation of Authority No. 236–3 of August 28, 2000.

**Matthew R. Lussenhop,**

*Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2021–22192 Filed 10–12–21; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA–2009–0116]

#### Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on September 15, 2021, Union Pacific Railroad (UP) petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 236 (Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances). The relevant FRA Docket Number is FRA–2009–0116.

Specifically, UP requested an extension of relief from § 236.377, *Approach locking*; § 236.378, *Time locking*; § 236.379, *Route locking*; § 236.380, *Indication locking*; and § 236.281, *Traffic locking*, to extend the periodic testing schedules from “at least once every 2 years” to “at least once every 4 years” after initial testing has been performed. The relief applies at interlocking control points and other signal locations controlled by solid-state microprocessor-based equipment. UP states that the two-year testing interval places an unnecessary burden on the carrier and provides no real safety benefit as the application program logic does not change once installed.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov).

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the

comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by November 29, 2021 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [www.regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

**John Karl Alexy,**

*Associate Administrator for Railroad Safety, Chief Safety Officer.*

[FR Doc. 2021–22260 Filed 10–12–21; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA–2015–0072]

#### Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on February 10, 2021, Union Pacific Railroad (UP) petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 236.566, *Locomotive of each train operation in train stop, train control or cab signal territory; equipped*. The relevant FRA Docket Number is FRA–2015–0072.

Specifically, UP requested an extension of relief to continue operation of non-equipped engines used in switching and transfer service, with or without cars; work trains; wreck trains;

ballast cleaners to and from work; and engines and rail diesel cars moving to and from shops. The subject tracks are areas of the Geneva, Kenosha, and Clinton Subdivisions. UP states that it has been operating under the conditions and requirements set forth in FRA's previous decision letter and has experienced no adverse effects on safety. UP also notes that the petition does not contain any requested relief related to the requirements for the use of positive train control on the tracks identified.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov).

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by November 29, 2021 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

**John Karl Alexy,**

*Associate Administrator for Railroad Safety,  
Chief Safety Officer.*

[FR Doc. 2021-22262 Filed 10-12-21; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2010-0056]

#### BNSF Railway's Request for Testing Approval on Its Certified Positive Train Control System

**AGENCY:** Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** This document provides the public with notice that on August 2, 2021, BNSF Railway (BNSF) submitted its Onboard Movement Authority with the Virtual Block System (OMA VBS) Afton Pilot Test Plan, Version 1.2a, dated August 3, 2021, to FRA via the Secure Information Repository. BNSF asks FRA to approve its Test Plan, which includes changes to operating rules and procedures and dispatch processes, to test its OMA VBS on track that has been equipped with positive train control (PTC).

**DATES:** FRA will consider comments received by December 13, 2021 before taking final action on the Testing Plan. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

**ADDRESSES:** All comments concerning this proceeding should identify the agency name and Docket Number FRA-2010-0056, and may be submitted on <https://www.regulations.gov>. Follow the online instructions for submitting comments. For convenience, all active PTC dockets are hyperlinked on FRA's website at <https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports>. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information.

**FOR FURTHER INFORMATION CONTACT:** Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816-516-7168, email: [Gabe.Neal@dot.gov](mailto:Gabe.Neal@dot.gov).

**SUPPLEMENTARY INFORMATION:** On April 29, 2021, FRA certified BNSF's Interoperable Electronic Train Management System (I-ETMS) PTC system per Title 49 Code of Federal Regulations (CFR) Section 236.1015. Pursuant to 49 CFR 236.1035, BNSF must request FRA-approval of any regression testing of a certified PTC system that is conducted on the general rail system. BNSF's Test Plan describes the level of testing of its OMA VBS

required to confirm that software changes comply with the documented requirements outlined in the I-ETMS Onboard Segment Requirements Specifications.

BNSF's Test Plan and accompanying request for approval are available for review online at [www.regulations.gov](http://www.regulations.gov) (Docket Number FRA-2010-0056). Interested parties are invited to comment on the Test Plan by submitting written comments or data. During its review of the Test Plan, FRA will consider any comments or data submitted. 49 CFR 236.1011(e). However, FRA may elect not to respond to any particular comment and, under 49 CFR 236.1009(d)(3), FRA maintains the authority to approve or disapprove the Test Plan at its sole discretion.

#### Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](http://www.regulations.gov). To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

**Carolyn R. Hayward-Williams,**

*Director, Office of Railroad Systems and Technology.*

[FR Doc. 2021-22238 Filed 10-12-21; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF THE TREASURY

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

**AGENCY:** Departmental Offices, U.S. Department of the Treasury

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in

accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

**DATES:** Comments must be received on or before November 12, 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](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:**

Copies of the submissions may be obtained from Molly Stasko by emailing [PRA@treasury.gov](mailto:PRA@treasury.gov), calling (202) 622–8922, or viewing the entire information collection request at [www.reginfo.gov](http://www.reginfo.gov).

**SUPPLEMENTARY INFORMATION:**

**United States Mint (Mint)**

*Title:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

*OMB Control Number:* 1525–0012.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* The collection of information is necessary for the Mint to solicit customer and stakeholder feedback with respect to timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public.

*Affected Public:* Businesses or other-for-profits; Non-profit institutions; State, Local, or Tribal Governments; and Individuals or Households.

*Estimated Number of Respondents:* 50,136.

*Frequency of Response:* On occasion.

*Estimated Total Number of Annual Responses:* 50,136.

*Estimated Time per Response:* 10 minutes up to 2 hours.

*Estimated Total Annual Burden Hours:* 75,000 hours.

*Authority:* 44 U.S.C. 3501 *et seq.*

Dated: October 7, 2021.

**Molly Stasko,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2021–22257 Filed 10–12–21; 8:45 am]

**BILLING CODE 4810–37–P**

**DEPARTMENT OF THE TREASURY**

**Agency Information Collection Activities; Submission for OMB Review; Comment Request; Bureau of Engraving and Printing Background Investigation Request Form**

**AGENCY:** Departmental Offices, U.S. Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

**DATES:** Comments must be received on or before November 12, 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](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:**

Copies of the submissions may be obtained from Molly Stasko by emailing [PRA@treasury.gov](mailto:PRA@treasury.gov), calling (202) 622–8922, or viewing the entire information collection request at [www.reginfo.gov](http://www.reginfo.gov).

**SUPPLEMENTARY INFORMATION:**

**Bureau of Engraving and Printing (BEP)**

*Title:* Bureau of Engraving and Printing Background Investigation Request Form.

*OMB Control Number:* 1520–NEW.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* The Background Information Request Form is completed by applicant companies per BEP Circular 82–00.13 to establish the eligibility of each company and key personnel to gain access to test decks of new designs and production samples of Federal Reserve Notes so they can update their products to denominate and/or authenticate genuine currency. The applicant companies are Banknote Equipment Manufacturers (BEMs) and Currency Reader Manufacturers (CRMs). Banknote Equipment Manufacturers (BEMs) are companies that produce any type of equipment that handles banknotes for commercial purposes involving accept/reject decisions for FRNs. Currency Reader Manufacturers

(CRMs) are companies that produce a commercially available device or application designed for the purpose of denominating US currency by an individual.

*Affected Public:* Businesses or other-for-profits (Banknote Equipment Manufacturers and Currency Reader Manufacturers and their employees).

*Estimated Number of Respondents:* 50.

*Frequency of Response:* On occasion.

*Estimated Total Number of Annual Responses:* 50.

*Estimated Time per Response:* 45 minutes.

*Estimated Total Annual Burden Hours:* 37.5 hours.

*Authority:* 44 U.S.C. 3501 *et seq.*

Dated: October 7, 2021.

**Molly Stasko,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2021–22258 Filed 10–12–21; 8:45 am]

**BILLING CODE 4840–01–P**

**DEPARTMENT OF VETERANS AFFAIRS**

**[OMB Control No. 2900–0098]**

**Agency Information Collection Activity: Dependents’ Application for VA Education Benefits**

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before December 13, 2021.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at [www.Regulations.gov](http://www.Regulations.gov) or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to [nancy.kessinger@va.gov](mailto:nancy.kessinger@va.gov). Please refer to



“OMB Control No. 2900–0098” in any correspondence. During the comment period, comments may be viewed online through FDMS.

**FOR FURTHER INFORMATION CONTACT:**

Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email [maribel.aponte@va.gov](mailto:maribel.aponte@va.gov). Please refer to “OMB Control No. 2900–0098” in any correspondence.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA’s functions, including whether the

information will have practical utility; (2) the accuracy of VBA’s estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Authority:* 38 U.S.C. 3311 (as amended by Pub. L. 113–146, section 701, effective August 7, 2014), 3513, 3697A, 5113, 5101, 5102, and 5103; 38 CFR 21.3030 and 21.9510.

*Title:* Dependents’ Application for VA Education Benefits.

*OMB Control Number:* 2900–0098.

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

*Abstract:* VA claims examiners use the information from this collection to help determine whether an applying individual qualifies for DEA or Fry

Scholarship benefits. The information will also be used to determine if the program of education the applicant wishes to pursue is approved for educational assistance. The information on the form can be obtained only from the claimant, and a determination cannot be made without the information.

*Affected Public:* Individuals and Households.

*Estimated Annual Burden:* 47,855 hours.

*Estimated Average Burden Time per Respondent:* 45 minutes.

*Frequency of Response:* Once.

*Estimated Number of Respondents:* 63,807.

By direction of the Secretary.

**Dorothy Glasgow,**

*VA PRA Clearance Officer, (Alt) Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.*

[FR Doc. 2021–22205 Filed 10–12–21; 8:45 am]

**BILLING CODE 8320–01–P**

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