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Presidential Documents

Title 3—

The President

Executive Order 13806 of July 21, 2017

Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States

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

Section 1. *Policy.* A healthy manufacturing and defense industrial base and resilient supply chains are essential to the economic strength and national security of the United States. The ability of the United States to maintain readiness, and to surge in response to an emergency, directly relates to the capacity, capabilities, and resiliency of our manufacturing and defense industrial base and supply chains. Modern supply chains, however, are often long and the ability of the United States to manufacture or obtain goods critical to national security could be hampered by an inability to obtain various essential components, which themselves may not be directly related to national security. Thus, the United States must maintain a manufacturing and defense industrial base and supply chains capable of manufacturing or supplying those items.

The loss of more than 60,000 American factories, key companies, and almost 5 million manufacturing jobs since 2000 threatens to undermine the capacity and capabilities of United States manufacturers to meet national defense requirements and raises concerns about the health of the manufacturing and defense industrial base. The loss of additional companies, factories, or elements of supply chains could impair domestic capacity to create, maintain, protect, expand, or restore capabilities essential for national security.

As the manufacturing capacity and defense industrial base of the United States have been weakened by the loss of factories and manufacturing jobs, so too have workforce skills important to national defense. This creates a need for strategic and swift action in creating education and workforce development programs and policies that support job growth in manufacturing and the defense industrial base.

Strategic support for a vibrant domestic manufacturing sector, a vibrant defense industrial base, and resilient supply chains is therefore a significant national priority. A comprehensive evaluation of the defense industrial base and supply chains, with input from multiple executive departments and agencies (agencies), will provide a necessary assessment of our current strengths and weaknesses.

Sec. 2. *Assessment of the Manufacturing Capacity, Defense Industrial Base, and Supply Chain Resiliency of the United States.* Within 270 days of the date of this order, the Secretary of Defense, in coordination with the Secretaries of Commerce, Labor, Energy, and Homeland Security, and in consultation with the Secretaries of the Interior and Health and Human Services, the Director of the Office of Management and Budget, the Director of National Intelligence, the Assistant to the President for National Security Affairs, the Assistant to the President for Economic Policy, the Director of the Office of Trade and Manufacturing Policy, and the heads of such other agencies as the Secretary of Defense deems appropriate, shall provide to the President an unclassified report, with a classified annex as needed, that builds on current assessment and evaluation activities, and:

(a) identifies the military and civilian materiel, raw materials, and other goods that are essential to national security;

(b) identifies the manufacturing capabilities essential to producing the goods identified pursuant to subsection (a) of this section, including emerging capabilities;

(c) identifies the defense, intelligence, homeland, economic, natural, geopolitical, or other contingencies that may disrupt, strain, compromise, or eliminate the supply chains of goods identified pursuant to subsection (a) of this section (including as a result of the elimination of, or failure to develop domestically, the capabilities identified pursuant to subsection (b) of this section) and that are sufficiently likely to arise so as to require reasonable preparation for their occurrence;

(d) assesses the resiliency and capacity of the manufacturing and defense industrial base and supply chains of the United States to support national security needs upon the occurrence of the contingencies identified pursuant to subsection (c) of this section, including an assessment of:

(i) the manufacturing capacity of the United States and the physical plant capacity of the defense industrial base, including their ability to modernize to meet future needs;

(ii) gaps in national-security-related domestic manufacturing capabilities, including non-existent, extinct, threatened, and single-point-of-failure capabilities;

(iii) supply chains with single points of failure or limited resiliency, especially at suppliers third-tier and lower;

(iv) energy consumption and opportunities to increase resiliency through better energy management;

(v) current domestic education and manufacturing workforce skills;

(vi) exclusive or dominant supply of the goods (or components thereof) identified pursuant to subsection (a) of this section by or through nations that are or are likely to become unfriendly or unstable; and

(vii) the availability of substitutes for or alternative sources for the goods identified pursuant to subsection (a) of this section;

(e) identifies the causes of any aspect of the defense industrial base or national-security-related supply chains assessed as deficient pursuant to subsection (d) of this section; and

(f) recommends such legislative, regulatory, and policy changes and other actions by the President or the heads of agencies as they deem appropriate based upon a reasoned assessment that the benefits outweigh the costs (broadly defined to include any economic, strategic, and national security benefits or costs) over the short, medium, and long run to:

(i) avoid, or prepare for, any contingencies identified pursuant to subsection (c) of this section;

(ii) ameliorate any aspect of the defense industrial base or national-security-related supply chains assessed as deficient pursuant to subsection (d) of this section; and

(iii) strengthen the United States manufacturing capacity and defense industrial base and increase the resiliency of supply chains critical to national security.

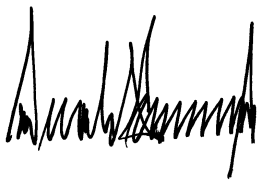
Sec. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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



THE WHITE HOUSE,
July 21, 2017.

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Rules and Regulations

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

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9822]

RIN 1545–BM09

Health Insurance Premium Tax Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the health insurance premium tax credit. These regulations affect individuals who enroll in qualified health plans through Affordable Insurance Exchanges (Exchanges, also called Marketplaces) and claim the premium tax credit and Exchanges that make qualified health plans available to individuals.

DATES:

Effective Date: These regulations are effective on July 24, 2017.

Applicability Date: For applicability dates, see §§ 1.36B–2(d), 1.36B–3(m), 1.36B–4(c), and 1.162(l)–1(c).

FOR FURTHER INFORMATION CONTACT: Suzanne R. Sinno and Stephen J. Toomey at (202) 317–4718 and Shareen S. Pflanz at (202) 317–7006 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations that amend the Income Tax Regulations (26 CFR part 1) under section 36B of the Internal Revenue Code (Code) relating to the health insurance premium tax credit and under section 162(l) of the Code relating to the deduction for health insurance costs for self-employed individuals. The Treasury Department and the IRS published final regulations under section 36B (TD 9590) on May 23, 2012 (77 FR 30385). These regulations were amended in 2014 by TD 9663, published on May 7, 2014 (79 FR 26117); in 2015 by TD 9745, published on December 18, 2015 (80 FR 78974); and in 2016 by TD 9804, published on December 19, 2016 (81 FR 91755).

On July 24, 2014, the Treasury Department and the IRS published final and temporary regulations under section 36B and section 162(l) (TD 9683) in the **Federal Register** (79 FR 43622), providing relief from the joint filing requirement for married victims of domestic abuse or spousal abandonment, the methodology for indexing certain percentages used in determining the amount of and eligibility for the premium tax credit, certain allocation rules for reconciliation of advance credit payments and the premium tax credit, and guidance on the deduction for health insurance costs of self-employed individuals. On the same date, a notice of proposed rulemaking (REG–104579–13) cross-referencing the temporary regulations was published in the **Federal Register** (79 FR 43693). Written comments responding to the proposed regulations were received. The comments have been considered in connection with these final regulations and are available for public inspection at *www.regulations.gov* or on request. No public hearing was requested or held. After consideration of all the comments, the proposed regulations are adopted by this Treasury decision, with one technical correction that was not identified in the comments.

Summary of Comments and Explanation of Provisions

1. Relief for Married Victims of Domestic Abuse or Spousal Abandonment

Section 36B provides a refundable premium tax credit to help individuals and families afford health insurance purchased through an Exchange. To be eligible for a premium tax credit under section 36B, section 36B(a) provides that an individual must be an applicable taxpayer. Section 36B(c)(1) defines an applicable taxpayer to mean a taxpayer (1) with household income for the taxable year that equals or exceeds 100 percent but does not exceed 400 percent of the federal poverty line for the taxpayer's family size, (2) who may not be claimed as a dependent by another taxpayer, and (3) who files a joint return if married (within the meaning of section 7703).

Section 1.36B–2T(b)(2)(i) provides that except as provided in § 1.36B–2T(b)(2)(ii), a married taxpayer is an applicable taxpayer allowed a premium tax credit only if the taxpayer files a joint return with his or her spouse. Under § 1.36B–2T(b)(2)(ii), a married taxpayer satisfies the joint filing requirement if the taxpayer files a tax return using a filing status of married filing separately and the taxpayer (i) is living apart from his or her spouse at the time the taxpayer files his or her tax return, (ii) is unable to file a joint return because the taxpayer is a victim of domestic abuse or spousal abandonment, and (iii) certifies on his or her income tax return in accordance with the relevant forms and instructions that the taxpayer meets these criteria for claiming a premium tax credit using a filing status of married filing separately. Taxpayers may not qualify for relief from the joint filing requirement for a period that exceeds three consecutive years. See § 1.36B–2T(b)(2)(v). The preamble to the temporary regulations included a specific request for comments on these rules.

A. Eligibility Criteria

Comments were generally favorable with respect to the criteria for eligibility for relief from the married filing jointly requirement under the temporary regulations. For example, commenters agreed with the rule in the temporary regulations that victims of domestic violence are not required to contact their spouse as a condition for qualifying for relief from the married filing jointly requirement. Commenters also agreed that relief from the married filing jointly requirement should be available even if the abuse or abandonment occurs in a taxable year other than the taxable year for which a taxpayer seeks relief. A number of commenters requested clarification regarding when a taxpayer is considered a victim of spousal abandonment. The rule in § 1.36B–2T(b)(2)(iv) of the temporary regulations provides that a taxpayer is a victim of spousal abandonment for a taxable year if, taking into account all of the facts and circumstances, the taxpayer is unable to locate his or her spouse after reasonable diligence. A number of commenters requested that the final regulations

include a definition for the term ''reasonable diligence'' for spousal abandonment. Other commenters suggested that the regulations broaden the ''unable to locate'' requirement for spousal abandonment to situations in which the spouse can be located but is uncooperative, poses a threat to the filing taxpayer, or refuses to grant a divorce to the filing taxpayer.

The final regulations do not provide a definition of reasonable diligence. The IRS will take into account all the facts and circumstances in determining whether a taxpayer exercised reasonable diligence in trying to locate his or spouse. A ''one size fits all'' definition is not appropriate for situations involving spousal abandonment because the facts of each situation are unique. Providing a definition for reasonable diligence could have the unintended consequence of preventing a taxpayer who merits relief from the married filing jointly requirement from meeting the reasonable diligence standard solely because the definition did not contemplate the taxpayer's particular circumstances.

In addition, the final regulations do not broaden the ''unable to locate'' rule to include situations in which a spouse poses a threat to the taxpayer claiming relief because the definition of domestic abuse in § 1.36B–2T(a)(2)(iii), which includes psychological or emotional abuse and efforts to intimidate the victim, already addresses these circumstances. Finally, relief from the married filing jointly requirement is not suitable for all situations in which the spouse can be located but is uncooperative.

B. Additional Exceptions

Several commenters requested that the IRS expand circumstances warranting relief from the married filing jointly requirement beyond domestic abuse and spousal abandonment. For instance, some commenters suggested that same-sex spouses who live in states that do not permit divorce for same-sex marriages, spouses living abroad, incarcerated spouses, and individuals who face challenges in filing a joint return because of their spouse's immigration status should also be eligible for relief from the married filing jointly requirement. Other commenters suggested that those eligible for relief because they are victims of domestic abuse or spousal abandonment should be able to file as single or head of household, rather than be limited to filing as married filing separately, citing the rules under section 6015 for innocent spouses as support for this position. Commenters also requested a one-year exception from the married filing jointly requirement for individuals who are separated but have not initiated a legal separation or divorce or who are in a long-term separation even if they are not victims of domestic abuse or spousal abandonment.

The final regulations do not expand relief from the married filing jointly requirement beyond domestic abuse and spousal abandonment. The relief finalized in these regulations is specifically tailored to address the limited and unique situations when the taxpayer is unable to file a joint return either because the taxpayer fears for his or her safety or, through no fault of the victim, can neither file a joint return because the non-filing spouse cannot be located nor obtain a divorce or legal separation because sufficient time has not lapsed under state law. In contrast, the circumstances described by the commenters do not warrant relief because the taxpayer is able to file a joint return.

Moreover, because the purposes of the innocent spouse rules and the rule in § 1.36B–2T(a)(2) for victims of domestic abuse and spousal abandonment are different, using the innocent spouse rules for domestic abuse or spousal abandonment victims is not appropriate. The innocent spouse rules provide relief from joint and several liability when a joint return is filed. In contrast, the relief provided in § 1.36B–2T(a)(2) allows a married victim of domestic abuse or spousal abandonment to claim a premium tax credit without filing a joint return. Therefore, because relief under § 1.36B–2T(a)(2) is available only for taxpayers who do not file a joint return, there is no need for the relief from joint and several liability provided by the innocent spouse rules.

Commenters also asked that the final regulations include a rule that would allow individuals who are (1) informally separated and (2) unable to locate their spouses, unwilling to contact them, or unaware of how filing separately could impact their eligibility for advance credit payments and the premium tax credit, to take advantage of the relief from the joint filing requirement for one year. The final regulations do not adopt this comment. First, the regulations already include a rule for taxpayers who cannot file jointly because the taxpayer is unable to locate his or her spouse. Further, regarding the comment about taxpayers being unaware of how filing separately could impact their eligibility for advance credit payments and the premium tax credit, the IRS has included information on *www.irs.gov* and in instructions and publications to alert taxpayers of the requirement to file jointly to claim the premium tax credit and of the available relief for victims of domestic abuse and spousal abandonment.

One commenter asked that the final regulations allow temporary relief from the joint filing requirement for victims of domestic violence who, when enrolling for coverage, plan to leave their spouse but want to have insurance coverage in place before they leave. Another commenter requested that relief from the joint filing requirement apply to a victim of domestic abuse who lives with his or her spouse and whose spouse could, but refuses to, enroll the victim in the spouse's employer's health coverage.

The relief in the temporary regulations applies to victims of spousal abuse who live with their spouse when enrolling in Marketplace health insurance, but who live apart from the spouse at the time of filing their tax return and cannot file a joint return because of the abuse. Thus, no additional relief rules are necessary for victims of domestic violence who are planning to leave their spouse but want to enroll in Marketplace coverage.

In addition, the final regulations do not adopt the suggestion that the relief from the joint filing requirement be extended to victims of domestic abuse who are planning to leave their spouses but have not yet done so at the time of filing their tax return. Only taxpayers who live apart from their spouse at the time the taxpayer files his or her tax return should be eligible to claim relief from the joint return filing requirement. The underlying basis of this relief is that while the taxpayer is technically married, the taxpayer is not able to file a joint return because they either fear contact with the spouse or the spouse cannot be located. In the case of a victim who lives with the spouse, filing a joint return is less challenging than if he or she lives apart from the spouse.

Finally, if a domestic abuse victim qualifies to use the married filing jointly exception, the victim is not precluded from getting a premium tax credit just because the victim's spouse could have, but refused to, enroll the victim in the spouse's employer's health coverage. *See* § 1.36B–2(c)(4)(i), under which a taxpayer, including a domestic abuse victim, who uses the married filing separately filing status is treated as eligible for his or her spouse's employer's health coverage only for months that the taxpayer is enrolled in the coverage.

C. Advance Credit Payment Reconciliation

Under section 1412 of the Affordable Care Act, Public Law 111–148, 124 Stat. 119 (2010), eligible taxpayers may receive the benefit of advance credit payments. Section 36B(f)(1) requires taxpayers who receive the benefit of advance credit payments for a taxable year to file a tax return and reconcile the advance credit payments with the premium tax credit the taxpayer is allowed for the taxable year. Under section 36B(f)(2)(A), the taxpayer's income tax liability is increased by the amount that the advance credit payments for the taxable year exceed the premium tax credit allowed for the taxable year, subject to the repayment limitations in section 36B(f)(2)(B). Section 1.36B–4(b) provides an alternative rule for reconciling the advance credit payments with the premium tax credit for taxpayers who marry during the taxable year (the year of marriage rule). Specifically, under § 1.36B–4(b)(2), taxpayers who marry during a taxable year may compute their excess advance credit payments (the excess of their advance credit payments over the premium tax credit they are allowed) in a manner that is different from the computation used by other taxpayers if, in the taxable year of the marriage, at least one of the spouses received the benefit of advance credit payments for one or more months in the taxable year. This alternative computation may reduce the amount of excess advance credit payments the taxpayers have to repay for the year of marriage.

Several commenters asked that the final regulations allow victims of domestic abuse or spousal abandonment who receive advance credit payments under the assumption that they will file a separate return, but who reconcile with their spouses and file a joint return for the taxable year, to use the year of marriage rule (or a rule similar to the year of marriage rule) to compute their excess advance credit payments. In particular, the commenters noted that these victims of domestic abuse or spousal abandonment risk having excess advance credit payments similar to taxpayers who get married during the taxable year.

The final regulations do not expand the year of marriage rule to cover these taxpayers, nor do they create a similar rule for victims of domestic abuse or spousal abandonment who reconcile, because of the risk of abuse in adding such a rule. Unlike the date of a marriage, which can be substantiated, the date on which a marital reconciliation occurs is often unclear and difficult to establish both for taxpayers and the IRS. This situation could lead to taxpayers not within the parameters of the rule nevertheless using it either because they do not understand when it applies or because they want to lower their excess advance credit repayment and do not believe the IRS will challenge their use of the rule. Moreover, these taxpayers may attempt to use the rule for multiple years. Finally, in many cases, section 36B(f)(2)(B) limits the tax liability that a taxpayer incurs from excess advance credit payments. Thus, the Treasury Department and the IRS think it is appropriate to limit the year of marriage rule to taxpayers who marry during the taxable year.

D. Limiting Relief to Three Consecutive Years

Section 1.36B–2T(a)(2)(v) provides that relief from the married filing jointly requirement is not available if the taxpayer satisfied the eligibility requirements of § 1.36B–2T(b)(2)(ii) for each of the three preceding taxable years. Commenters recommended that this limitation be removed from the final regulations. Alternatively, commenters recommended that the final regulations provide a ''good cause'' exception to the three-year limitation.

Based on IRS data, most taxpayers who claim relief from the joint filing requirement need that relief for only one year. Since 2014, the first tax year that relief from the joint return filing requirement was available to victims of domestic abuse or spousal abandonment, only 0.2 to 0.3 percent of all taxpayers claiming the premium tax credit requested relief. Further, fewer than 3 percent of the individuals who claimed relief in 2014 also claimed relief in 2015. Given that current data indicates that so few taxpayers are claiming relief, and that few of these taxpayers are requesting relief for more than one year, the additional two years provided by the rule in the temporary regulations appears to be sufficient to provide relief for the small number of taxpayers who would benefit from relief for more than one year.

Accordingly, at this time, there does not appear to be a need to extend the availability of this relief beyond three consecutive years. However, the Treasury Department and the IRS will continue to monitor the data. In the meantime, comments are requested regarding how the IRS would administer a process for taxpayers to request relief beyond the three consecutive years permitted under the regulations. Specifically, comments are requested regarding when and how a taxpayer would request a good cause exception and what standards should apply to determine whether a taxpayer has demonstrated good cause.

E. Enforcement Issues

Commenters raised concerns related to IRS examinations of taxpayers who obtain relief. Several commenters said the IRS should ensure that taxpayers who use the relief for domestic abuse or spousal abandonment are not subject to audits or penalties solely due to a conflict between their marital status on their Marketplace health insurance application (unmarried) and their filing status on their tax return (married filing separately). Pursuant to the forms and instructions, taxpayers indicate to the IRS that they are filing their tax return married filing separately because they are a victim of domestic abuse or spousal abandonment by checking the appropriate box on the Form 8962, Premium Tax Credit. As noted by the commenters, some Marketplaces, including the Federally-facilitated Marketplace, instruct victims of domestic violence or spousal abandonment who intend to use the married filing separately filing status on their tax return, to indicate on their Marketplace application that they are unmarried if they want to receive the benefit of advance credit payments or cost-sharing reductions. Under HHS guidance dated July 27, 2015, these individuals are not subject to a penalty for reporting their marital status in this manner. See *https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Updated-Guidance-on-Victims-of-Domestic-Abuse-and-Spousal-Abandonment_7.pdf.* Similarly, if these individuals then use the married filing separately status on their tax return, they have used a permitted filing status and are not subject to Internal Revenue Code penalties as a result of their filing status. Thus, these taxpayers will not be subject to a penalty merely because the marital status on their Marketplace application is not consistent with the marital status on their tax return.

Commenters also recommended that the final regulations describe the supporting documentation of domestic abuse that a taxpayer will need to establish that he or she was a victim of domestic abuse in case of an IRS examination of the taxpayer's return. Publication 974, Premium Tax Credit, provides examples of documentation that victims of domestic abuse may use to substantiate that they qualify for the relief. Publication 974 also includes substantiation information for victims of

spousal abandonment. However, these examples are merely illustrative. As stated in the regulations, the IRS will consider all the facts and circumstances in the case of an examination. As a result, a description of specific documentation is not included in the final regulations.

F. Enrollment Period

Several commenters urged HHS to provide an open enrollment period if expanded rules for relief are adopted so taxpayers that are eligible for relief due to domestic abuse or spousal abandonment may enroll in a qualified health plan and get advance credit payments. Commenters also recommended that taxpayers be allowed a special enrollment period if the abuse or abandonment occurs during a taxable year for which the victim had not enrolled in a qualified health plan prior to the abuse or abandonment. Other commenters suggested that Marketplaces alert taxpayers on the health insurance application of the availability of relief from the joint filing requirement for victims of domestic abuse or spousal abandonment.

The rules regarding enrollment and Marketplace health insurance applications are administered by HHS, and thus these comments are outside the scope of these final regulations. However, the Treasury Department and the IRS will share these comments with HHS. In addition, taxpayers should refer to HHS guidance that provides victims of domestic abuse and spousal abandonment a special enrollment period to apply for Marketplace coverage. See 45 CFR 155.420. See also *https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Updated-Guidance-on-Victims-of-Domestic-Abuse-and-Spousal-Abandonment_7.pdf.; https://marketplace.cms.gov/technical-assistance-resources/assisting-victims-of-domestic-violence.PDF*.

Commenters requested that the IRS alert taxpayers regarding the operational limitations in the Federally-Facilitated Marketplace that require victims of domestic abuse or spousal abandonment who intend to file a return separate from their spouse and claim a premium tax credit to indicate that they are unmarried on their health insurance application. HHS, and not the IRS, regulates the Federally-Facilitated Marketplace. Therefore, HHS, and not the IRS, is in the best position to provide taxpayers with information regarding operation of the Marketplace. Moreover, HHS has made available instructions for taxpayers who, because they are victims of domestic abuse or spousal abandonment, intend to use the married filing separately status on their tax returns, but still want to have advance credit payments made for their Marketplace coverage. Thus, no changes to IRS instructions or other items available to taxpayers on *www.irs.gov* are necessary to address this comment.

G. Forms and Instructions

Numerous commenters suggested changes to IRS forms and instructions and the manner in which the forms and instructions should address the married filing jointly exception for victims of domestic abuse and spousal abandonment. Most of these suggestions were incorporated in the forms and instructions after the temporary regulations were published and, consequently, are not specifically discussed in this preamble.

One commenter suggested that taxpayers who are providing a copy of Form 8962 to parties other than the IRS, such as states when filing state tax returns, be allowed to omit or redact the married filing separately exception checkbox when sending the form to these non-IRS parties. IRS rules do not affect whether and in what format taxpayers share their own taxpayer information with third parties. Therefore, no change to the form, instructions, or proposed and temporary regulations is needed to address this comment.

2. Allocations for Reconciliation of Advance Credit Payments and the Premium Tax Credit

Section 36B(f)(1) requires taxpayers who receive the benefit of advance credit payments for a taxable year to file a tax return and reconcile the advance credit payments with the premium tax credit the taxpayer is allowed for the taxable year. Section 1.36B–4T(a)(1)(ii) provides that a taxpayer must reconcile the advance credit payments of all members of the taxpayer's family for the taxable year with the premium tax credit the taxpayer is allowed for the taxable year. A taxpayer's family includes the taxpayer, the taxpayer's spouse, and the taxpayer's dependents. See section 1.36B–1(d). Under section 36B(f)(2)(A), the taxpayer's income tax liability is increased by the amount that the advance credit payments for the taxable year exceed the premium tax credit allowed for the taxable year, subject to the repayment limitations in section 36B(f)(2)(B).

In some cases, a qualified health plan covers members of more than one family. To compute the premium tax credit and reconcile the advance credit payments with the premium tax credit allowed in these cases, each family needs to know the enrollment premiums, the premiums for the applicable benchmark plan, and the advance credit payments allocable to each family enrolled in the plan.

Section 1.36B–4T provides allocation rules for situations in which enrollment premiums, the premiums for the applicable benchmark plan, and advance credit payments (policy amounts) for a qualified health plan must be allocated between two or more families. The temporary regulations provide specific allocation rules depending on whether the situation involves married individuals who file separately, formerly married individuals who divorced or separated during the taxable year, or individuals such as children who are enrolled in a qualified health plan with one parent but are claimed as a dependent by the other parent who is not enrolled in the plan (a shifting enrollee). The allocation rules for divorced or separated taxpayers and for shifting enrollee situations allow the affected taxpayers to agree on an allocation percentage. However, if there is no agreement, divorced or separated taxpayers must allocate 50 percent of the enrollment premiums, applicable benchmark plan premiums, and advance credit payments to each of the former spouses. A taxpayer's default allocation percentage for shifting enrollee situations is equal to the number of shifting enrollees claimed as a personal exemption by the taxpayer divided by the total number of individuals enrolled by the enrolling taxpayer in the same qualified health plan as the shifting enrollee (per capita allocation). Married taxpayers who do not file a joint return must allocate 50 percent of the enrollment premiums and advance credit payments to each of the spouses, unless the payments cover a period during which a qualified health plan covered only one of the spouses, only one of the spouses and his or her dependents, or only dependents of one of the spouses. Finally, the temporary regulations provide that the premiums for the applicable benchmark plan must be allocated in situations involving divorced and separated taxpayers and shifting enrollees, but not in situations involving married filing separately taxpayers.

A commenter recommended that the allocation rules should be simplified, and, in particular, not provide different allocation rules for the various allocation situations. In addition, the commenter stated that the applicable benchmark plan premium should never be allocated. Instead, the commenter recommended that taxpayers should

determine their monthly applicable benchmark plan premium based on who in their family was, for that month, enrolled in Marketplace coverage and not eligible for other minimum essential coverage. Finally, the commenter recommended that the allocation rules should, in all cases, allow taxpayers with family members enrolled in the same qualified health plan to agree to the allocation percentages for the policy amounts. If there is no agreement, the commenter stated that a per capita allocation should be required in all allocation situations, not just those involving shifting enrollees.

Because the allocation rules have been in effect since 2014, the Treasury Department and the IRS have determined that, in the interest of sound tax administration, it is not appropriate to change the rules in these final regulations. Thus, the final regulations do not change the allocation rules provided in the temporary regulations. However, future guidance is being considered to address allocations of policy amounts, including requiring a per capita allocation in all allocation situations as suggested by the commenter.

Another commenter recommended that because allocating policy amounts is complex, taxpayers should be alerted to the importance of notifying Marketplaces of changes in circumstances, which may reduce the number of months for which allocations are required. Currently, the Form 8962 instructions and Publication 974 include language highlighting the importance of reporting changes in circumstances, as does *www.irs.gov.* In addition, in various forms of communication, Marketplaces emphasize the importance of reporting changes in circumstances. The Treasury Department and the IRS will continue to look for opportunities to remind taxpayers about the importance of notifying Marketplaces of changes in circumstances and to simplify the allocation rules.

3. Correction of Computation of the Limitation Amount for Self-Employed Individuals

Under section 162(l), a taxpayer who is an employee within the meaning of section 401(c)(1) (generally, a self-employed individual) is allowed a deduction for all or a portion of the premiums paid by the taxpayer during the taxable year for health insurance for the taxpayer, the taxpayer's spouse, the taxpayer's dependents, and any child of the taxpayer under the age of 27. Under section 162(l)(2)(A), the section 162(l) deduction is limited to the taxpayer's earned income from the trade or business, within the meaning of section 401(c), with respect to which the health insurance plan is established. In addition, section 280C(g) provides that no deduction is allowed under section 162(l) for the portion of premiums for a qualified health plan equal to the amount of the premium tax credit determined under section 36B(a) with respect to those premiums.

Section 1.36B–4T(a)(3)(iii) provides rules for the limitation on the additional tax under section 36B(f)(2)(B) (the limitation amount) for taxpayers who claim a section 162(l) deduction for premiums paid under a qualified health plan. Under § 1.36B–4T(a)(3)(iii)(B), the limitation amount determined under the rules for taxpayers claiming a section 162(l) deduction replaces the limitation amount that would otherwise be determined under the general rules of § 1.36B–4(a)(3)(ii). Under § 1.36B–4T(a)(3)(iii)(C), for purposes of determining the limitation amount in the case of a taxpayer who claims a section 162(l) deduction, a taxpayer's household income is determined by using a section 162(l) deduction equal to the sum of (1) specified premiums not paid through advance credit payments, (2) the limitation amount, and (3) any deduction allowable under section 162(l) for premiums other than specified premiums. Specified premiums are premiums for which the taxpayer may otherwise claim a deduction under section 162(l) for a qualified health plan covering the taxpayer or another member of the taxpayer's family (enrolled family member) for a month that a premium tax credit is allowed for the enrolled family member's coverage.

The limitation amount computation in § 1.36B–4T(a)(3)(iii)(C), however, inadvertently omitted a rule for situations in which a taxpayer's section 162(l) deduction must, under section 162(l)(2)(A), be limited to his or her earned income from the trade or business with respect to which the health insurance plan is established. The final regulations correct this oversight and clarify that household income for purposes of computing the limitation amount is determined by using a section 162(l) deduction equal to the lesser of (1) the sum of the specified premiums for the plan not paid through advance credit payments, the limitation amount, and any deduction allowable under section 162(l) for premiums other than specified premiums, or (2) the earned income from the trade or business with respect to which the health insurance plan is established.

Effective/Applicability Date

For applicability dates, see §§ 1.36B–2(d), 1.36B–3(m), 1.36B–4(c), and 1.162(l)–1(c).

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. Because the final regulations do not impose a collection of information requirement on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking that preceded the final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. No comments were received.

Drafting Information

The principal authors of these final regulations are Suzanne R. Sinno, Stephen J. Toomey, and Shareen S. Pflanz of the Office of the Associate Chief Counsel (Income Tax & Accounting).

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.36B–0 is amended by:

■ 1. Adding entries for § 1.36B–2(b)(2)(i), (ii), (iii), (iv), and (v).

■ 2. Adding an entry for § 1.36B–2(d).

■ 3. Adding an entry for § 1.36B–3(m).

■ 4. Revising the entry for § 1.36B–4(a)(1)(ii) and adding entries for § 1.36B–4(a)(1)(ii)(A) and (B), (a)(1)(ii)(B)(*1*), (*2*), (*3*), (*4*), and (*5*), and (a)(1)(ii)(C).

■ 5. Adding entries for § 1.36B–4(a)(3)(iii) and § 1.36B–4(a)(3)(iii)(A), (B), (C), (D), and (E).

■ 6. Removing the entry for § 1.36B–4(b)(4).

■ 7. Redesignating the entry for § 1.36B–4(b)(5) as § 1.36B–4(b)(4), revising the newly redesignated entry for § 1.36B–

4(b)(4), and adding entries for § 1.36B–4(b)(4)(i) and (ii).

■ 8. Redesignating the entry for § 1.36B–4(b)(6) as § 1.36B–4(b)(5).

■ 9. Adding an entry for § 1.36B–4(c).

The revisions and additions read as follows:

§ 1.36B–0 Table of contents.

* * * * *

§ 1.36B–2 Eligibility for premium tax credit.

* * * * *

(b) * * *

(2) * * *

(i) *In general.*

(ii) *Victims of domestic abuse and abandonment.*

(iii) *Domestic abuse.*

(iv) *Abandonment.*

(v) *Three-year rule.*

* * * * *

(d) *Applicability date.*

* * * * *

§ 1.36B–3 Computing the premium assistance credit amount.

* * * * *

(m) *Applicability date.*

* * * * *

§ 1.36B–4 Reconciling the premium tax credit with advance credit payments.

(a) * * *

(1) * * *

(ii) *Allocation rules and responsibility for advance credit payments.*

(A) *In general.*

(B) *Individuals enrolled by a taxpayer and claimed as a personal exemption deduction by another taxpayer.*

(*1*) *In general.*

(*2*) *Allocation percentage.*

(*3*) *Allocating premiums.*

(*4*) *Allocating advance credit payments.*

(*5*) *Premiums for the applicable benchmark plan.*

(C) *Responsibility for advance credit payments for an individual for whom no personal exemption deduction is claimed.*

* * * * *

(3) * * *

(iii) *Limitation on additional tax for taxpayers who claim a section 162(l) deduction for a qualified health plan.*

(A) *In general.*

(B) *Determining the limitation amount.*

(C) *Requirements.*

(D) *Specified premiums not paid through advance credit payments.*

(E) *Examples.*

(4) * * *

(b) * * *

(4) *Taxpayers filing returns as married filing separately or head of household.*

(i) *Allocation of advance credit payments.*

(ii) *Allocation of premiums.*

* * * * *

(c) *Applicability date.*

* * * * *

■ **Par. 3.** Section 1.36B–2 is amended by:

■ 1. Revising paragraphs (b)(2) and (c)(3)(v)(C).

■ 2. Adding paragraph (d).

The revisions and additions read as follows:

§ 1.36B–2 Eligibility for premium tax credit.

* * * * *

(b) * * *

(2) *Married taxpayers must file joint return*—(i) *In general.* Except as provided in paragraph (b)(2)(ii) of this section, a taxpayer who is married (within the meaning of section 7703) at the close of the taxable year is an applicable taxpayer only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

(ii) *Victims of domestic abuse and abandonment.* Except as provided in paragraph (b)(2)(v) of this section, a married taxpayer satisfies the joint filing requirement of paragraph (b)(2)(i) of this section if the taxpayer files a tax return using a filing status of married filing separately and the taxpayer—

(A) Is living apart from the taxpayer's spouse at the time the taxpayer files the tax return;

(B) Is unable to file a joint return because the taxpayer is a victim of domestic abuse, as described in paragraph (b)(2)(iii) of this section, or spousal abandonment, as described in paragraph (b)(2)(iv) of this section; and

(C) Certifies on the return, in accordance with the relevant instructions, that the taxpayer meets the criteria of this paragraph (b)(2)(ii).

(iii) *Domestic abuse.* For purposes of paragraph (b)(2)(ii) of this section, domestic abuse includes physical, psychological, sexual, or emotional abuse, including efforts to control, isolate, humiliate, and intimidate, or to undermine the victim's ability to reason independently. All the facts and circumstances are considered in determining whether an individual is abused, including the effects of alcohol or drug abuse by the victim's spouse. Depending on the facts and circumstances, abuse of the victim's child or another family member living in the household may constitute abuse of the victim.

(iv) *Abandonment.* For purposes of paragraph (b)(2)(ii) of this section, a taxpayer is a victim of spousal abandonment for a taxable year if, taking into account all facts and circumstances, the taxpayer is unable to locate his or her spouse after reasonable diligence.

(v) *Three-year rule.* Paragraph (b)(2)(ii) of this section does not apply if the taxpayer met the requirements of paragraph (b)(2)(ii) of this section for each of the three preceding taxable years.

* * * * *

(c) * * *

(3) * * *

(v) * * *

(C) *Required contribution percentage.* The required contribution percentage is 9.5 percent. For plan years beginning in a calendar year after 2014, the percentage will be adjusted by the ratio of premium growth to income growth for the preceding calendar year and may be further adjusted to reflect changes to the data used to compute the ratio of premium growth to income growth for the 2014 calendar year or the data sources used to compute the ratio of premium growth to income growth. Premium growth and income growth will be determined under published guidance, see § 601.601(d)(2) of this chapter. In addition, the percentage may be adjusted for plan years beginning in a calendar year after 2018 to reflect rates of premium growth relative to growth in the consumer price index.

* * * * *

(d) *Applicability date.* Paragraphs (b)(2) and (c)(3)(v)(C) of this section apply to taxable years beginning after December 31, 2013.

§ 1.36B–2T [Removed]

■ **Par. 4.** Section 1.36B–2T is removed.

■ **Par. 5.** Section 1.36B–3 is amended by revising paragraphs (g)(1) and (m) to read as follows:

§ 1.36B–3 Computing the premium assistance credit amount.

* * * * *

(g) * * * (1) *In general.* The applicable percentage multiplied by a taxpayer's household income determines the taxpayer's annual required share of premiums for the benchmark plan. The required share is divided by 12 and this monthly amount is subtracted from the adjusted monthly premium for the applicable benchmark plan when computing the premium assistance amount. The applicable percentage is computed by first determining the percentage that the taxpayer's household income bears to the Federal poverty line for the taxpayer's family size. The resulting Federal poverty line percentage is then

compared to the income categories described in the table in paragraph (g)(2) of this section. An applicable percentage within an income category increases on a sliding scale in a linear manner and is rounded to the nearest one-hundredth of one percent. For taxable years beginning after December 31, 2014, the applicable percentages in the table will be adjusted by the ratio of premium growth to income growth for the preceding calendar year and may be further adjusted to reflect changes to the data used to compute the ratio of premium growth to income growth for the 2014 calendar year or the data sources used to compute the ratio of premium growth to income growth. Premium growth and income growth will be determined in accordance with published guidance, see § 601.601(d)(2) of this chapter. In addition, the applicable percentages in the table may be adjusted for taxable years beginning after December 31, 2018, to reflect rates of premium growth relative to growth in the consumer price index.

* * * * *

(m) *Applicability date.* Paragraph (g)(1) of this section applies to taxable years beginning after December 31, 2013.

§ 1.36B–3T [Removed]

■ **Par. 6.** Section 1.36B–3T is removed.

■ **Par. 7.** Section 1.36B–4 is amended by:

■ 1. Revising paragraphs (a)(1)(ii) and (a)(3)(iii).

■ 2. In paragraph (a)(4), revising *Examples 4, 10, 11, 12, 13, 14,* and *15.*

■ 3. Revising paragraphs (b)(3) and (4).

■ 4. In paragraph (b)(5), revising *Examples 9* and *10.*

■ 5. Revising paragraph (c).

The revisions read as follows:

§ 1.36B–4 Reconciling the premium tax credit with advance credit payments.

(a) * * *

(1) * * *

(ii) *Allocation rules and responsibility for advance credit payments*—(A) *In general.* A taxpayer must reconcile all advance credit payments for coverage of any member of the taxpayer's family.

(B) *Individuals enrolled by a taxpayer and claimed as a personal exemption deduction by another taxpayer*—(*1*) *In general.* If a taxpayer (the enrolling taxpayer) enrolls an individual in a qualified health plan and another taxpayer (the claiming taxpayer) claims a personal exemption deduction for the individual (the shifting enrollee), then for purposes of computing each taxpayer's premium tax credit and reconciling any advance credit payments, the enrollment premiums and advance credit payments for the plan in which the shifting enrollee was enrolled are allocated under this paragraph (a)(1)(ii)(B) according to the allocation percentage described in paragraph (a)(1)(ii)(B)(*2*) of this section. If advance credit payments are allocated under paragraph (a)(1)(ii)(B)(*4*) of this section, the claiming taxpayer and enrolling taxpayer must use this same allocation percentage to calculate their § 1.36B–3(d)(1)(ii) adjusted monthly premiums for the applicable benchmark plan (benchmark plan premiums). This paragraph (a)(1)(ii)(B) does not apply to amounts allocated under § 1.36B–3(h) (qualified health plan covering more than one family) or if the shifting enrollee or enrollees are the only individuals enrolled in the qualified health plan. For purposes of this paragraph (a)(1)(ii)(B)(*1*), a taxpayer who is expected at enrollment in a qualified health plan to be the taxpayer filing an income tax return for the year of coverage with respect to an individual enrolling in the plan has enrolled that individual.

(*2*) *Allocation percentage.* The enrolling taxpayer and claiming taxpayer may agree on any allocation percentage between zero and one hundred percent. If the enrolling taxpayer and claiming taxpayer do not agree on an allocation percentage, the percentage is equal to the number of shifting enrollees claimed as a personal exemption deduction by the claiming taxpayer divided by the number of individuals enrolled by the enrolling taxpayer in the same qualified health plan as the shifting enrollee.

(*3*) *Allocating premiums.* In computing the premium tax credit, the claiming taxpayer is allocated a portion of the enrollment premiums for the plan in which the shifting enrollee was enrolled equal to the enrollment premiums times the allocation percentage. The enrolling taxpayer is allocated the remainder of the enrollment premiums not allocated to one or more claiming taxpayers.

(*4*) *Allocating advance credit payments.* In reconciling any advance credit payments, the claiming taxpayer is allocated a portion of the advance credit payments for the plan in which the shifting enrollee was enrolled equal to the enrolling taxpayer's advance credit payments for the plan times the allocation percentage. The enrolling taxpayer is allocated the remainder of the advance credit payments not allocated to one or more claiming taxpayers. This paragraph (a)(1)(ii)(B)(*4*) only applies in situations in which advance credit payments are made for coverage of a shifting enrollee.

(*5*) *Premiums for the applicable benchmark plan.* If paragraph (a)(1)(ii)(B)(*4*) of this section applies, the claiming taxpayer's benchmark plan premium is the sum of the benchmark plan premium for the claiming taxpayer's coverage family, excluding the shifting enrollee or enrollees, and the allocable portion. The allocable portion for purposes of this paragraph (a)(1)(ii)(B)(*5*) is the product of the benchmark plan premium for the enrolling taxpayer's coverage family if the shifting enrollee was a member of the enrolling taxpayer's coverage family and the allocation percentage. If the enrolling taxpayer's coverage family is enrolled in more than one qualified health plan, the allocable portion is determined as if the enrolling taxpayer's coverage family includes only the coverage family members who enrolled in the same plan as the shifting enrollee or enrollees. The enrolling taxpayer's benchmark plan premium is the benchmark plan premium for the enrolling taxpayer's coverage family had the shifting enrollee or enrollees remained a part of the enrolling taxpayer's coverage family, minus the allocable portion.

(C) *Responsibility for advance credit payments for an individual for whom no personal exemption deduction is claimed.* If advance credit payments are made for coverage of an individual for whom no taxpayer claims a personal exemption deduction, the taxpayer who attested to the Exchange to the intention to claim a personal exemption deduction for the individual as part of the advance credit payment eligibility determination for coverage of the individual must reconcile the advance credit payments.

* * * * *

(3) * * *

(iii) *Limitation on additional tax for taxpayers who claim a section 162(l) deduction for a qualified health plan*—(A) *In general.* A taxpayer who receives advance credit payments and deducts premiums for a qualified health plan under section 162(l) must use paragraph (a)(3)(iii)(B), and paragraph (a)(3)(iii)(C) or (D), of this section to determine the limitation on additional tax in this paragraph (a)(3) (limitation amount). Taxpayers must make this determination before calculating their section 162(l) deduction and premium tax credit. For additional rules for taxpayers who may claim a deduction under section 162(l) for a qualified health plan for which advance credit payments are made, see § 1.162(l)–1.

(B) *Determining the limitation amount.* A taxpayer described in

paragraph (a)(3)(iii)(A) of this section must use the limitation amount for which the taxpayer qualifies under paragraph (a)(3)(iii)(C) or (D) of this section. The limitation amount determined under this paragraph (a)(3)(iii) replaces the limitation amount that would otherwise be determined under the additional tax limitation table in paragraph (a)(3)(ii) of this section. In applying paragraph (a)(3)(iii)(C) of this section, a taxpayer must first determine whether he or she qualifies for the limitation amount applicable to taxpayers with household income of less than 200 percent of the Federal poverty line for the taxpayer's family size. If the taxpayer does not qualify to use the limitation amount applicable to taxpayers with household income of less than 200 percent of the Federal poverty line for the taxpayer's family size, the taxpayer must next determine whether he or she qualifies for the limitation applicable to taxpayers with household income of less than 300 percent of the Federal poverty line for the taxpayer's family size. If the taxpayer does not qualify to use the limitation amount applicable to taxpayers with household income of less than 300 percent of the Federal poverty line for the taxpayer's family size, the taxpayer must next determine whether he or she qualifies for the limitation applicable to taxpayers with household income of less than 400 percent of the Federal poverty line for the taxpayer's family size. If the taxpayer does not qualify to use the limitation amount applicable to taxpayers with household income of less than 200 percent, 300 percent, or 400 percent of the Federal poverty line for the taxpayer's family size, the limitation on additional tax under section 36B(f)(2)(B) does not apply to the taxpayer.

(C) *Requirements.* A taxpayer meets the requirements of this paragraph (a)(3)(iii)(C) for a limitation amount if the taxpayer's household income as a percentage of the Federal poverty line is less than or equal to the maximum household income as a percentage of the Federal poverty line for which that limitation is available. Household income for this purpose is determined by using a section 162(l) deduction equal to the lesser of—

(*1*) The sum of the specified premiums for the plan not paid through advance credit payments, the limitation amount (determined without regard to paragraph (a)(1)(iii)(C)(*2*) of this section), and any deduction allowable under section 162(l) for premiums other than specified premiums, and

(*2*) The earned income from the trade or business with respect to which the health insurance plan is established.

(D) *Specified premiums not paid through advance credit payments.* For purposes of paragraph (a)(3)(iii)(C) of this section, specified premiums not paid through advance credit payments means specified premiums, as defined in § 1.162(l)–1(a)(2), minus advance credit payments made with respect to the specified premiums.

(E) *Examples.* For examples illustrating the rules of this paragraph (a)(3)(iii), see *Examples 13, 14,* and *15* of paragraph (a)(4) of this section.

(4) * * *

Example 4. Family size decreases. (i) Taxpayers B and C are married and have two children, K and L (ages 17 and 20), whom they claim as dependents in 2013. The Exchange for their rating area projects their 2014 household income to be $63,388 (275 percent of the Federal poverty line for a family of four, applicable percentage 8.78). B and C enroll in a qualified health plan for 2014 that covers the four family members. The annual premium for the applicable benchmark plan is $14,100. B's and C's advance credit payments for 2014 are $8,535, computed as follows: Benchmark plan premium of $14,100 less contribution amount of $5,565 (projected household income of $63,388 × .0878) = $8,535.

(ii) In 2014, B and C do not claim L as their dependent (and no taxpayer claims a personal exemption deduction for L). Consequently, B's and C's family size for 2014 is three, their household income of $63,388 is 332 percent of the Federal poverty line for a family of three (applicable percentage 9.5), and the annual premium for their applicable benchmark plan is $12,000. Their premium tax credit for 2014 is $5,978 ($12,000 benchmark plan premium less $6,022 contribution amount (household income of $63,388 × .095)). Because B's and C's advance credit payments for 2014 are $8,535 and their 2014 credit is $5,978, B and C have excess advance payments of $2,557. B's and C's additional tax liability for 2014 under paragraph (a)(1) of this section, however, is limited to $2,500 under paragraph (a)(3) of this section.

* * * * *

Example 10. Allocation percentage, agreement on allocation. (i) Taxpayers G and H are divorced and have two children, J and K. G enrolls herself and J and K in a qualified health plan for 2014. The premium for the plan in which G enrolls is $13,000. The Exchange in G's rating area approves advance credit payments for G based on a family size of three, an annual benchmark plan premium of $12,000, and projected 2014 household income of $58,590 (300 percent of the Federal poverty line for a family of three, applicable percentage 9.5). G's advance credit payments for 2014 are $6,434 ($12,000 benchmark plan premium less $5,566 contribution amount (household income of $58,590 × .095)). G's actual household income for 2014 is $58,900.

(ii) K lives with H for more than half of 2014 and H claims K as a dependent for 2014. G and H agree to an allocation percentage, as described in paragraph (a)(1)(ii)(B)(*2*) of this section, of 20 percent. Under the agreement, H is allocated 20 percent of the items to be allocated, and G is allocated the remainder of those items.

(iii) If H is eligible for a premium tax credit, H takes into account $2,600 of the premiums for the plan in which K was enrolled ($13,000 x .20) and $2,400 of G's benchmark plan premium ($12,000 × .20). In addition, H is responsible for reconciling $1,287 ($6,434 × .20) of the advance credit payments for K's coverage.

(iv) G's family size for 2014 includes only G and J and G's household income of $58,900 is 380 percent of the Federal poverty line for a family of two (applicable percentage 9.5). G's benchmark plan premium for 2014 is $9,600 (the benchmark premium for the plan covering G, J, and K ($12,000), minus the amount allocated to H ($2,400). Consequently, G's premium tax credit is $4,004 (G's benchmark plan premium of $9,600 minus G's contribution amount of $5,596 ($58,900 × .095)). G has an excess advance payment of $1,143 (the excess of the advance credit payments of $5,147 ($6,434 − $1,287 allocated to H) over the premium tax credit of $4,004).

Example 11. Allocation percentage, no agreement on allocation. (i) The facts are the same as in *Example 10* of paragraph (a)(4) of this section, except that G and H do not agree on an allocation percentage. Under paragraph (a)(1)(ii)(B)(*2*) of this section, the allocation percentage is 33 percent, computed as follows: The number of shifting enrollees, 1 (K), divided by the number of individuals enrolled by the enrolling taxpayer on the same qualified health plan as the shifting enrollee, 3 (G, J, and K). Thus, H is allocated 33 percent of the items to be allocated, and G is allocated the remainder of those items.

(ii) If H is eligible for a premium tax credit, H takes into account $4,290 of the premiums for the plan in which K was enrolled ($13,000 × .33). H, in computing H's benchmark plan premium, must include $3,960 of G's benchmark plan premium ($12,000 x .33). In addition, H is responsible for reconciling $2,123 ($6,434 x .33) of the advance credit payments for K's coverage.

(iii) G's benchmark plan premium for 2014 is $8,040 (the benchmark premium for the plan covering G, J, and K ($12,000), minus the amount allocated to H ($3,960). Consequently, G's premium tax credit is $2,444 (G's benchmark plan premium of $8,040 minus G's contribution amount of $5,596 ($58,900 × .095)). G has an excess advance credit payment of $1,867 (the excess of the advance credit payments of $4,311 ($6,434 − $2,123 allocated to H) over the premium tax credit of $2,444).

Example 12. Allocations for an emancipated child. Spouses L and M enroll in a qualified health plan with their child, N. L and M attest that they will claim N as a dependent and advance credit payments are made for the coverage of all three family members. However, N files his own return and claims a personal exemption deduction for himself for the taxable year. Under paragraph (a)(1)(ii)(B)(*1*) of this section, L and M are enrolling taxpayers, N is a

claiming taxpayer, and all are subject to the allocation rules in paragraph (a)(1)(ii)(B) of this section.

Example 13. Taxpayer with advance credit payments allowed a section 162(l) deduction but not a limitation on additional tax. (i) In 2014, B, B's spouse, and their two dependents enroll in the applicable second lowest cost silver plan with an annual premium of $14,000. B's advance credit payments attributable to the premiums are $8,000. B is self-employed for all of 2014 and derives $75,000 of earnings from B's trade or business. B's household income without including a deduction under section 162(l) for specified premiums is $103,700. The Federal poverty line for a family the size of B's family is $23,550.

(ii) Because B received the benefit of advance credit payments and deducts premiums for a qualified health plan under section 162(l), B must determine whether B is allowed a limitation on additional tax under paragraph (a)(3)(iii) of this section. B begins by testing eligibility for the $600 limitation amount for taxpayers with household income at less than 200 percent of the Federal poverty line for the taxpayer's family size. B determines household income as a percentage of the Federal poverty line by taking a section 162(l) deduction equal to the lesser of $6,600 (the sum of the amount of premiums not paid through advance credit payments, $6,000 ($14,000 − $8,000), and the limitation amount, $600) and $75,000 (the earned income from the trade or business with respect to which the health insurance plan is established). The result is $97,100 ($103,700 − $6,600) or 412 percent of the Federal poverty line for B's family size. Since 412 percent is not less than 200 percent, B may not use a $600 limitation amount.

(iii) B performs the same calculation for the $1,500 ($103,700 − $7,500 = $96,200 or 408 percent of the Federal poverty line) and $2,500 limitation amounts ($103,700 − $8,500 = $95,200 or 404 percent of the Federal poverty line), the amounts for taxpayers with household income of less than 300 percent or 400 percent, respectively, of the Federal poverty line for the taxpayer's family size, and determines that B may not use either of those limitation amounts. Because B does not meet the requirements of paragraph (a)(3)(iii) of this section for any of the limitation amounts in section 36B(f)(2)(B), B is not eligible for the limitation on additional tax for excess advance credit payments.

(iv) Although B may not claim a limitation on additional tax for excess advance credit payments, B may still be eligible for a premium tax credit. B would determine eligibility for the premium tax credit, the amount of the premium tax credit, and the section 162(l) deduction using the rules under section 36B and section 162(l), applying no limitation on additional tax.

Example 14. Taxpayer with advance credit payments allowed a section 162(l) deduction and a limitation on additional tax. (i) The facts are the same as in *Example 13* of paragraph (a)(4) of this section, except that B's household income without including a deduction under section 162(l) for specified premiums is $78,802.

(ii) Because B received the benefit of advance credit payments and deducts premiums for a qualified health plan under section 162(l), B must determine whether B is allowed a limitation on additional tax under paragraph (a)(3)(iii) of this section. B first determines that B does not meet the requirements of paragraph (a)(3)(iii)(C) of this section for using the $600 or $1,500 limitation amounts, the amounts for taxpayers with household income of less than 200 percent or 300 percent, respectively, of the Federal poverty line for the taxpayer's family size. That is because B's household income as a percentage of the Federal poverty line, determined by using a section 162(l) deduction for premiums for the qualified health plan equal to the lesser of the sum of the premiums for the plan not paid through advance credit payments and the limitation amount, and the earned income from the trade or business with respect to which the health insurance plan is established, is more than the maximum household income as a percentage of the Federal poverty line for which that limitation is available (using the $600 limitation, B's household income would be $72,202 ($78,802 − ($6,000 + $600)), which is 307 percent of the Federal poverty line for B's family size; and using the $1,500 limitation, B's household income would be $71,302 ($78,802 − ($6,000 + $1,500)), which is 303 percent of the Federal poverty line for B's family size).

(iii) However, B meets the requirements of paragraph (a)(3)(iii)(C) of this section using the $2,500 limitation amount for taxpayers with household income of less than 400 percent of the Federal poverty line for the taxpayer's family size. That is because B's household income as a percentage of the Federal poverty line by taking a section 162(l) deduction equal to the lesser of $8,500 (the sum of the amount of premiums not paid through advance credit payments, $6,000, and the limitation amount, $2,500) and $75,000 (the earned income from the trade or business with respect to which the health insurance plan is established), is $70,302 (299 percent of the Federal poverty line), which is below 400 percent of the Federal poverty line for B's family size, and is less than the maximum amount for which that limitation is available. Thus, B uses a limitation amount of $2,500 in computing B's additional tax on excess advance credit payments.

(iv) B may determine the amount of the premium tax credit and the section 162(l) deduction using the rules under section 36B and section 162(l), applying the $2,500 limitation amount determined above.

Example 15. Taxpayer with advance credit payments allowed a section 162(l) deduction and a limitation on additional tax limited to earned income from trade or business. (i) In 2017, C, C's spouse, and their two dependents enroll in the applicable second lowest cost silver plan with an annual premium of $14,000. C's advance credit payments attributable to the premiums are $8,000. C is self-employed for all of 2017 and derives $3,000 of earnings from C's trade or business. C's household income, without including a deduction under section 162(l) for specified premiums, is $39,100. The Federal poverty line for a family the size of C's family is $24,600.

(ii) Because C received the benefit of advance credit payments and deducts premiums for a qualified health plan under section 162(l), C must determine whether C is allowed a limitation on additional tax under paragraph (a)(3)(iii) of this section. C begins by testing eligibility for the $600 limitation amount for taxpayers with household income at less than 200 percent of the Federal poverty line for the taxpayer's family size. C determines household income as a percentage of the Federal poverty line by taking a section 162(l) deduction equal to the lesser of $6,600 (the sum of the amount of premiums not paid through advance credit payments, $6,000 ($14,000 − $8,000), and the limitation amount, $600), and $3,000 (C's earned income from the trade or business with respect to which the health insurance plan is established). The result is $36,100 ($39,100 − $3,000) or 147 percent of the Federal poverty line for C's family size. Because 147 percent is less than 200 percent, the limitation amount under paragraph (a)(3)(iii) of this section that C uses in computing C's additional tax on excess advance credit payments is $600.

(iii) C may determine the amount of the premium tax credit and the section 162(l) deduction using the rules under section 36B and section 162(l), applying the $600 limitation amount determined above.

(b) * * *

(3) *Taxpayers not married to each other at the end of the taxable year.* Taxpayers who are married (within the meaning of section 7703) to each other during a taxable year but legally separate under a decree of divorce or of separate maintenance during the taxable year, and who are enrolled in the same qualified health plan at any time during the taxable year must allocate the benchmark plan premiums, the enrollment premiums, and the advance credit payments for the period the taxpayers are married during the taxable year. Taxpayers must also allocate these items if one of the taxpayers has a dependent enrolled in the same plan as the taxpayer's former spouse or enrolled in the same plan as a dependent of the taxpayer's former spouse. The taxpayers may allocate these items to each former spouse in any proportion but must allocate all items in the same proportion. If the taxpayers do not agree on an allocation that is reported to the IRS in accordance with the relevant forms and instructions, 50 percent of: The benchmark plan premiums; the enrollment premiums; and the advance credit payments for the married period, is allocated to each taxpayer. If for a period a plan covers only one of the taxpayers and no dependents, only one of the taxpayers and one or more dependents of that same taxpayer, or only one or more dependents of one of the taxpayers, then the benchmark plan

premiums, the enrollment premiums, and the advance credit payments for that period are allocated entirely to that taxpayer.

(4) *Taxpayers filing returns as married filing separately or head of household*—(i) *Allocation of advance credit payments.* Except as provided in § 1.36B–2(b)(2)(ii), the premium tax credit is allowed to married (within the meaning of section 7703) taxpayers only if they file joint returns. *See* § 1.36B–2(b)(2)(i). Taxpayers who receive advance credit payments as married taxpayers and who do not file a joint return must allocate the advance credit payments for coverage under a qualified health plan equally to each taxpayer for any period the plan covers and in which advance credit payments are made for both taxpayers, only one of the taxpayers and one or more dependents of the other taxpayer, or one or more dependents of both taxpayers. If, for a period a plan covers, advance credit payments are made for only one of the taxpayers and no dependents, only one of the taxpayers and one or more dependents of that same taxpayer, or only one or more dependents of one of the taxpayers, the advance credit payments for that period are allocated entirely to that taxpayer. If one or both of the taxpayers is an applicable taxpayer eligible for a premium tax credit for the taxable year, the premium tax credit is computed by allocating the enrollment premiums under paragraph (b)(4)(ii) of this section. The repayment limitation described in paragraph (a)(3) of this section applies to each taxpayer based on the household income and family size reported on that taxpayer's return. This paragraph (b)(4) also applies to taxpayers who receive advance credit payments as married taxpayers and file a tax return using the head of household filing status.

(ii) *Allocation of premiums.* If taxpayers who are married within the meaning of section 7703, without regard to section 7703(b), do not file a joint return, 50 percent of the enrollment premiums are allocated to each taxpayer. However, all of the enrollment premiums are allocated to only one of the taxpayers for a period in which a qualified health plan covers only that taxpayer and no dependents, only that taxpayer and one or more dependents of that taxpayer, or only one or more dependents of that taxpayer.

(5) * * *

Example 9. (i) The facts are the same as in *Example 8* of paragraph (b)(5) of this section, except that X and Y live apart for over 6 months of the year and X properly files an income tax return as head of household. Under section 7703(b), X is treated as unmarried and therefore is not required to file a joint return. If X otherwise qualifies as an applicable taxpayer, X may claim the premium tax credit based on the household income and family size X reports on the return. Y is not an applicable taxpayer and is not eligible to claim the premium tax credit.

(ii) X must reconcile the amount of credit with advance credit payments under paragraph (a) of this section. The premium for the applicable benchmark plan covering X and his two dependents is $9,800. X's premium tax credit is computed as follows: $9,800 benchmark plan premium minus X's contribution amount of $5,700 ($60,000 × .095) equals $4,100.

(iii) Under paragraph (b)(4) of this section, half of the advance payments ($6,880/2 = $3,440) is allocated to X and half is allocated to Y. Thus, X is entitled to $660 additional premium tax credit ($4,100 − $3,440). Y has $3,440 excess advance payments, which is limited to $600 under paragraph (a)(3) of this section.

Example 10. (i) A is married to B at the close of 2014 and they have no dependents. A and B are enrolled in a qualified health plan for 2014 with an annual premium of $10,000 and advance credit payments of $6,500. A is not eligible for minimum essential coverage (other than coverage described in section 5000A(f)(1)(C)) for any month in 2014. A is a victim of domestic abuse as described in § 1.36B–2(b)(2)(iii). At the time A files her tax return for 2014, A is unable to file a joint return with B for 2014 because of the domestic abuse. A certifies on her 2014 return, in accordance with relevant instructions, that she is living apart from B and is unable to file a joint return because of domestic abuse. Thus, under § 1.36B–2(b)(2)(ii), A satisfies the joint return filing requirement in section 36B(c)(1)(C) for 2014.

(ii) A's family size for 2014 for purposes of computing the premium tax credit is one, and A is the only member of her coverage family. Thus, A's benchmark plan for all months of 2014 is the second lowest cost silver plan offered by the Exchange for A's rating area that covers A. A's household income includes only A's modified adjusted gross income. Under paragraph (b)(4)(ii) of this section, A takes into account $5,000 ($10,000 x .50) of the premiums for the plan in which she was enrolled in determining her premium tax credit. Further, A must reconcile $3,250 ($6,500 x .50) of the advance credit payments for her coverage under paragraph (b)(4)(i) of this section.

(c) *Applicability date.* Paragraphs (a)(1)(ii), (a)(3)(iii), (a)(4), *Examples 4, 10, 11, 12, 13, 14,* and *15,* (b)(3), (b)(4), and (b)(5), *Examples 9* and *10* apply to taxable years beginning after December 31, 2013.

§ 1.36B–4T [Removed]

■ **Par. 8.** Section 1.36B–4T is removed.

■ **Par. 9.** § 1.162(l)–0 is added to read as follows:

§ 1.162(l)–0 Table of Contents.

This section lists the table of contents for § 1.162(l)–1.

§ 1.162(l)–1 Deduction for health insurance costs of self-employed individuals.

(a) *Coordination of section 162(l) deduction for taxpayers subject to section 36B.*

(1) *In general.*

(2) *Specified premiums.*

(3) *Specified premiums not paid through advance credit payments.*

(b) *Additional guidance.*

(c) *Applicability date.*

■ **Par. 10.** Section 1.162(l)–1 is added to read as follows:

§ 1.162(l)–1 Deduction for health insurance costs of self-employed individuals.

(a) *Coordination of section 162(l) deduction for taxpayers subject to section 36B*—(1) *In general.* A taxpayer is allowed a deduction under section 162(l) for specified premiums, as defined in paragraph (a)(2) of this section, not to exceed an amount equal to the lesser of—

(i) The specified premiums less the premium tax credit attributable to the specified premiums; and

(ii) The sum of the specified premiums not paid through advance credit payments, as described in paragraph (a)(3) of this section, and the additional tax (if any) imposed under section 36B(f)(2)(A) and § 1.36B–4(a)(1) with respect to the specified premiums after application of the limitation on additional tax in section 36B(f)(2)(B) and § 1.36B–4(a)(3).

(2) *Specified premiums.* For purposes of paragraph (a)(1) of this section, specified premiums means premiums for a specified qualified health plan or plans for which the taxpayer may otherwise claim a deduction under section 162(l). For purposes of this paragraph (a)(2), a specified qualified health plan is a qualified health plan, as defined in § 1.36B–1(c), covering the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer (enrolled family member) for a month that is a coverage month within the meaning of § 1.36B–3(c) for the enrolled family member. If a specified qualified health plan covers individuals other than enrolled family members, the specified premiums include only the portion of the premiums for the specified qualified health plan that is allocable to the enrolled family members under rules similar to § 1.36B–3(h), which provides rules for determining the amount under § 1.36B–3(d)(1) when two families are enrolled in the same qualified health plan.

(3) *Specified premiums not paid through advance credit payments.* For purposes of paragraph (a)(1)(ii) of this section, specified premiums not paid through advance credit payments equal

the amount of the specified premiums minus the advance credit payments attributable to the specified premiums.

(b) *Additional guidance.* The Secretary may provide by publication in the **Federal Register** or in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) additional guidance on coordinating the deduction allowed under section 162(l) and the credit provided under section 36B.

(c) *Applicability date.* This section applies for taxable years beginning after December 31, 2013.

§ 1.162(l)–1T [Removed]

■ **Par. 11.** Section 1.162(l)–1T is removed.

Kirsten B. Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: July 14, 2017.

Thomas West,

Tax Legislative Counsel.

[FR Doc. 2017–15642 Filed 7–24–17; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[TD 9823]

RIN 1545–BM26

Branded Prescription Drug Fee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that define the term *controlled group* for purposes of the branded prescription drug fee. The final regulations supersede and adopt the text of temporary regulations that define the term *controlled group*. The final regulations affect persons engaged in the business of manufacturing or importing certain branded prescription drugs.

DATES:

Effective Date: The final regulations are effective July 24, 2017.

Applicability Date: For dates of applicability, see § 51.11(b) of the final regulations.

FOR FURTHER INFORMATION CONTACT: Rachel S. Smith at (202) 317–6855 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The branded prescription drug fee was enacted by section 9008 of the Patient Protection and Affordable Care Act, Public Law 111–148, 124 Stat. 119 (2010), as amended by section 1404 of the Health Care and Education Reconciliation Act of 2010, Public Law 111–152, 124 Stat. 1029 (2010) (collectively the ACA). Section 9008 did not amend the Internal Revenue Code (Code) but cross-references specific Code sections.

On July 28, 2014, temporary regulations (TD 9684) relating to the fee on branded prescription drugs were published in the **Federal Register** (79 FR 43631) (2014 temporary regulations). A notice of proposed rulemaking (REG–123286–14) cross-referencing the temporary regulations was published in the **Federal Register** on the same day (79 FR 43699). The 2014 temporary regulations provided a definition of the term *controlled group* that was broader than the definition of the term *controlled group* in § 51.2T(e)(3) of the temporary regulations (TD 9544) published in the **Federal Register** (76 FR 51245) on August 18, 2011 (2011 temporary regulations).

Neither the Department of the Treasury (Treasury Department) nor the Internal Revenue Service (IRS) received any written comments with respect to the notice of proposed rulemaking and no public hearing was requested or held. The final regulations adopt the proposed regulations without change and the 2014 temporary regulations are removed.

Explanation of Provisions

The 2011 temporary regulations defined the term *controlled group* to mean a group of at least two covered entities that are treated as a single employer under section 52(a), 52(b), 414(m), or 414(o) of the Code. The 2014 temporary regulations defined the term *controlled group* more broadly to mean a group of two or more persons, including at least one person that is a covered entity, that is treated as a single employer under section 52(a), 52(b), 414(m), or 414(o) of the Code. These final regulations adopt the definition of *controlled group* contained in the 2014 temporary regulations without change.

The broader definition of the term *controlled group* in the 2014 temporary regulations and these final regulations is supported by the statutory language and is consistent with the way in which controlled group rules based on similar statutory language are applied, including how the term *controlled group* is defined in § 57.2(c)(1) for purposes of the health insurance providers fee under section 9010 of the ACA. Consistent with the preamble to the 2014 temporary regulations, the Treasury Department and the IRS continue to expect that the broader definition of the term *controlled group* in the final regulations will primarily affect the scope of joint and several liability for the fee and will not otherwise affect the administration of the fee.

The 2014 temporary regulations applied beginning on January 1, 2015 (*i.e.,* starting with 2015 sales years), and are effective until July 24, 2017. These final regulations apply on and after July 24, 2017. Because both the 2014 temporary regulations and these final regulations provide the same definition of *controlled group* for purposes of section 9008 of the ACA, that definition applies continuously beginning with the 2015 sales year and 2017 fee year.

Special Analyses

Certain IRS regulations, including these, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. Because the final regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking that preceded the final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. No comments were received on the proposed regulations.

Drafting Information

The principal author of these final regulations is Rachel S. Smith, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 51

Drugs, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 51 is amended as follows:

PART 51—BRANDED PRESCRIPTION DRUG FEE

■ **Paragraph 1.** The authority citation for part 51 is revised to read as follows:

Authority: 26 U.S.C. 7805; sec. 9008, Pub. L. 111–148, 124 Stat. 119.

Section 51.8 also issued under 26 U.S.C. 6302(a).

Section 51.6302–1 also issued under 26 U.S.C. 6302(a).

■ **Par. 2.** Section 51.2 is amended by revising paragraph (e)(3) to read as follows:

§ 51.2 Explanation of terms.

* * * * *

(e) * * *

(3) *Controlled group.* The term *controlled group* means a group of two or more persons, including at least one person that is a covered entity, that is treated as a single employer under section 52(a), 52(b), 414(m), or 414(o).

* * * * *

§ 51.2T [Removed]

■ **Par. 3.** Section 51.2T is removed.

■ **Par. 4.** Section 51.11 is amended by revising the section heading and paragraph (b) and removing paragraph (c) to read as follows:

§ 51.11 Applicability date.

* * * * *

(b) Section 51.2(e)(3) applies on and after July 24, 2017.

§ 51.11T [Removed]

■ **Par. 5.** Section 51.11T is removed.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: July 17, 2017.

Tom West,

Tax Legislative Counsel.

[FR Doc. 2017–15643 Filed 7–24–17; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0486]

RIN 1625–AA00

Safety Zone; Kosciuszko Bridge Approach Spans Demolition, Newtown Creek, Brooklyn and Queens, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of Newtown Creek, NY within 2,000 feet of the existing Kosciuszko Bridge at mile 2.1. This action is necessary to provide for the safety of life on these navigable waters during the explosives demolition of the approach spans on each adjacent shoreline. This rulemaking prohibits persons and vessels from being in the safety zones unless authorized by the Captain of the Port New York or a designated representative.

DATES: This rule is effective without actual notice from July 26, 2017 through December 31, 2017. For the purposes of enforcement, actual notice will be used from July 22, 2017 through July 26, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0486 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Jeff Yunker, Sector New York Waterways Management Division; telephone 718–354–4195, email *jeff.m.yunker@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port New York
DHS Department of Homeland Security
FDNY New York City Fire Department
FR Federal Register
NPRM Notice of proposed rulemaking
NYSDOT New York State Department of Transportation
OSHA Occupational Safety and Health Administration
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard issued a Bridge Permit dated August 21, 2013 approving the location and construction of the Kosciuszko Bridge across Newtown Creek, mile 2.1, between the Boroughs of Queens and Brooklyn, NY. On April 25, 2017, NYSDOT notified the Coast Guard that the contractor requires a short term closure of Newtown Creek for the energetic felling of the existing Kosciuszko Bridge approach spans over land using shaped charges. The shaped charges make multiple precise cuts in the steel bridge spans at the same instant. This allows the approach spans to fall directly to the ground below. There will be no debris field outside of the limits of the bridge. The tentative, primary demolition dates are the early morning hours of July 22 or 23, 2017. The tentative back-up dates for these operations are the early morning hours of July 29 or 30, August 5 or 6, and August 12 or 13, 2017. To ensure public safety the contractor requested the USCG establish a safety zone within 600-feet of the existing bridge for a three-hour duration during these operations. NYSDOT stated FDNY was working with the explosives demolition subcontractor and would provide a final exclusion zone limit during these operations in early May 2017.

On May 15, 2017 the contractor notified the Coast Guard that the distance requested for the exclusion zone is 1,200 from the existing bridge during the explosives demolition. However, the subcontractor stated this is a preliminary distance for discussion purposes only. The final distance would not be provided until the contract is awarded and the subcontractor meets with NYSDOT, the general contractor, security forces, and other stakeholders. Due to this expanded distance and late notification the Coast Guard was unable to include this request within the existing bridge demolition rulemaking (Docket Number USCG–2016–1048) for this bridge replacement project. The safety zone distance is to ensure that persons are not exposed to air overpressure (noise) levels above the 140 decibel impact guidelines under OSHA regulations codified at 29 CFR 1910.95 Table G–16—PERMISSIBLE NOISE EXPOSURES, Footnote 1. The Coast Guard proposes to make this rule enforceable through December 31, 2017, and to a greater distance (2,000 feet) than currently requested (1,200 feet), as a contingency for any unforeseen delays or revisions to the bridge approach spans demolition schedule or safety requirements based upon the final FDNY safety requirements.

The Coast Guard is making this temporary rule effective less than 30 days after publication in the **Federal Register** pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(d)). This provision authorizes an agency to make a rule effective less than 30 days after publication for good cause. We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register** because waiting 30 days would be impracticable and contrary to the public interest. It is impracticable and contrary to the public interest to provide a full 30-days notice because this rule must be effective on July 22 or 23, 2017 to limit delays to NYSDOT and contractor schedules as part of this $555 million dollar infrastructure improvement project. FDNY requires the contractor to conduct the explosives demolition in the early morning hours on a weekend to reduce the impact to vehicle traffic on the bridge. This time frame is also expected

to reduce the impact on vessel traffic in Newtown Creek. If this rule is not made effective by this date, then it would inhibit the Coast Guard's ability to perform its statutory mission to ensure the safety of the maritime public.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP has determined that potential hazards associated with these operations will be a safety concern for anyone within up to 2,000-feet of the existing approach spans to the Kosciuszko Bridge at mile 2.1 over Newtown Creek. The purpose of this rule is to ensure the safety of individuals on the navigable waters within up to 2,000 feet of the approach spans of the existing Kosciuszko Bridge before, during, and after the explosive demolition operations.

IV. Discussion of the Rule

This rule establishes a safety zone from July 22 through December 31, 2017. The safety zone will cover all navigable waters of Newtown Creek within up to 2,000 feet of the existing approach spans to the Kosciuszko Bridge at mile 2.1 over Newtown Creek during the explosive demolition operations. The duration of the zone is intended to ensure the safety of individuals and these navigable waters before, during, and after the explosive demolition operations tentatively scheduled for the early morning hours on July 22 or 23, 2017. Backup dates for these operations are July 29 or 30, August 5 or 6, and August 12 or 13, 2017.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the safety zone. Although vessel traffic will not be able to safely transit around this safety zone, enforcement of the safety zone will be limited in duration. The boundaries of the safety zone will be limited to the length upstream, and downstream, from the bridge as determined by FDNY for the explosives detonation to remain in compliance with existing OSHA Permissible Noise Exposure regulations. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a

category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting approximately three hours that will prohibit entry within a maximum of 2,000 feet of the existing approach spans to the Kosciuszko Bridge. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration (REC) for Categorically Excluded Actions is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0486 to read as follows:

§ 165.T01–0486 Safety Zone; Kosciuszko Bridge Approach Spans Demolition, Newtown Creek, Brooklyn and Queens, NY.

(a) *Location.* The following area is a safety zone: All waters from surface to bottom of Newtown Creek within 2,000 feet of the existing approach spans to the Kosciuszko Bridge at mile 2.1, between a line drawn from the following approximate positions: 40°43′46.7″ N., 073°56′10.5″ W. to 40°43′44.3″ N., 073°56′11.6″ W and from 40°43′22.9″ N., 073°55′29.0″ W. to 40°43′20.3″ N., 073°55′36.0″ W.

(b) *Definitions.* The following definitions apply to this section:

(1) *Designated representative.* A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the COTP to act on his or her behalf. A designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) *Official patrol vessels.* Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(c) *Enforcement periods.* (1) This safety zone is effective from July 22, 2017 to December 31, 2017 but will only be enforced when active approach span demolition operations are in progress.

(2) The Coast Guard will rely on marine broadcasts and local notice to mariners to notify the public of the time and duration that the safety zone will be enforced. Violations of this safety zone may be reported to the COTP at 718–354–4353 or on VHF-Channel 16.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.23, as well as the following regulations, apply.

(2) During periods of enforcement, all persons and vessels must comply with all orders and directions from the COTP or a COTP's designated representative.

(3) During periods of enforcement, upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of the vessel must proceed as directed.

Dated: June 22, 2017.

Michael H. Day,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2017–15694 Filed 7–25–17; 8:45 am]

BILLING CODE 9110–04–P

Proposed Rules

Federal Register
Vol. 82, No. 142
Wednesday, July 26, 2017

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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. FDA–2017–F–3717]

Juice Products Association; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; petition for rulemaking.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that we have filed a petition, submitted by the Juice Products Association, proposing that the food additive regulations be amended to replace the current Recommended Daily Intake (RDI) percentage values of calcium in fruit juices and fruit juice drinks in the regulation for vitamin D_3 with absolute values and to update the specifications for vitamin D_3.

DATES: The food additive petition was filed on June 1, 2017.

ADDRESSES: For access to the docket, 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.

FOR FURTHER INFORMATION CONTACT: Judith Kidwell, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1071.

SUPPLEMENTARY INFORMATION: Under section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(b)(5)), we are giving notice that we have filed a food additive petition (FAP 7A4818), submitted on behalf of the Juice Products Association by Hogan Lovells US LLP, Columbia Square, 555 Thirteenth Street NW., Washington, DC 20004. The petition proposes to amend the food additive regulations in § 172.380 (21 CFR 172.380) *Vitamin D_3* by replacing the current RDI percentage values of calcium in fruit juices and fruit juice drinks specified in § 172.380(c)(1) and (2) with absolute values and to update the specifications for vitamin D_3 established in § 172.380(b) by incorporating by reference the most recent edition of the Food Chemicals Codex.

These proposed changes would allow manufacturers of fruit juices and fruit juice drinks that are fortified with calcium to maintain the absolute level of added calcium at 330 milligrams (mg) and 130 mg, respectively, as established in our regulations at § 172.380(c)(1) and (2).

We have determined under 21 CFR 25.30(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment because the amendments are administrative in nature and permit manufacturers of fruit juices and fruit juice drinks that are fortified with calcium to maintain current calcium fortification levels in these products. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: July 19, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–15535 Filed 7–25–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2017–F–4125]

Zinpro Corp.; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; petition for rulemaking.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that Zinpro Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of zinc-L-selenomethionine as a nutritional source of selenium in complete feed for laying hens and for the safe use of the approved food additive silicon dioxide as an anticaking agent for use with zinc-L-selenomethionine as a feed component.

DATES: The food additive petition was filed on June 1, 2017.

ADDRESSES: For access to the docket, 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.

FOR FURTHER INFORMATION CONTACT: Chelsea Trull, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6729, *chelsea.trull@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 2303) has been filed by Zinpro Corp., 10400 Viking Dr., Suite 240, Eden Prairie, MN 55344. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 (21 CFR part 573) *Food Additives Permitted in Feed and Drinking Water of Animals* to provide for the safe use of zinc-L-selenomethionine as a nutritional source of selenium in complete feed for laying hens and for the safe use of silicon dioxide (21 CFR 573.940) as an anticaking agent for use with zinc-L-selenomethionine as a feed component.

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(r) because it is of a type that does not individually or cumulatively have a significant effect on the human environment. In addition, the petitioner has stated that, to their knowledge, no extraordinary circumstances exist. If FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: July 18, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–15533 Filed 7–25–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 541

RIN 1235–AA20

Request for Information; Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees

AGENCY: Wage and Hour Division, U.S. Department of Labor.

ACTION: Request for information.

SUMMARY: The Department of Labor (Department) is seeking information from the public regarding the regulations located at 29 CFR part 541, which define and delimit exemptions from the Fair Labor Standards Act's minimum wage and overtime requirements for certain executive, administrative, professional, outside sales and computer employees. The Department is publishing this Request for Information (RFI) to gather information to aid in formulating a proposal to revise the part 541 regulations.

DATES: Submit written comments on or before September 25, 2017.

ADDRESSES: To facilitate the receipt and processing of written comments on this RFI, the Department encourages interested persons to submit their comments electronically. You may submit comments, identified by Regulatory Information Number (RIN) 1235–AA20, by either of the following methods:

Electronic Comments: Follow the instructions for submitting comments on the Federal eRulemaking Portal *http://www.regulations.gov.*

Mail: Address written submissions to Melissa Smith, Director of the Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210.

Instructions: This RFI is available through the **Federal Register** and the *http://www.regulations.gov* Web site. You may also access this document via the Wage and Hour Division's (WHD) Web site at *http://www.dol.gov/whd/.* All comment submissions must include the agency name and Regulatory Information Number (RIN 1235–AA20) for this RFI. Response to this RFI is voluntary and respondents need not reply to all questions listed below. The Department requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this RFI. Submit only one copy of your comment by only one method (*e.g.,* persons submitting comments electronically are encouraged not to submit paper copies). Please be advised that comments received will become a matter of public record and will be posted without change to *http://www.regulations.gov,* including any personal information provided. All comments must be received by 11:59 p.m. on the date indicated for consideration in this RFI; comments received after the comment period closes will not be considered. Commenters should transmit comments early to ensure timely receipt prior to the close of the comment period. Electronic submission via *http://www.regulations.gov* enables prompt receipt of comments submitted as the Department continues to experience delays in the receipt of mail in our area. For access to the docket to read background documents or comments, go to the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Melissa Smith, Director of the Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this RFI may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0675 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1 (877) 889–5627 to obtain information or request materials in alternative formats.

Questions of interpretation and/or enforcement of the agency's regulations may be directed to the nearest WHD district office. Locate the nearest office by calling the WHD's toll-free help line at (866) 4US–WAGE ((866) 487–9243) between 8 a.m. and 5 p.m. in your local time zone, or log onto WHD's Web site at *http://www.dol.gov/whd/america2.htm* for a nationwide listing of WHD district and area offices.

SUPPLEMENTARY INFORMATION:

I. Background

The Fair Labor Standards Act (FLSA or Act) generally requires covered employers to pay their employees at least the federal minimum wage (currently $7.25 an hour) for all hours worked, and overtime premium pay of not less than one and one-half times the employee's regular rate of pay for any hours worked over 40 in a workweek. *See* 29 U.S.C. 206(a)(1)(C); 29 U.S.C. 207(a)(1). Section 13(a)(1) of the FLSA, however, exempts from both minimum wage and overtime protection ''any employee employed in a bona fide executive, administrative, or professional capacity'' and expressly delegates to the Secretary of Labor the power to define and delimit these terms through regulation. 29 U.S.C. 213(a)(1). This exemption is frequently referred to as the ''white collar'' exemption.

For more than 75 years, the Department's part 541 regulations implementing the exemptions under Section 13(a)(1) of the Act have generally defined the terms ''bona fide executive, administrative, or professional capacity'' by the use of three criteria. With some exceptions, for an employee to be exempt: (1) The employee must be paid on a salary basis (''salary basis test''); (2) the employee must receive at least a minimum specified salary amount (''salary level test''); and (3) the employee's job must primarily involve executive, administrative, or professional duties as defined by the regulations (''duties test''). *See* 29 CFR part 541.

The Department issued the initial part 541 regulations in October 1938, slightly less than four months after the FLSA became law. 3 FR 2518 (Oct. 20, 1938). These regulations established duties tests for executive, administrative, and professional employees, and also set a minimum compensation requirement of $30 per week for exempt executive and administrative employees. In 1940, the Department revised the part 541 regulations, establishing the salary basis test, retaining a $30 per week salary level for executive employees, and establishing a $50 per week ($200 per month) salary level for administrative and professional employees. 5 FR 4077 (Oct. 15, 1940). The Department again amended the part 541 regulations nine years later, in 1949, establishing a two-tier structure for assessing compliance with the salary level and duties tests. 14 FR 7705, 7706 (Dec. 24, 1949). Employers could satisfy either a ''long'' test based on the previous test—combining a rigorous duties test and lower salary level—or a new ''short'' test—combining an easier duties test

and a higher salary level. The long test duties requirement was more rigorous because it contained a bright-line, 20 percent limit on the amount of time an employee could spend performing non-exempt work.[1] The short test duties requirement, in contrast, did not limit the amount of time an exempt employee could spend on non-exempt duties. The Department reasoned that employees who met this higher salary level would almost always meet the long test duties requirement—including the 20 percent limit on performing non-exempt work. Report and Recommendations on Proposed Revisions of Regulations, Part 541, by Harry Weiss, Presiding Officer, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor (June 30, 1949) at 22–23.

For the next five decades, the Department retained the ''long'' and ''short'' test structure for exemption. The Department updated the salary levels four times between 1958 and 1975. Beginning in 1958, the Department set the lower long test salary level to exclude from the exemption approximately the lowest paid ten percent of employees who passed the long test in low-wage regions, low-wage industries, small establishments, and small towns. *See* Report and Recommendations on Proposed Revision of Regulations, Part 541, Under the Fair Labor Standards Act, by Harry S. Kantor, Presiding Officer, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor (Mar. 3, 1958) at 6–7. The Department followed a similar methodology in 1963 and 1970, setting the salary at a level that excluded a small percentage of employees who satisfied the long test. *See Tentative Decision on Proposed Rule Making Proceedings,* 28 FR 7002, 7004 (July 9, 1963); 35 FR 883, 884 (Jan. 22, 1970). In 1975, the Department set what were intended to be ''interim'' salary levels, adjusting the previous long test salary level for inflation. *See* 40 FR 7091 (Feb. 19, 1975). At each of these updates, the Department also set a short test salary level higher than the long test salary levels. 81 FR 32391, 32401 (May 23, 2016).

Nearly thirty years passed before the Department next updated the part 541 regulations in 2004. By this point the passage of time had eroded the lower long test salary levels below the amount a minimum wage employee earned for a 40-hour workweek, and even the higher short test salary levels were not far above the minimum wage. *See* 69 FR 22122, 22164 (Apr. 23, 2004). Thus, as a practical matter, employers used the short test, with its less rigorous duties requirement, and the long test fell out of operation. In 2004, the Department eliminated the ''long'' and ''short'' test structure and created a new ''standard'' test. Like the old short test duties requirement, the new standard duties test did not limit the amount of non-exempt work an exempt employee could perform. The Department paired the new standard duties test with a salary level test of $455 per week, which excluded from the exemption roughly the bottom 20 percent of salaried employees in the South and in the retail industry. The $455 per week salary level was equivalent to the lower salary level that would have resulted from the methodology the Department previously used to set the lower long test salary levels. *Id.* at 22168. In the same rulemaking, the Department also established a new test for ''highly compensated employees.'' Under this test, if an employee earned at least $100,000 a year he or she needed to satisfy only a very minimal duties test for exemption. *Id.* at 222172–22174.

Twelve years passed before the next update to the part 541 regulations in 2016. One of the Department's primary goals in undertaking the 2016 rulemaking was to update the standard salary level test to reflect increases in actual salary levels nationwide since 2004 and to adjust the standard salary level to fall within the historical range of the short test salary level in light of the absence of the more rigorous long test duties requirement. 81 FR 32399–32400. The Department set the standard salary at a level that would exclude from exemption the bottom 40 percent of salaried workers in the lowest-wage Census Region (currently the South), resulting in an increase from $455 per week to $913 per week. *Id.* at 32405, 32408. No changes were made to the standard duties test. *Id.* at 32444. The Department also established a mechanism for automatically updating the salary level every three years to ensure it remained a meaningful test for helping determine an employee's exempt status. Id. at 32438.[2] The Department published the 2016 Final Rule on May 23, 2016, with an effective date of December 1, 2016.

Litigation challenging the 2016 Final Rule is currently pending before the Fifth Circuit Court of Appeals and in the U.S. District Court for the Eastern District of Texas. By district court order, the Department is enjoined from implementing and enforcing the Final Rule. *See Nevada, et al.,* v. *U.S. Dep't of Labor, et al.,* 218 F. Supp. 3d 520, 534 (E.D. Tex. 2016), appeal pending, No. 16–41606 (5th Cir.). The pending appeal of that order concerns the reasoning of the District Court which would call into question the Department's authority to utilize a salary level test in determining the exempt status of executive, administrative, and professional employees. The Department of Justice, on behalf of the Department, is arguing that 29 U.S.C. 213(a)(1) provides the Secretary of Labor authority to establish a salary level test. As stated in our reply brief filed with the Fifth Circuit, the Department has decided not to advocate for the specific salary level ($913 per week) set in the 2016 Final Rule at this time and intends to undertake further rulemaking to determine what the salary level should be. In light of the pending litigation, the Department has decided to issue this RFI rather than proceed immediately to a notice of proposed rulemaking (NPRM). The Department believes that gathering public input on the questions below will greatly aid in the development of an NPRM and help us move forward with rulemaking in a timely manner.

II. Promoting the Regulatory Reform Agenda

On February 24, 2017, President Donald Trump signed Executive Order 13777, ''Enforcing the Regulatory Reform Agenda.'' In relevant part, Sec. 3(d) of the Order tasks federal agencies to identify regulations for repeal, replacement, or modification that:

(i) eliminate jobs, or inhibit job creation;

(ii) are outdated, unnecessary, or ineffective;

(iii) impose costs that exceed benefits;

[1] The Department had instituted a 20 percent cap on non-exempt work for executive and professional employees in 1940. *See* 5 FR 4077; ''Executive, Administrative, Professional . . . Outside Salesman'' Redefined, Wage and Hour Division, U.S. Department of Labor, Report and Recommendations of the Presiding Officer (Harold Stein) at Hearings Preliminary to Redefinition (Oct. 10, 1940) at 14–15, 40. It added the cap for administrative employees in 1949. *See* 14 FR 7706. In 1961, when Congress expanded FLSA coverage for employees of retail and service establishments, it amended Section 13(a)(1) to provide that exempt employees of such establishments could spend up to 40 percent of their hours worked performing non-exempt work. *See* Pub. L. 87–30, 75 Stat. 65, Sec. 9 (May 5, 1961).

[2] The 2016 rule modified the part 541 regulations to, for the first time, permit nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the standard salary test. *See* 81 FR 32425–32426. The 2016 rule also increased the total annual compensation level for highly compensated employees to the annualized equivalent of the 90th percentile of the weekly earnings of full-time salaried workers nationwide and provides for it to be automatically updated every three years to maintain that level. *Id.* at 32429, 32443.

(iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;

(v) are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or

(vi) derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

Consistent with Executive Order 13777, the Department is reviewing the impact of the 2016 Final Rule's changes to the part 541 regulations with a focus on lowering regulatory burden. This RFI will assist the Department's Regulatory Reform Task Force in evaluating the 2016 Final Rule.

III. Request for Public Comment

The Department is aware of stakeholder concerns that the standard salary level set in the 2016 Final Rule was too high. In particular, stakeholders have expressed the concern that the new salary level inappropriately excludes from exemption too many workers who pass the standard duties test, especially given the lack of a lower long test salary for employers to utilize for lower wage white collar employees. In the 2016 Final Rule the Department estimated that 4.2 million salaried white collar workers would, without some intervening action by their employers, change from exempt to non-exempt status. *See* 81 FR 32393. Concerns expressed by various stakeholders after publication of the 2016 Final Rule that the salary level would adversely impact low-wage regions and industries have further shown that additional rulemaking is appropriate. The Department is publishing this RFI to gather information to aid in formulating a proposal to revise the part 541 regulations.

The Department invites comments on the 2016 revisions to the white collar exemption regulations, including whether the standard salary level set in that rule effectively identifies employees who may be exempt, whether a different salary level would more appropriately identify such employees, the basis for setting a different salary level, and why a different salary level would be more appropriate or effective. In particular, the Department seeks comment on and information relating to the following questions:

1. In 2004 the Department set the standard salary level at $455 per week, which excluded from the exemption roughly the bottom 20 percent of salaried employees in the South and in the retail industry. Would updating the 2004 salary level for inflation be an appropriate basis for setting the standard salary level and, if so, what measure of inflation should be used? Alternatively, would applying the 2004 methodology to current salary data (South and retail industry) be an appropriate basis for setting the salary level? Would setting the salary level using either of these methods require changes to the standard duties test and, if so, what change(s) should be made?

2. Should the regulations contain multiple standard salary levels? If so, how should these levels be set: by size of employer, census region, census division, state, metropolitan statistical area, or some other method? For example, should the regulations set multiple salary levels using a percentage based adjustment like that used by the federal government in the General Schedule Locality Areas to adjust for the varying cost-of-living across different parts of the United States? What would the impact of multiple standard salary levels be on particular regions or industries, and on employers with locations in more than one state?

3. Should the Department set different standard salary levels for the executive, administrative and professional exemptions as it did prior to 2004 and, if so, should there be a lower salary for executive and administrative employees as was done from 1963 until the 2004 rulemaking? What would the impact be on employers and employees?

4. In the 2016 Final Rule the Department discussed in detail the pre-2004 long and short test salary levels. To be an effective measure for determining exemption status, should the standard salary level be set within the historical range of the short test salary level, at the long test salary level, between the short and long test salary levels, or should it be based on some other methodology? Would a standard salary level based on each of these methodologies work effectively with the standard duties test or would changes to the duties test be needed?

5. Does the standard salary level set in the 2016 Final Rule work effectively with the standard duties test or, instead, does it in effect eclipse the role of the duties test in determining exemption status? At what salary level does the duties test no longer fulfill its historical role in determining exempt status?

6. To what extent did employers, in anticipation of the 2016 Final Rule's effective date on December 1, 2016, increase salaries of exempt employees in order to retain their exempt status, decrease newly non-exempt employees' hours or change their implicit hourly rates so that the total amount paid would remain the same, convert worker pay from salaries to hourly wages, or make changes to workplace policies either to limit employee flexibility to work after normal work hours or to track work performed during those times? Where these or other changes occurred, what has been the impact (both economic and non-economic) on the workplace for employers and employees? Did small businesses or other small entities encounter any unique challenges in preparing for the 2016 Final Rule's effective date? Did employers make any additional changes, such as reverting salaries of exempt employees to their prior (pre-rule) levels, after the preliminary injunction was issued?

7. Would a test for exemption that relies solely on the duties performed by the employee without regard to the amount of salary paid by the employer be preferable to the current standard test? If so, what elements would be necessary in a duties-only test and would examination of the amount of non-exempt work performed be required?

8. Does the salary level set in the 2016 Final Rule exclude from exemption particular occupations that have traditionally been covered by the exemption and, if so, what are those occupations? Do employees in those occupations perform more than 20 percent or 40 percent non-exempt work per week?

9. The 2016 Final Rule for the first time permitted non-discretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the standard salary level. Is this an appropriate limit or should the regulations feature a different percentage cap? Is the amount of the standard salary level relevant in determining whether and to what extent such bonus payments should be credited?

10. Should there be multiple total annual compensation levels for the highly compensated employee exemption? If so, how should they be set: by size of employer, census region, census division, state, metropolitan statistical area, or some other method? For example, should the regulations set multiple total annual compensation levels using a percentage based adjustment like that used by the federal

government in the General Schedule Locality Areas to adjust for the varying cost-of-living across different parts of the United States? What would the impact of multiple total annual compensation levels be on particular regions or industries?

11. Should the standard salary level and the highly compensated employee total annual compensation level be automatically updated on a periodic basis to ensure that they remain effective, in combination with their respective duties tests, at identifying exempt employees? If so, what mechanism should be used for the automatic update, should automatic updates be delayed during periods of negative economic growth, and what should the time period be between updates to reflect long term economic conditions?

IV. Conclusion

The Department invites interested parties to submit comments during the public comment period and welcomes any pertinent information that will provide a basis for reviewing the 2016 Final Rule.

Signed at Washington, DC, this 21st day of July 2017.

Patricia Davidson,

Deputy Administrator for Program Operations, Wage and Hour Division.

[FR Doc. 2017–15666 Filed 7–25–17; 8:45 am]

BILLING CODE 4510–27–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Chapter XL

Regulatory Planning and Review of Existing Regulations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Request for information.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is asking for input on what regulatory and deregulatory actions it should be considering as part of its regulatory program. PBGC is committed to a program that provides clear and helpful guidance, minimizes burdens and maximizes benefits, and addresses ineffective and outdated rules. This initiative supports PBGC's ongoing regulatory planning and active retrospective review of regulations and responds to the President's executive order on ''Enforcing the Regulatory Reform Agenda.''

DATES: PBGC requests that comments be received on or before August 25, 2017 to be assured of consideration.

ADDRESSES: Comments, identified by ''Regulatory Planning and Review,'' may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the Web site instructions for submitting comments.
- *Email: reg.comments@pbgc.gov.*
- *Mail or Hand Delivery:* Regulatory Affairs Group, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

Comments received, including personal information provided, will be posted to *www.pbgc.gov.* Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Stephanie Cibinic, Deputy Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington DC 20005–4026; *cibinic.stephanie@pbgc.gov;* 202–326–4400 extension 6352. (TTY and TDD users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400 extension 6352.)

SUPPLEMENTARY INFORMATION:

Background

The Pension Benefit Guaranty Corporation (PBGC) is a federal corporation created under the Employee Retirement Income Security Act of 1974 (ERISA) to guarantee the payment of pension benefits earned by nearly 40 million American workers and retirees in nearly 24,000 private-sector defined benefit pension plans. PBGC administers two insurance programs—one for single-employer defined benefit pension plans and a second for multiemployer defined benefit pension plans. Each program is operated and financed separately from the other, and assets from one cannot be used to support the other. PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusteed by PBGC, and recoveries from the companies formerly responsible for the trusteed plans.

To carry out its mission, PBGC issues regulations interpreting or implementing ERISA on such matters as: how to pay premiums, when reports are due, what benefits are covered by the insurance program, how to terminate a plan, the liability for underfunding, and how multiemployer plan withdrawal liability works. Regulatory objectives and priorities are developed in the context of PBGC's statutory purposes:

- To encourage the continuation and maintenance of voluntary private pension plans;
- To provide for the timely and uninterrupted payment of pension benefits; and
- To keep premiums at the lowest possible levels consistent with carrying out PBGC's obligations under title IV of ERISA.

PBGC intends to issue regulations consistent with its statutory mission of implementing the law and encouraging the continuation and maintenance of defined benefit plans. Thus, PBGC attempts to minimize administrative burdens on plans and participants, improve transparency, simplify filing, provide relief for small businesses, and assist plans to comply with applicable requirements. PBGC is committed to issuing simple, understandable, and timely regulations that help affected parties. PBGC looks to maximize net benefits and actively reviews regulations to identify and ameliorate inconsistencies, inaccuracies, and requirements made irrelevant over time, with the goal that net cost impact is zero or less overall.

PBGC develops its regulatory planning and review under a series of executive orders. E.O. 12866 (issued in 1993) and E.O. 13563 (issued in 2011) direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 also calls for the periodic review of existing regulations to identify any that can be made more effective or less burdensome in achieving regulatory objectives. E.O. 13771 (issued in January 2017) seeks to reduce regulatory requirements and control regulatory costs. This executive order was followed by E.O. 13777 (issued in February 2017), which calls for a Regulatory Reform Task Force (RRTF) in each agency to evaluate existing regulations and make recommendations regarding their ''repeal, replacement, or modification, consistent with applicable law.'' In evaluating regulations, the RRTF should ask for input from persons and entities affected by such regulations.

Request for Input

With an eye toward the Fall iteration of the semi-annual regulatory agenda, PBGC is requesting information, suggestions, and comment from the public—including from plan sponsors, participants, practitioners, organizations representing retirees and plan participants, and other parties participating in or affected by PBGC's programs—on regulatory and deregulatory actions PBGC should take.

To facilitate this request for information, PBGC developed the questions below, the answers to which will help determine whether there are gaps in regulatory guidance where the public believes rulemaking would be beneficial, and help PBGC evaluate the continued effectiveness and usefulness of existing regulations.

To maximize the effectiveness of comments, PBGC suggests that commenters:

- Clearly identify the regulation at issue, providing the Code of Federal Regulations (CFR) citation where available;
- Explain, in as much detail as possible, why they believe regulating in a specific area is necessary or beneficial, or why an existing rule may be outdated, unnecessary, or ineffective; and
- Describe the costs and benefits of taking a particular regulatory or deregulatory action and the data or experience on which the commenter bases a recommendation.

1. Are there areas where PBGC rulemaking or other guidance would clarify or ease the burden of certain statutory requirements on the public? Would tools such as regulatory safe harbors help plans and sponsors comply with applicable requirements, and if so, what areas particularly would benefit from safe harbors?

2. Are there challenges affecting the establishment and maintenance of pension plans or other aspects of the private pension plan system that should be addressed through rulemaking or other guidance?

3. Are there regulations PBGC should modernize that have become outdated? If so, what type of change (*e.g.,* innovations in technology, business or actuarial practices, consumer (worker and retiree) needs) has caused the rules to become outdated? How would PBGC modernize such rules?

4. What, if any, technological developments would relieve the administrative burden of an existing regulation or existing information collection?

5. Are there regulations establishing programs or processes that have not operated as well as expected? If so, what specifically has not worked and why?

6. Are there regulations that are unnecessarily complicated which could be streamlined to achieve regulatory objectives more efficiently?

7. Does PBGC have regulations or information collections (*e.g.,* forms, reports, or notices) that are duplicative or that have conflicting requirements with other agencies, such as the Department of the Treasury, Internal Revenue Service, or Department of Labor?

8. Does PBGC ask for information in forms or on reports that may be stale, duplicative, or unnecessary to achieve a particular statutory purpose or regulatory objective? Are there PBGC-required notices from plans to third parties (such as plan participants) that ask for or relay duplicative information?

9. Has PBGC issued any significant guidance documents (*e.g.,* technical updates, policy statements) that may be outdated, ineffective, or unnecessary to achieve a particular statutory purpose or regulatory objective?

10. Are there regulations that could be tailored to impose less burden on the public? If so, what could be alternative regulatory or other approaches to such rules?

11. Are there regulations that are unnecessary and could be repealed or replaced without impairing a PBGC program's statutory purpose?

12. Are there PBGC regulations that eliminate jobs, or inhibit job creation?

13. Are there any other areas where PBGC could improve its regulations to better accomplish its mission?

These questions are not intended to be exhaustive. Commenters may raise other issues or make suggestions unrelated to these questions that they believe would help PBGC develop a better and more responsive regulatory structure.

Issued in Washington, DC.

W. Thomas Reeder,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2017–15551 Filed 7–25–17; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Chapter I

46 CFR Chapters I and III

49 CFR Chapter IV

[Docket No. USCG–2017–0662]

Navigation Safety Advisory Council—Input To Support Regulatory Reform of Coast Guard Regulations—New Task

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Announcement of new task assignment for the Navigation Safety Advisory Council (NAVSAC); teleconference meeting.

SUMMARY: The U.S. Coast Guard is issuing a new task to the Navigation Safety Advisory Council (NAVSAC). The U.S. Coast Guard is asking NAVSAC to help the agency identify existing regulations, guidance, and collections of information (that fall within the scope of the Council's charter) for possible repeal, replacement, or modification. This tasking is in response to the issuance of Executive Orders 13771, ''Reducing Regulation and Controlling Regulatory Costs; 13777, ''Enforcing the Regulatory Reform Agenda;'' and 13783, ''Promoting Energy Independence and Economic Growth.'' The full Council is scheduled to meet by teleconference on August 16, 2017, to discuss this tasking. This teleconference will be open to the public. The U.S. Coast Guard will consider NAVSAC recommendations as part of the process of identifying regulations, guidance, and collections of information to be repealed, replaced, or modified pursuant to the three Executive Orders discussed above.

DATES: The full Council is scheduled to meet by teleconference on August 16, 2017, from 1 p.m. to 3 p.m. EDT. Please note that this teleconference may adjourn early if the Council has completed its business.

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 August 9, 2017. The number of teleconference lines is limited and will be available on a first-come, first-served basis.

Instructions: Submit comments on the task statement at any time, including orally at the teleconference, but if you want Council members to review your

comments before the teleconference, please submit your comments no later than August 9, 2017. You must include the words ''Department of Homeland Security'' and the docket number for this action. Written comments may also be submitted using the Federal e-Rulemaking Portal at *http://www.regulations.gov.* If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review *Regulations.gov*'s Privacy and Security Notice at *https://www.regulations.gov/privacyNotice.*

Docket Search: For access to the docket or to read documents or comments related to this notice, go to *http://www.regulations.gov,* insert ''USCG–2017–0662'' in the Search box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. George Detweiler, Alternate Designated Federal Officer of the Navigation Safety Advisory Council, telephone (202) 372–1566, or email *george.h.detweiler@uscg.mil.*

SUPPLEMENTARY INFORMATION:

New Task to the Council

The U.S. Coast Guard is issuing a new task to NAVSAC to provide recommendations on whether existing regulations, guidance, and information collections (that fall within the scope of the Council's charter) should be repealed, replaced, or modified. NAVSAC will then provide advice and recommendations on the assigned task and submit a final recommendation report to the U.S. Coast Guard.

Background

On January 30, 2017, President Trump issued Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' Under that Executive Order, for every one new regulation issued, at least two prior regulations must be identified for elimination, and the cost of planned regulations must be prudently managed and controlled through a budgeting process. On February 24, 2017, the President issued Executive Order 13777, ''Enforcing the Regulatory Reform Agenda.'' That Executive Order directs agencies to take specific steps to identify and alleviate unnecessary regulatory burdens placed on the American people. On March 28, 2017, the President issued Executive Order 13783, ''Promoting Energy Independence and Economic Growth.'' Executive Order 13783 promotes the clean and safe development of our Nation's vast energy resources, while at the same time avoiding agency actions that unnecessarily encumber energy production.

When implementing the regulatory offsets required by Executive Order 13771, each agency head is directed to prioritize, to the extent permitted by law, those regulations that the agency's Regulatory Reform Task Force identifies as outdated, unnecessary, or ineffective in accordance with Executive Order 13777. As part of this process to comply with all three Executive Orders, the U.S. Coast Guard is reaching out through multiple avenues to interested individuals to gather their input about what regulations, guidance, and information collections, they believe may need to be repealed, replaced, or modified. On June 8, 2017, the U.S. Coast Guard issued a general notice in the **Federal Register** requesting comments from interested individuals regarding their recommendations, 82 FR 26632. In addition to this general solicitation, the U.S. Coast Guard also wants to leverage the expertise of its Federal Advisory Committees and is issuing similar tasks to each of its Committees. A detailed discussion of each of the Executive orders and information on where U.S. Coast Guard regulations, guidance, and information collections are found is in the June 8th notice.

The Task

NAVSAC is tasked to:

Provide input to the U.S. Coast Guard on all existing regulations, guidance, and information collections that fall within the scope of the Council's charter.

1. One or more subcommittees/working groups, as needed, will be established to work on this tasking in accordance with the Council charter and bylaws. The subcommittee(s) shall terminate upon the approval and submission of a final recommendation to the U.S. Coast Guard from the parent Council.

2. Review regulations, guidance, and information collections and provide recommendations whether an existing rule, guidance, or information collection should be repealed, replaced or modified. If the Council recommends modification, please provide specific recommendations for how the regulation, guidance, or information collection should be modified. Recommendations should include an explanation on how and to what extent repeal, replacement or modification will reduce costs or burdens to industry and the extent to which risks to health or safety would likely increase.

a. Identify regulations, guidance, or information collections that potentially impose the following types of burden on the industry:

i. Regulations, guidance, or information collections imposing administrative burdens on the industry.

ii. Regulations, guidance, or information collections imposing burdens in the development or use of domestically produced energy resources. ''*Burden,*'' *for the purposes of compliance with Executive Order 13783, means* ''*to unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources.*''

b. Identify regulations, guidance, or information collections that potentially impose the following types of costs on the industry:

i. Regulations, guidance, or information collections imposing costs that are outdated (such as due to technological advancement), or are no longer necessary.

ii. Regulations, guidance, or information collections imposing costs which are no longer enforced as written or which are ineffective.

iii. Regulations, guidance, or information collections imposing costs tied to reporting or recordkeeping requirements that impose burdens that exceed benefits. Explain why the reporting or recordkeeping requirement is overly burdensome, unnecessary, or how it could be modified.

c. Identify regulations, guidance, and information collections that the Council believes have led to the elimination of jobs or inhibits job creation within a particular industry.

3. All regulations, guidance, and information collections, or parts thereof, recommended by the Council should be described in sufficient detail (by section, paragraph, sentence, clause, etc.) so that it can readily be identified. Data (quantitative or qualitative) should be provided to support and illustrate the impact, cost, or burden, as applicable, for each recommendation. If the data is not readily available, the Council should include information as to how such information can be obtained either by the Council or directly by the Coast Guard.

Public Participation

All meetings associated with this tasking, both full Council meetings and subcommittee/working groups, are open to the public. A public oral comment period will be held during the August

16, 2017, teleconference. Public comments or questions will be taken at the discretion of the Designated Federal Officer; commenters are requested to limit their comments to 3 minutes. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a commenter. Subcommittee meetings held in association with this tasking will be announced as they are scheduled through notices posted to *http://homeport.uscg.mil/navsac* and uploaded as supporting documents in the electronic docket for this action, [USCG–2017–0662], at *Regulations.gov*.

Michael D. Emerson,

Director, Marine Transportation Systems.

[FR Doc. 2017–15707 Filed 7–25–17; 8:45 am]

BILLING CODE 9110–04–P

Notices

Federal Register
Vol. 82, No. 142
Wednesday, July 26, 2017

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

Notice of Intent To Review Online Homeownership Education Courses for Nationwide Use in the Single Family Housing Section 502 Direct Loan Program

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: First-time homebuyers seeking financing under the Rural Housing Service (RHS or Agency) Single Family Housing Section 502 Direct loan program are required to successfully complete an approved homeownership education course prior to loan closing. While homeownership education providers are generally approved by the Agency at the state level, there are currently two nationally approved online education providers. Through this notice the Agency will consider approving other online education providers on a national level in order to expand the Agency applicants' options and access to approved education providers.

DATES: Online homeownership education providers interested in having their courses reviewed should submit a complete package to the Single Family Housing Direct Loan Division by August 25, 2017.

ADDRESSES: Submissions must be sent electronically to *SFHDIRECTPROGRAM@wdc.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Brooke Baumann, Branch Chief, at *brooke.baumann@wdc.usda.gov* or (202) 690–4250.

SUPPLEMENTARY INFORMATION: Approval will be subject to meeting course criteria, a recommendation by the Agency-selected panel of housing partners, and signoff by the Administrator. Approval will be given as a third preference format unless the education provider is able to demonstrate and document how their online course along with a required supplemented service provides the same level of training and individualized attention as a first or second preference. 7 CFR 3550.11 outlines the order of preference given to homeownership education courses. First preference is given to classroom, one-on-one counseling, or interactive video conference. These formats are generally extensive and require a significant time and participation commitment from the Agency applicants. Second preference is given to interactive home-study or interactive telephone counseling of at least four hours duration. These formats may only be used if the formats under the first preference are not reasonably available. Third preference, which can only be used if all other formats are not reasonably available, is given to online counseling. 7 CFR 3550.11 also outlines the requirements an education provider and its course must meet in order to be approved for use by Agency applicants.

At a minimum, courses submitted for consideration must contain the following topics/content:

- Preparing for homeownership (evaluate readiness to go from rental to homeownership)
- Budgeting (pre- and post-purchase)
- Credit counseling
- Shopping for a home
- Lender differences (predatory lending)
- Obtaining a mortgage (mortgage process, different types of mortgages)
- Loan closing (closing process, documentation, closing costs)
- Post-occupancy counseling (delinquency and foreclosure prevention)
- Life as a homeowner (homeowner warranties, maintenance, and repairs)

Online homeownership education providers interested in having their courses reviewed must provide a complete package consisting of the course background, online login access to the course for the Agency-selected panel, a copy of the completion certification, price sheet, and contact information (name, phone number, and email address).

The Agency-selected panel will base their recommendation on the following considerations:

- The format of the course (*i.e.* classroom, one-on-one counseling, or interactive video conference features that supplement and complement the online course; or, strictly online counseling)
- Certificate of completion
- Fee (should be nominal—approximately $100 or less)
- Duration
- Topics covered
- System features (chat functionality, bookmarks, start/pause/play options, audio playback option, etc.)
- Readability/Comprehension (level of complexity in language used)
- User-friendliness
- Browser-friendliness
- Ability to use mobile devices (phone, tablet, etc.)
- Alternative languages offered (Spanish, etc.)
- Pre/Post assessment of knowledge
- Web site aesthetics
- Section 508 compliancy and reasonable accommodations procedures

A notice of education providers approved through this process will be issued via a memorandum to the Rural Development State Offices. The memorandum will list the format preference assigned to each provider. A copy of the memorandum will be simultaneously emailed to all education providers who applied through this notice.

Approvals are not subject to expiration. However, an approval may be revoked for justifiable cause.

Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for

program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *By mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email: program.intake@usda.gov*.

USDA is an equal opportunity provider, employer, and lender.

Dated: July 18, 2017.

Richard A. Davis,

Acting Administrator, Rural Housing Service.

[FR Doc. 2017–15625 Filed 7–25–17; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Solicitation of Applications for Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year 2017

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS) announces the timeframe to submit pre-applications for Section 514 Farm Labor Housing (FLH) loans and Section 516 FLH grants for the construction of new off-farm FLH units and related facilities for domestic farm laborers and for the purchase and substantial rehabilitation of an existing non-FLH property. The intended purpose of these loans and grants is to increase the number of available housing units for domestic farm laborers. This Notice describes the method used to distribute funds, the application process, and submission requirements.

RHS will publish on its Web site, *http://www.rd.usda.gov/programs-services/farm-labor-housing-direct-loans-grants,* the amount of funding available in Fiscal Year (FY) 2017 based on current appropriations.

The Agency will assign additional points to pre-applications for projects based in or serving census tracts with poverty rates greater than or equal to 20 percent over the last 30 years. This emphasis will support Rural Development's mission of improving the quality of life for rural Americans and commitment to directing resources to those who most need them.

DATES: The deadline for receipt of all applications in response to this Notice is 5:00 p.m., local time to the appropriate Rural Development State Office on September 11, 2017. Rural Development will not consider any application that is received after the deadline unless the date and time is extended by another notice published in the **Federal Register**. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the deadline. Acceptance by a post office or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

ADDRESSES: Applicants wishing to submit an application in response to this Notice must contact the Rural Development State Office serving the State of the proposed off-FLH project in order to receive further information and copies of the application package. You may find the addresses and contact information for each State Office following this web link, *http://www.rd.usda.gov/contact-us/state-offices.* Rural Development will date and time stamp incoming applications to evidence timely receipt and, upon request, will provide the applicant with a written acknowledgment of receipt.

FOR FURTHER INFORMATION CONTACT: Mirna Reyes-Bible, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division, STOP 0781 (Room 1263–S), USDA Rural Development, 1400 Independence Avenue SW., Washington, DC 20250–0781, telephone: (202) 720–1753 (this is not a toll free number.), or via email: *mirna.reyesbible@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Housing Service.

Funding Opportunity Title: NOSA for Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year 2017.

Announcement Type: Solicitation of pre-applications from qualified applicants for FY 2017.

Catalog of Federal Domestic Assistance Numbers (CFDA): 10.405 and 10.427.

Due Date for Applications: September 11, 2017.

A. Federal Award Description

Pre-applications will only be accepted through the date and time listed in this Notice. All awards are subject to availability of funding. Individual requests may not exceed $3 million (total loan and grant). No State may receive more than 30 percent of available FLH funding available in FY 2017.

If there are insufficient applications from around the country to exhaust Sections 514 and 516 funds available, the Agency may then exceed the 30 percent cap per State. Section 516 off-farm FLH grants may not exceed 90 percent of the total development cost (TDC) of the housing as defined in 7 CFR 3560.11.

If leveraged funds are going to be used and are in the form of tax credits, the applicant must include in its pre-application written evidence that a tax credit application has been submitted and accepted by the Housing Finance Agency (HFA). All applications that will receive any leveraged funds must have firm commitments in place within 12 months of the issuance of a ''Notice of Pre-application Review Action,'' Handbook Letter 106 (3560). Applicants without written evidence that a tax credit application has been submitted and accepted by the HFA must certify in writing they will apply for tax credits to the HFA and obtain a firm commitment within 12 months of the issuance of a ''Notice of Pre-application Review Action.''

Rental Assistance (RA) and operating assistance will be available for new construction in FY 2017. Operating assistance is explained at 7 CFR 3560.574 and may be used in lieu of tenant-specific RA in off-FLH projects that serve migrant farm workers as defined in 7 CFR 3560.11, that are financed under Section 514 or Section 516 (h) of the Housing Act of 1949, as amended (42 U.S.C. 1484 and 1486(h) respectively), and otherwise meet the requirements of 7 CFR 3560.574.

In order to maximize the use of our limited supply of FLH funds, if it is financially feasible we may contact eligible NOSA responses selected for an award in point score order starting with the higher scores, with proposals to

modify the transaction's proportions of grants and loan funds. In addition, if funds remain after the highest scoring eligible NOSA responses are selected for awards, we may contact those eligible responses not selected for awards, in point score order starting with the highest scores, to ascertain whether those respondents will accept those remaining funds.

B. Eligibility Information

1. Eligibility

Housing Eligibility—Housing that is constructed with FLH loans and/or grants must meet Rural Development's design and construction standards contained in 7 CFR part 1924, subparts A and C. Once constructed, off-farm FLH must be managed in accordance with 7 CFR part 3560. In addition, off-farm FLH must be operated on a non-profit basis and tenancy must be open to all qualified domestic farm laborers, regardless at which farm they work. Section 514(f)(3) of the Housing Act of 1949, as amended (42 U.S.C. 1484(f)(3)) defines domestic farm laborers to include any person regardless of the person's source of employment, who receives a substantial portion of his or her income from the primary production of agricultural or aqua cultural commodities in the unprocessed or processed stage, and also includes the person's family.

Tenant Eligibility—Tenant eligibility is limited to persons who meet the definition of a ''disabled domestic farm laborer,'' or a ''domestic farm laborer,'' or ''retired domestic farm laborer,'' as defined in 7 CFR 3560.11. Farm workers who are admitted to this country on a temporary basis under the Temporary Agricultural Workers (H–2A Visa) program are not eligible to occupy Sections 514/516 off-farm FLH.

Applicant Eligibility—

(a) To be eligible to receive a Section 516 grant for off-farm FLH, the applicant must be a broad-based non-profit organization, including community and faith-based organizations, a non-profit organization of farm workers, a Federally recognized Indian tribe, an agency or political subdivision of a State or local Government, or a public agency (such as a housing authority). The applicant must be able to contribute at least one-tenth of the TDC from non-Rural Development resources which can include leveraged funds.

(b) To be eligible to receive a Section 514 loan for off-farm FLH, the applicant must be a broad-based non-profit organization, including community and faith-based organizations, a non-profit organization of farm workers, a Federally recognized Indian tribe, an agency or political subdivision of a State or local Government, a public agency (such as a housing authority), or a limited partnership which has a non-profit entity as its general partner, and

(i) Be unable to provide the necessary housing from its own resources;

(ii) Except for State or local public agencies and Indian tribes, be unable to obtain similar credit elsewhere at rates that would allow for rents within the payment ability of eligible residents.

(iii) Broad-based non-profit organizations must have a membership that reflects a variety of interests in the area where the housing will be located.

2. Cost Sharing or Matching—Section 516 grants for off-farm FLH may not exceed 90 percent of the TDC as provided in 7 CFR 3560.562(c)(1).

3. Other Requirements—The following requirements apply to loans and grants made in response to this Notice:

(a) 7 CFR part 1901, subpart E, regarding equal opportunity requirements;

(b) For grants only, 2 CFR parts 200 and 400, which establishes the uniform administrative and audit requirements for grants and cooperative agreements to State and local Governments and to non-profit organizations;

(c) 7 CFR part 1901, subpart F, regarding historical and archaeological properties;

(d) 7 CFR part 1970, regarding environmental review and documentation requirements;

(e) 7 CFR part 3560, subpart L, regarding the loan and grant authorities of the off-farm FLH program;

(f) 7 CFR part 1924, subpart A, regarding planning and performing construction and other development;

(g) 7 CFR part 1924, subpart C, regarding the planning and performing of site development work;

(h) For construction financed with a Section 516 grant, the provisions of the Davis-Bacon Act (40 U.S.C. 276(a)-276(a)-5) and implementing regulations published at 29 CFR parts 1, 3, and 5;

(i) All other requirements contained in 7 CFR part 3560, regarding the Sections 514/516 off-farm FLH programs; and

(j) Please note that grant applicants must obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number and maintain registration in the Central Contractor Registration (CCR) prior to submitting a pre-application pursuant to 2 CFR 25.200(b). In addition, an entity applicant must maintain registration in the CCR database at all times during which it has an active Federal award or an application or plan under consideration by the Agency. Similarly, all recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive compensation in accordance with 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR 170.200(b).

C. Application and Submission Information

1. Pre-Application Submission

The application process will be in two phases: The initial pre-application (or proposal) and the submission of a final application. Only those pre-applications or proposals that are selected for further processing will be invited to submit final applications. In the event that a proposal is selected for further processing and the applicant declines, the next highest ranked unfunded pre-application may be selected for further processing. All pre-applications for Sections 514 and 516 funds must be filed with the appropriate Rural Development State Office and must meet the requirements of this Notice. Incomplete pre-applications will not be reviewed and will be returned to the applicant. No pre-application will be accepted after the deadline unless date and time are extended by another Notice published in the **Federal Register**.

Pre-applications can be submitted either electronically using the FLH Pre-Application form found at *http://www.rd.usda.gov/programs-services/farm-labor-housing-direct-loans-grants* or in hard copy *to the appropriate Rural Development Office where the project will be located. Follow the link to find the appropriate RD Office address for requesting and submitting pre-application* at: *http://www.rurdev.usda.gov/StateofficeAddresses.html.* Applicants are strongly encouraged, but not required, to submit the pre-application electronically. The electronic form contains a button labeled ''Send Form.'' By clicking on the button, the applicant will see an email message window with an attachment that includes the electronic form the applicant filled out as a data file with a .pdf extension. In addition, an auto-reply acknowledgement will be sent to the applicant when the electronic Loan Proposal form is received by the Agency unless the sender has software that will block the receipt of the auto-reply email. The State Office will record pre-

applications received electronically by the actual date and time when all attachments are received at the State Office.

Submission of the electronic Section 514 Loan Proposal form *does not* constitute submission of the entire proposal package which requires additional forms and supporting documentation as listed within this Notice. You may use one of the following three options for submitting the entire proposal package comprising of all required forms and documents. On the Loan Proposal form you can indicate the option you will be using to submit each required form and document.

(a) Electronic Media Option. Submit all forms and documents as read-only Adobe Acrobat files on electronic media such as CDs, DVDs or USB drives. For each electronic device submitted, the applicant should include a Table of Contents of all documents and forms on that device. The electronic media should be submitted to the Rural Development State Office listed in this Notice where the property is located. Any forms and documents that are not sent electronically, including the check for credit reports, must be mailed to the Rural Development State Office.

(b) Email Option. On the Loan Proposal form you will be asked for a submission email address. This email address will be used to establish a folder on the U.S. Department of Agriculture (USDA) server with your unique email address. Once the Loan Proposal form is processed, you will receive an additional email notifying you of the email address that you can use to email your forms and documents. *Please Note:* All forms and documents must be emailed from the same submission email address. This will ensure that all forms and documents that you send will be stored in the folder assigned to that email address. Any forms and documents that are not sent in via the email option must be submitted on an electronic media or in hard copy form to the Rural Development State Office.

(c) Hard Copy Submission to the Rural Development State Office. If you are unable to send the proposal package electronically using either of the options listed above, you may send a hard copy of all forms and documents to the Rural Development State Office where the property is located. Hard copy pre-applications received on or before the deadline date will receive the close of business time of the day received as the receipt time. Hard copy pre-applications must be received by the submission deadline and no later than 5:00 p.m., local time, September 11, 2017. Assistance for filing electronic and hard copy pre-applications can be obtained from any Rural Development State Office.

For electronic submissions, there is a time delay between the time it is sent and the time it is received depending on network traffic. As a result, last-minute submissions sent before the deadline date and time could well be received after the deadline date and time because of the increased network traffic. Applicants are reminded that all submissions received after the deadline date and time will be rejected, regardless of when they were sent.

If a pre-application is accepted for further processing, the applicant must submit a complete, final application, acceptable to Rural Development prior to the obligation of Rural Development funds. If the pre-application is not accepted for further processing the applicant will be notified of appeal rights under 7 CFR part 11.

2. Pre-Application Requirements

(a) The pre-application must contain the following:

(1) A summary page listing the following items. This information should be double-spaced between items and not be in narrative form.

(i) Applicant's name.

(ii) Applicant's Taxpayer Identification Number.

(iii) Applicant's address.

(iv) Applicant's telephone number.

(v) Name of applicant's contact person, telephone number, and address.

(vi) Amount of loan and/or grant requested.

(vii) For grants of Federal financial assistance (including loans and grants, cooperative agreements, etc.), the applicant's Dun and Bradstreet Data Universal Numbering System (DUNS) number and registration in the CCR database in accordance with 2 CFR part 25. As required by the Office of Management and Budget (OMB), all grant applicants must provide a DUNS number when applying for Federal grants, on or after October 1, 2003. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free number at (866) 705–5711 or via the internet at: *http://www.dnb.com/.* Additional information concerning this requirement can be obtained on the *Grants.gov* Web site at *www.grants.gov.* Similarly, applicants may register for the CCR at: *https://www.uscontractorregistration.com/* or by calling (877) 252–2700.

(2) Awards made under this Notice are subject to the provisions contained in an appropriation in FY 2017 that funds FLH.

(3) A narrative verifying the applicant's ability to meet the eligibility requirements stated earlier in this Notice. If an applicant is selected for further processing, Rural Development will require additional documentation as set forth in a Conditional Commitment in order to verify the entity has the legal and financial capability to carry out the obligation of the loan.

(4) Standard Form 424, ''Application for Federal Assistance,'' can be obtained at: *http://www.grants.gov* or from any Rural Development State Office listed in Section VII of this Notice.

(5) For loan pre-applications, current (within 6 months of pre-application date) financial statements with the following paragraph certified by the applicant's designated and legally authorized signer:

> ''I/we certify the above is a true and accurate reflection of our financial condition as of the date stated herein. This statement is given for the purpose of inducing the United States of America to make a loan or to enable the United States of America to make a determination of continued eligibility of the applicant for a loan as requested in the loan application of which this statement is a part.''

(6) For loan pre-applications, a check for $24 from applicants made out to the U.S. Department of Agriculture. This will be used to pay for credit reports obtained by Rural Development.

(7) Evidence that the applicant is unable to obtain credit from other sources. Letters from credit institutions which normally provide real estate loans in the area should be obtained and these letters should indicate the rates and terms upon which a loan might be provided. (**Note:** Not required from State or local public agencies or Indian tribes.)

(8) If a FLH grant is desired, a statement concerning the need for a FLH grant. The statement should include preliminary estimates of the rents required with and without a grant.

(9) A statement of the applicant's experience in operating labor housing or other rental housing. If the applicant's experience is limited, additional information should be provided to indicate how the applicant plans to compensate for this limited experience (*i.e.,* obtaining assistance and advice of a management firm, non-profit group, public agency, or other organization which is experienced in rental management and will be available on a continuous basis).

(10) A brief statement explaining the applicant's proposed method of operation and management (*i.e.,* on-site manager, contract for management

services, etc.). As stated earlier in this Notice, the housing must be managed in accordance with the program's management regulation, 7 CFR part 3560 and tenancy is limited to ''disabled domestic farm laborers,'' ''domestic farm laborers,'' and ''retired domestic farm laborers,'' as defined in 7 CFR 3560.11.

(11) Applicants must also provide:

(i) A copy of, or an accurate citation to, the special provisions of State law under which they are organized, a copy of the applicant's charter, Articles of Incorporation, and by-laws;

(ii) The names, occupations, and addresses of the applicant's members, directors, and officers; and

(iii) If a member or subsidiary of another organization, the organization's name, address, and nature of business.

(12) A preliminary market survey or market study to identify the supply and demand for farm labor housing in the market area. The market area must be clearly identified and may include only the area from which tenants can reasonably be drawn for the proposed project. Documentation must be provided to justify a need within the intended market area for the housing of ''domestic farm laborers,'' as defined in 7 CFR 3560.11. The documentation must take into account disabled and retired farm workers. The preliminary survey should address or include the following items:

(i) The annual income level of farmworker families in the area and the probable income of the farm workers who will likely occupy the proposed housing;

(ii) A realistic estimate of the number of farm workers who remain in the area where they harvest and the number of farm workers who normally migrate into the area. Information on migratory workers should indicate the average number of months the migrants reside in the area and an indication of what type of family groups are represented by the migrants (*i.e.,* single individuals as opposed to families);

(iii) General information concerning the type of labor intensive crops grown in the area and prospects for continued demand for farm laborers;

(iv) The overall occupancy rate for comparable rental units in the area and the rents charged and customary rental practices for these units (*i.e.,* will they rent to large families, do they require annual leases, etc.);

(v) The number, condition, adequacy, rental rates and ownership of units currently used or available to farm workers;

(vi) A description of the units proposed, including the number, type, size, rental rates, amenities such as carpets and drapes, related facilities such as a laundry room or community room and other facilities providing supportive services in connection with the housing and the needs of the prospective tenants such as a health clinic or day care facility, estimated development timeline, estimated TDC, and applicant contribution; and

(vii) The applicant must also identify all other sources of funds, including the dollar amount, source, and commitment status. (**Note:** A Section 516 grant may not exceed 90 percent of the TDC of the housing.)

(13) The applicant must submit a checklist, certification, and signed affidavit by the project architect or engineer, as applicable, for any energy programs listed in Section IV the applicant intends to participate in.

(14) The following forms are required:

(i) A prepared HUD Form 935.2A, ''Affirmative Fair Housing Marketing Plan (AFHM) Multi-Family Housing,'' in accordance with 7 CFR 1901.203(c). The plan will reflect that occupancy is open to all qualified ''domestic farm laborers,'' regardless of which farming operation they work and that they will not discriminate on the basis of race, color, sex, age, disability, marital or familial status or National origin in regard to the occupancy or use of the units. The form can be found at: *http://portal.hud.gov/hudportal/documents/huddoc?id=935-2a.PDF.*

(ii) A proposed operating budget utilizing Form RD 3560–7, ''*Multiple Family Housing Project Budget/Utility Allowance,*'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-7.PDF.*

(iii) An estimate of development cost utilizing Form RD 1924–13, ''*Estimate and Certificate of Actual Cost,*'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD1924-13.PDF.*

(iv) Form RD 3560–30, ''*Certification of no Identity of Interest (IOI),*'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-30.PDF* and Form RD 3560–31, ''*Identity of Interest Disclosure/Qualification Certification,*'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-31.PDF.*

(v) Form HUD 2530, ''*Previous Participation Certification,*'' can be found at: *http://portal.hud.gov/hudportal/documents/huddoc?id=2530.pdf.*

(vi) If requesting RA or Operating Assistance, Form RD 3560–25, ''*Initial Request for Rental Assistance or Operating Assistance,*'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-25.PDF.*

(vii) Form RD 400–4, ''*Assurance Agreement,*'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD400-4.PDF.* Applicants for revitalization, repair, and rehabilitation funding are to apply through the Multifamily Housing Preservation and Revitalization (MPR) Demonstration Program.

(viii) Evidence of compliance with Executive Order 12372. The applicant must send a copy of Form SF–424, ''Application for Federal Assistance'', to the applicant's State clearinghouse for intergovernmental review. If the applicant is located in a State that does not have a clearinghouse, the applicant is not required to submit the form. Applications from Federally recognized Indian tribes are not subject to this requirement.

(15) Evidence of site control, such as an option contract or sales contract. In addition, a map and description of the proposed site, including the availability of water, sewer, and utilities and the proximity to community facilities and services such as shopping, schools, transportation, doctors, dentists, and hospitals.

(16) Preliminary plans and specifications, including plot plans, building layouts, and type of construction and materials. The housing must meet Rural Development's design and construction standards contained in 7 CFR part 1924, subparts A and C and must also meet all applicable Federal, State, and local accessibility standards.

(17) A supportive services plan, which describes services that will be provided on-site or made available to tenants through cooperative agreements with service providers in the community, such as a health clinic or day care facility. Off-site services must be accessible and affordable to farm workers and their families. Letters of intent from service providers are acceptable documentation at the pre-application stage.

(18) A sources and uses statement which shows all sources of funding included in the proposed project. The terms and schedules of all sources included in the project should be included in the sources and uses statement.

(19) A separate one-page information sheet listing each of the ''Pre-Application Scoring Criteria,'' contained in this Notice, followed by a reference to the page numbers of all relevant material and documentation that is contained in the proposal that supports the criteria.

(20) Applicants are encouraged, but not required, to include a checklist of all of the pre-application requirements and to have their pre-application indexed and tabbed to facilitate the review process;

(21) Evidence of compliance with the requirements of the applicable State Housing Preservation Office (SHPO), and/or Tribal Historic Preservation Officer (THPO). A letter from the SHPO and/or THPO where the off-farm labor housing project is located, signed by their designee will serve as evidence of compliance.

D. Pre-Application Review Information

1. *Selection Criteria.* Section 514 FLH loan funds and Section 516 FLH grant funds will be distributed to States based on a national competition, as follows:

(a) Rural Development State Office will accept, review, and score pre-applications in accordance with this Notice. The scoring factors are:

(1) The presence of construction cost savings, including donated land and construction leverage assistance, for the units that will serve program-eligible tenants. The savings will be calculated as a percentage of the Rural Development TDC. The percentage calculation excludes any costs prohibited by Rural Development as loan expenses, such as a developer's fee. Construction cost savings includes, but is not limited to, funds for hard construction costs, and State or Federal funds which are applicable to construction costs. A minimum of 10 percent cost savings is required to earn points; however, if the total percentage of cost savings is less than 10 percent and the proposal includes donated land, two points will be awarded for the donated land. To count as cost savings for purposes of the selection criteria, the applicant must submit written evidence from the third-party funder that an application for those funds has been submitted and accepted points will be awarded in accordance with the following table using rounding to the nearest whole number.

Percentage	Points
75 or more	20
60–74	18
50–59	16
40–49	12
30–39	10
20–29	8
10–19	5
0–9	0

(2) The presence of operational cost savings, such as tax abatements, non-Rural Development tenant subsidies or donated services are calculated on a per-unit cost savings for the sum of the savings. Savings must be available for at least 5 years and documentation must be provided with the application demonstrating the availability of savings for 5 years. To calculate the savings, take the total amount of savings and divide it by the number of units in the project that will benefit from the savings to obtain the per unit cost savings. For non-Rural Development tenant subsidy, if the value changes during the 5-year calculation, the applicant must use the lower of the non-Rural Development tenant subsidy to calculate per unit cost savings. For example, a 10-unit property with 100 percent designated farm labor housing units receiving $20,000 per year non-Rural Development subsidy yields a cost savings of $100,000 ($20,000 × 5 years); resulting to a $10,000 per-unit cost savings ($100,000/10 units). Use the following table to apply points:

Per-unit cost savings	Points
Above $15,000	50
$10,001–$15,000	35
$7,501–$10,000	20
$5,001–$7,500	15
$3,501–$5,000	10
$2,001–$3,500	5
$1,000–$2,000	2

(3) Additional 10 points will be awarded to projects in persistent poverty counties. A county is considered persistently poor if 20 percent or more of its population was living in poverty over the last 30 years (measured by the 1990, 2000 decennial censuses and 2007–2011 American Community Survey 5-year estimates).

(4) Presence of tenant services.

(i) Up to 25 points will be awarded based on the presence of and extent to which a tenant services plan exists that clearly outlines services that will be provided to the residents of the proposed project. These services may include, but are not limited to, transportation related services, on-site English as a Second Language (ESL) classes, move-in funds, emergency assistance funds, homeownership counseling, food pantries, after school tutoring, and computer learning centers.

(ii) Two points will be awarded for each resident service included in the tenant services plan up to a maximum of 10 points. Plans must detail how the services are to be administered, who will administer them, and where they will be administered. All tenant service plans must include letters of intent that clearly state the service that will be provided at the project for the benefit of the residents from any party administering each service, including the applicant.

(5) Energy Initiative Scoring Points (maximum 70 points)

Properties may receive points for energy initiatives in the categories of energy conservation, energy generation, water conservation and green property management. Depending on the scope of work (SOW), properties may earn ''energy initiative'' points (up to a maximum of 70 points) in either one of two categories: (1) New Construction or (2) Purchase and Rehabilitation of an Existing Non-Farm Labor Housing Building. Projects will be eligible for one category of the two, but not both.

Energy programs including LEED for Homes, Green Communities, etc., will each have an initial checklist indicating prerequisites for participation in its energy program. The applicable energy program checklist will establish whether prerequisites for the energy program's participation will be met. All checklists must be accompanied by a signed affidavit by the project architect or engineer stating that the goals are achievable and the project has been enrolled in these programs if enrollment is applicable to that program. In addition, projects that apply for points under the energy generation category must include calculations of savings of energy. Compare property energy usage of three scenarios: (1) Property built to required code of State with no renewables, to (2) property as-designed with commitments to stated energy conservation programs without the use of renewables and (3) property as-designed with commitments to stated energy conservation programs and the use of proposed renewables. Use local average metrics for weather and utility costs and detail savings in kWh and dollars. Provide payback calculations. These calculations must be done by a licensed engineer or credentialed renewable energy provider. Include with application, the provider/engineer's credentials including qualifications, recommendations, and proof of previous work. The checklist, affidavit, calculations and qualifications of engineer/energy provider must be submitted together with the loan application.

Enrollment in EPA Portfolio Manager Program. All projects awarded scoring points for energy initiatives must enroll the project in the EPA Portfolio Manager program to track post-construction energy consumption data. More information about this program may be found at: *http://www.energystar.gov/buildings/facility-owners-and-managers/existing-buildings/use-portfolio-manager.*

(i) Energy Conservation for New Construction or Purchase and

Rehabilitation of an Existing Non-Farm Labor Housing Building (maximum 55 points). Projects may be eligible for up to 55 points when the pre-application includes a written certification by the applicant to participate and achieve certification in the following energy efficiency programs.

The points will be allocated as follows:

• Participation in the EPA's Energy Star for Homes V3 program. (20 points) *http://www.energystar.gov/index.cfm?c=bldrs_lenders_raters.pt_bldr.*

OR

• Participation in the Green Communities program by the Enterprise Community Partners. (30 points) *http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities.*

OR

• Participation in one of the following two programs will be awarded points for certification.

Note: Each program has four levels of certification. State the level of certification that the applicant plans will achieve in their certification:

• LEED for Homes program by the United States Green Building Council (USGBC): *http://www.usgbc.org.*

—Certified Level (30 points), OR
—Silver Level (35 points), OR
—Gold Level (40 points), OR
—Platinum Level (45 points)

Applicant must state the level of certification that the applicant's plans will achieve in their certification in its pre-application.

OR

• Home Innovation's and The National Association of Home Builders (NAHB) ICC 700 National Green Building Standard TM: *http://www.nahb.org/.*

—Green-Bronze Level (30 points), OR
—Silver Level (35 points), OR
—Gold Level (40 points), OR
—Emerald Level (45 points).

Applicant must state the level of certification that the applicant's plans will achieve in their certification in its pre-application.

AND

• Participation in the Department of Energy's Zero Energy Ready program. (8 points) *http://www.energy.gov/eere/buildings/zero-energy-ready-home.*

AND

• Participation in local green/energy efficient building standards. Applicants who participate in a city, county or municipality program, will receive an additional 2 points.

(ii) Energy Conservation for Rehabilitation (maximum 55 points). Pre-applications for the purchase and rehabilitation of non-program MFH and related facilities in rural areas may be eligible to receive 55 points when the pre-application includes a written certification by the applicant to participate in one of the following energy efficiency programs. Again, the certification must be accompanied by a signed affidavit by the project architect or engineer stating that the goals are achievable. Points will be award as follows:

• Participation in the Green Communities program by the Enterprise Community Partners (53 points) *http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities.* At least 30 percent of the points needed to qualify for the Green Communities program must be earned under the Energy Efficiency section of Green Communities.

AND

• Participation in local green/energy efficient building standards. Applicants who participate in a city, county or municipality program, will receive an additional 2 points. The applicant should be aware of and look for additional requirements that are sometimes embedded in the third-party program's rating and verification systems. (2 points)

(iii) Energy Generation (maximum 7 points). Pre-applications for new construction or purchase and rehabilitation of non-program multi-family projects which participate in the above mentioned programs and receive at least 20 points in the point allocations above are eligible to earn additional points for installation of on-site renewable energy sources. Energy analysis of preliminary building plans using industry-recognized simulation software must document the projected total energy consumption of all of the building components and building site usage. Projects with an energy analysis of the preliminary or rehabilitation building plans that propose a 10 percent to 100 percent energy generation commitment (where generation is considered to be the total amount of energy needed to be generated on-site to make the building a net-zero consumer of energy) will be awarded points as follows:

• 0 to 9 percent commitment to energy generation receives 0 points.
• 10 to 20 percent commitment to energy generation receives 1 point.
• 21 to 40 percent commitment to energy generation receives 2 points.
• 41 to 60 percent commitment to energy generation receives 3 points.
• 61 to 80 percent commitment to energy generation receives 4 points.
• 81–100 percent or more commitment to energy generation receives 5 points.

Projects may participate in Power Purchase Agreements or Solar Leases to achieve their on-site renewable energy generation goals provided that the financial obligations of the lease/purchase agreements are clearly documented and included in the application, and qualifying ratios continue to be achieved.

An additional (2) points will be awarded for off-grid systems, or elements of systems, provided that at least 5 percent of on-site renewable system is off-grid. See *www.dsireusa.org* for State and local specific incentives and regulations of energy initiatives.

(iv) Water Conservation in Irrigation Measures (maximum 3 points). Projects may be awarded 3 points for the use of an engineered recycled water (gray water or storm water) for landscape irrigation covering 50 percent or more of the property's site landscaping needs.

(v) Property Management Credentials (maximum 5 points). Projects may be awarded an additional 5 points if the designated property management company or individuals that will assume maintenance and operations responsibilities upon completion of construction work have a Credential for Green Property Management. Credentialing can be obtained from the National Apartment Association (NAA), National Affordable Housing Management Association, The Institute for Real Estate Management, U.S. Green Building Council's Leadership in Energy and Environmental Design for Operations and Maintenance (LEED OM), or another source with a certifiable credentialing program. Credentialing must be illustrated in the resume(s) of the property management team and included with the pre-application.

The National Office will rank all pre-applications nationwide and distribute funds to States in rank order, within funding and RA limits. When proposals have an equal score, preference will be given first to Indian tribes as defined in § 3560.11 and then local non-profit organizations or public bodies whose principal purposes include low-income housing that meet the conditions of § 3560.55(c) and the following conditions:

• Is exempt from Federal income taxes under section 501(c)(3) or 501(c)(4) of the Internal Revenue code;
• Is not wholly or partially owned or controlled by a for-profit or limited-profit type entity;
• Whose members, or the entity, do not share an identity of interest with a for-profit or limited-profit type entity;

• Is not co-venturing with another entity; and

• The entity or its members will not be receiving any direct or indirect benefits pursuant to Low Income Housing Tax Credits.

If there are two or more applications that have the same score and both cannot be funded, a lottery in accordance with 7 CFR 3560.56(c) (2) will be used to break the tie. If insufficient funds or RA remain for the next ranked proposal, that applicant will be given a chance to modify their pre-application to bring it within remaining funding levels. This will be repeated for each next ranked eligible proposal until an award can be made or the list is exhausted.

Rural Development will notify all applicants whether their applications have been accepted or rejected and provide appeal rights under 7 CFR part 11, as appropriate.

E. Federal Award Administration Information

1. Federal Award Notices

Loan applicants must submit their initial applications by the due date specified in this Notice. Once the applications have been scored and ranked by the National Office, the National Office will advise State Offices of the proposals selected for further processing, State Offices will respond to applicants by letter.

If the application is not accepted for further processing, the applicant will be notified of appeal rights under 7 CFR part 11.

2. Administrative and National Policy

All Farm Labor Housing loans and grants are subject to the restrictive-use provisions contained in 7 CFR 3560.72(a) (2).

3. Reporting

Borrowers must maintain separate financial records for the operation and maintenance of the project and for tenant services. Tenant services will not be funded by Rural Development. Funds allocated to the operation and maintenance of the project may not be used to supplement the cost of tenant services, nor may tenant service funds be used to supplement the project operation and maintenance. Detailed financial reports regarding tenant services will not be required unless specifically requested by Rural Development, and then only to the extent necessary for Rural Development and the borrower to discuss the affordability (and competitiveness) of the service provided to the tenant. The project audit, or verification of accounts on Form RD 3560–10, ''*Borrower Balance Sheet,*'' together with an accompanying Form RD 3560–7, ''*Multiple Family Housing Project Budget Utility Allowance,*'' must allocate revenue and expense between project operations and the service component.

F. Equal Opportunity and Non-Discrimination Requirements

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program. Political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARTET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at: *http://www.ascr.usda.gov/complaint_filing_cust.html,* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of a complaint form, call, (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email at: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Exceptions to Including the Full USDA Non-Discrimination Statement.

If the size of the material is too small to include the full statement, the material will at a minimum, include the following statement in print in the same size as the text:

''USDA is an equal opportunity provider, employer, and lender.'' Where appropriate, a recipient may state:

''This institution in an equal opportunity provider.''

Dated: July 18, 2017.

Rich A. Davis,

Acting Administrator, Rural Housing Service.

[FR Doc. 2017–15626 Filed 7–25–17; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–967, C–570–968]

Aluminum Extrusions From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping and Countervailing Duty Orders and Rescission of Minor Alterations Anti-Circumvention Inquiry

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

SUMMARY: The Department of Commerce (the Department) determines that heat-treated extruded aluminum products that meet the chemical specifications for 5050-grade aluminum alloy, regardless of producer, exporter, or importer, constitute later-developed merchandise, and are circumventing the antidumping (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (PRC). The Department also rescinds its minor alterations anti-circumvention inquiry.

DATES: Effective July 26, 2017.

FOR FURTHER INFORMATION CONTACT: Scott Hoefke or Erin Kearney, AD/CVD Operations, Office VI, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4947 or (202) 482–0167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 21, 2016, the Department published its notice of initiation of this anti-circumvention inquiry.[1] The Department published the *Preliminary*

[1] *See Aluminum Extrusions from the People's Republic of China: Initiation of Anti-Circumvention Inquiry,* 81 FR 15039 (March 21, 2016) (*Initiation Notice*).

Determination of the anti-circumvention inquiry of aluminum extrusions from the PRC on November 14, 2016.[2]

A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.[3] 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,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Orders

The merchandise covered by the *Orders* are aluminum extrusions from the People's Republic of China. The merchandise subject to the orders are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS): 6603.90.8100, 7616.99.51, 8479.89.94, 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 9031.90.90.95, 7616.10.90.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

Products subject to these O*rders* may also enter under HTSUS: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTSUS chapters. Subject merchandise may also enter under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.[4]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this inquiry are addressed in the Issues and Decision Memorandum. A list of these issues is attached in the Appendix to this notice.

Final Affirmative Determination of Circumvention

In accordance with 781(d) of the Tariff Act of 1930, as amended (the Act), we continue to find that all imports from the PRC of heat-treated extruded aluminum products that meet the chemical specifications for 5050-grade aluminum alloy, regardless of producer, exporter, or importer, constitute later-developed merchandise that is circumventing, and should be included within, the scope of the *Orders.*[5]

Rescission of Minor Alterations Anti-Circumvention Inquiry

In light of the Department's final affirmative determination of circumvention pursuant to section 781(d) of the Act, the Department rescinds its minor alterations anti-circumvention inquiry pursuant to section 781(c) of the Act.

Suspension of Liquidation

In accordance with 19 CFR 351.225(l)(2), the Department will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of inquiry merchandise from the PRC (regardless of producer, exporter, or importer), entered, or withdrawn from warehouse, for consumption, on or after March 21, 2016, the date of publication of the initiation of this inquiry, until appropriate liquidation instructions are issued.[6] The Department will also instruct CBP to continue to require a cash deposit of estimated duties at the rate applicable to the exporter on all unliquidated entries of inquiry merchandise entered, or withdrawn from warehouse, for consumption on or after March 21, 2016.

Certification Requirement

In light of the Department's preliminary finding of circumvention, the Department considered whether to require importers of certain aluminum extrusions who claim the imported merchandise is not subject to the *Orders* to certify that the aluminum extrusions were not produced from heat-treated 5050-grade aluminum alloy. Based on the Department's analysis of comments received, the Department will not

[2] *See Aluminum Extrusions from the People's Republic of China: Initiation of Anti-Circumvention Inquiry: Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders and Intent To Rescind Minor Alterations Anti-Circumvention Inquiry,* 81 FR 79444 (November 14, 2016) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum. *See also Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order,* 76 FR 30650 (May 26, 2011) *and Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order,* 76 FR 30653 (May 26, 2011) (collectively, the *Orders*).

[3] *See* Memorandum re: Anti-Circumvention Inquiry Regarding the Antidumping Duty and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Issues and Decision Memorandum (Issues and Decision Memorandum), dated concurrently with this determination and hereby adopted by this notice.

[4] For a complete description of the scope of the *Orders, see* the ''Scope of the *Orders,*'' in Issues and Decision Memorandum.

[5] *See* section 781(d) of the Act and 19 CFR 351.225(j).

[6] *See Initiation Notice.*

require importers to maintain a certification at this time.[7]

Notification to the International Trade Commission

As discussed in the Issues and Decision Memorandum, because the Department has determined, for purposes of sections 781(d)(1) and (e) of the Act, that the later-developed inquiry merchandise does not incorporate a significant technological advance or significant alteration of an earlier product, the Department did not notify the International Trade Commission of its proposed inclusion of the inquiry merchandise within the *Orders.*

This affirmative anti-circumvention determination is published in accordance with section 781(d) of the Act and 19 CFR 351.225.

Dated: July 20, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the 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 Orders
IV. Merchandise Subject to the Anti-Circumvention Inquiry
V. Discussion of the Issues
  1. The Department's Authority To Conduct an Anti-Circumvention Inquiry
  2. Later-Developed Merchandise and Commercial Availability
  3. Scope Exclusion
  4. Country-Wide Ruling
  5. Certification Requirement
  6. Effective Cash Deposit Date
VI. Rescission of Minor Alterations Anti-Circumvention Inquiry
VII. Recommendation

[FR Doc. 2017–15683 Filed 7–25–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF535

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Gary Paxton Industrial Park Dock Modification Project

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

ACTION: Proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from the City and Borough of Sitka (CBS) for authorization to take marine mammals incidental to modifying the Gary Paxton Industrial Park (GPIP) dock in Sawmill Cove, Alaska. 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.

DATES: Comments and information must be received no later than August 25, 2017.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Daly@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 *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* 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: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the applications and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such 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.

NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity:

(1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) directly displacing subsistence users; or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and

(2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

[7] *See* Issues and Decision Memorandum, at Comment 4, for further detail.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action with respect to environmental consequences on the human environment.

Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review. This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. We will review all comments submitted in response to this notice prior to concluding our NEPA process and making a final decision on the IHA request.

Summary of Request

On May 8, 2017, NMFS received a request from CBS for an IHA to take marine mammals incidental to the GPIP dock modification project in Sawmill Cove, Alaska. On May 26, 2017, NMFS requested additional information and CBS submitted a revised application on June 21, 2017, which NMFS deemed adequate and complete. CBS's request is for harassment only and NMFS concurs that serious injury or mortality is not expected to result from this activity. Therefore, an IHA is appropriate.

CBS is requesting take, by Level A and B harassment, of six species of marine mammals incidental to pile driving and removal within Sawmill Cove, Alaska. Pile driving and removal would occur for 16 days from October 1 through December 31, 2017. No subsequent IHAs would be necessary to complete the project.

Description of Proposed Activity

Overview

CBS is modifying an existing marine and commercial industrial site by removing existing aging docks and installing a new floating dock, small craft float, and transfer bridge. To do so, CBS must remove existing abandoned, creosote-treated piles and install new piles. Pile driving and pile removal associated with this work may result in auditory injury (Level A harassment) and behavioral harassment (Level B harassment). All pile driving and removal would take place at the existing dock facility and occur for 16 days. The purpose of the project is to provide deep water port access, meet modern safety standards, and promote marine commerce in the region.

Dates and Duration

The proposed IHA would be valid from October 1 through December 31, 2017. Removing old timber piles with a vibratory hammer could occur for up to 5 hours per day for 6 days. Removing the temporary template piles could occur for up to 1 hour on 2 additional days. Vibratory pile driving could occur for up to 2 hours per day for 6 days to install the permanent piles while impact pile driving could occur for up to 10 minutes a day for proofing following vibratory pile driving. In total, pile activities are expected to occur for 16 days from October 1 through December 31, 2017.

Specified Geographic Region

Sawmill Cove is a small body of water located near Sitka, Alaska at the mouth of Silver Bay, which opens to the Sitka Sound and Gulf of Alaska (see figures 1 and 2 in application). Bathymetry in Sawmill Cove shows a fairly even seafloor that gradually falls to a depth of approximately 50 feet (ft) (15 meters (m)). To the southeast, Silver Bay is approximately 0.5 miles (mi) (0.8 kilometers (km)) wide, 5.5 mi (8.9 km) long, and 150–250 ft (46–76 m) deep. The bay is uniform with few rock outcroppings or islands. To the southwest, the Eastern Channel opens to Sitka Sound, dropping off to depths of 400 ft (120 m) approximately 1.6 km (1 mi) southwest of the project site.

Sawmill Cove is an active marine commercial and industrial area. The dock footprint is previously disturbed with abandoned dock structures associated with the former Alaska Pulp Mill. Silver Bay Seafoods' processing plant is located adjacent to the project site. This plant processes herring and salmon (primarily pink salmon).

Detailed Description of Specific Activities

The purpose of the project is to construct a multipurpose docking area that will serve a wide variety of vessels, provide deep water port access to the GPIP, meet modern standards for safety, and promote marine commerce in the region. The proposed work includes removing 280 abandoned creosote-treated piles located in shallow water, installing a large floating deep-water dock (a repurposed barge measuring 250 ft (76.2 m) × 74 ft (22.6 m) × 19 ft (5.8 m)), small craft float (12 ft (3.7 m) × 100 ft (30.5 m)), and v-shaped float (see Figure 4 and 5 in CBS's application). For access, CBS would also construct a transfer bridge and gangway. To stabilize the shoreline, CBS would install an abutment and retaining wall. Materials and equipment, including the floating dock, would be transported to the project site by barge. While work is conducted in the water, anchored barges would be used to stage construction materials and equipment.

Pile removal and installation are the only activities that may harass marine mammals. To facilitate the work, CBS would construct two dolphin structures to support the floating dock. Each dolphin requires 6 temporary 30-in steel piles to act as a template for installing the permanent piles, 2 permanent 30-in steel batter piles (piles driven at an angle with the vertical to resist a lateral force) to act as the ''legs'' of the dolphin, and a single 48-in vertical steel piles which would constitute the center of the dolphin structure. CBS would use an ICE 44B vibratory hammer (12,450 pounds static weight) and a Delmag D46 diesel hammer (max energy 107,280 ft-pounds) to install piles. The existing old timber piles (12-in and 16-in timber) associated with the old dock would be removed by the vibratory hammer if they cannot be pulled out mechanically. The 12 temporary piles used for the template would also be removed following dock completion.

The six permanent piles (four 30-in and two 48-in) would be driven through approximately 60–70 ft (18–21 m) of unconsolidated sand with a vibratory hammer operated at a reduced energy setting, impacted into bedrock, and then anchored into 25–40 ft (7.6–12.2 m) of bedrock with a rock anchor drill and grout. To anchor the piles, a 10-inch casing would be inserted in the center of the pile and a 15.2 centimeter (cm) (6-in) rock anchor drill would be lowered into the casing and used to drill into bedrock. Rock fragments would be removed through the top of the casing. Finally, the drill and casing would be removed and the hole would be filled with grout to secure the pile to bedrock. The casing acts like a cofferdam and would block noise; therefore, drilling is not expected to result in harassment and is not discussed further.

CBS would use only a vibratory hammer to install the 12 temporary template piles (*i.e.,* no impact hammering). Once the project is complete, CBS would remove all 12 temporary piles with the vibratory hammer.

The duration of pile driving and removal varies by pile type (see Table 1 in CBS's application). CBS would remove up to 60 of the old timber piles

per day with a vibratory hammer (5 minutes for each pile) if they cannot be removed mechanically. In total, removing the timber piles could require using a vibratory hammer for up to 5 hours per day for 6 days. Installing each of the 30-inch temporary piles used to set the template would require 30 minutes of vibratory driving and CBS anticipates installing up to 6 per day (3 hours total). Removing each of these piles is anticipated to take 10 minutes per pile for a total of 1 hour per day. Installing the permanent 30-in piles used to construct each dolphin would require approximately 2 hours of vibratory driving followed by 10 minutes (400 strikes) of impact hammering; one 30-in pile would be installed per day. The 48-in piles require similar installation periods (a maximum 2 hours of vibratory followed by 10 minutes (400 strikes) of impact); one pile would be installed per day. The project schedule is set such that pile driving would occur, at minimum, every other day when the permanent piles are installed (*i.e.,* there would be at least one day break between installing each pile where other activities such as welding would occur). CBS would do the work from October 1 through December 31, 2017.

CBS would carry out pile driving in a manner designed to reduce impacts to marine mammals. The 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 (SAR; *www.nmfs.noaa.gov/pr/sars/*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's Web site (*www.nmfs.noaa.gov/pr/species/mammals/*).

Table 1 lists all species with expected potential for occurrence in Sawmill Cove and Silver Bay and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). 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. 2016 SARs (*e.g.,* Muto et al. 2017). All values presented in Table 1 are the most recent available at the time of publication and are available in the 2016 SARs (Muto et al., 2017).

NMFS identifies 14 species may potentially occur in the action area: humpback whale (*Megaptera novaeangliae*), fin whale (*Balaenoptera physalis*), North Pacific right whale (*Eubalaena japonica*), gray whale (*Eschrichtius robustus*), minke whale (*Balaenoptera acutorostrata*), sperm whale (*Physeter macrophalus*), killer whale (*Orcinus orca),* Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), Cuvier's beaked whale (*Ziphius cavirostris*), harbor porpoise (*Phocoena phocoena*), Dall's porpoise (*P. dalli*), Steller sea lion (*Eumetopias jubatus*), Northern fur seal (*Callorhinus ursinus*) and Pacific harbor seal (*Phoca vitulina*). Of these, one pinniped (Northern fur seal) and eight cetacean species and are considered extralimital species (*i.e.,* those that do not normally occur in a given area but for which there are one or more occurrence records): The North Pacific right whale, gray whale, minke whale, fin whale, sperm whale, Cuvier's beaked whale, Pacific white-sided dolphin, and Dall's porpoise (Straley and Pendall, 2017). Given this, no take is requested for these species and they are not considered further in this proposed IHA.

TABLE 1—MARINE MAMMALS EXPECTED TO OCCUR WITHIN THE ACTION AREA, SITKA

Common name	Scientific name	MMPA Stock	ESA/MMPA status; strategic (Y/N)[1]	Stock abundance Nbest, (CV, N_{min}, most recent abundance survey)[2]	Occurrence	PBR	Annual M/SI[3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)							
Family Balaenidae							
Humpback whale	*Megaptera novaeangliae*	Central North Pacific	E, D,Y	10,103 (0.3, 7,890, 2006)	Frequent	83	21
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)							
Family Delphinidae							
Killer whale	*Orcinus orca*	Alaska Resident	-, N	2,347 (N/A, 2,347, 2012)[4]	Infrequent	23.4	1
		Northern Resident	-, N	261 (N/A, 261, 2011)[4]		1.96	0
		Gulf of Alaska, Aleutian Islands, Bering Sea Transient.	-, N	587 (N/A, 587, 2012)[4]		5.9	0.6
		West Coast Transient	-, N	243 (N/A, 243, 2009)[4]		2.4	1
Family Phocoenidae							
Harbor porpoise	*Phocoena phocoena*	Southeast Alaska	-, Y	975 (0.10, 896, 2012)[5]	Infrequent	8.9[5]	34[5]

TABLE 1—MARINE MAMMALS EXPECTED TO OCCUR WITHIN THE ACTION AREA, SITKA—Continued

Common name	Scientific name	MMPA Stock	ESA/MMPA status; strategic (Y/N)† [1]	Stock abundance Nbest, (CV, N_{min}, most recent abundance survey) [2]	Occurrence	PBR	Annual M/SI [3]
Order Carnivora—Superfamily Pinnipedia							
Family Otariidae (eared seals and sea lions)							
Steller sea lion	*Eumatopia jubatus*	Western U.S.	E, D; Y	49,497 (N/A, 49,497, 2014).	Common	297	233
		Eastern U.S.	-, D, Y	60,131–74,448 (N/A, 36,551, 2013)		1,645	92.3
Family Phocidae (earless seals)							
Harbor seal		Sitka/Chatham Straight	-, N	14,855 (-,13,212, 2011)	Common	555	77

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

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable (N/A).

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike).

[4] N is based on counts of individual animals identified from photo-identification catalogs.

[5] In the SAR for harbor porpoise (NMFS 2017), NMFS identified population estimates and PBR for porpoises within inland Southeast Alaska waters (these abundance estimates have not been corrected for g(0); therefore, they are likely conservative). The calculated PBR is considered unreliable for the entire stock because it is based on estimates from surveys of only a portion (the inside waters of Southeast Alaska) of the range of this stock as currently designated. The Annual M/SI is for the entire stock, including coastal waters.

Pinnipeds

Steller Sea Lion

The Steller sea lion is the largest of the eared seals, ranging along the North Pacific Rim from northern Japan to California, with centers of abundance and distribution in the Gulf of Alaska and Aleutian Islands. Steller sea lions were listed as threatened range-wide under the ESA on November 26, 1990 (55 FR 49204). Subsequently, NMFS published a final rule designating critical habitat for the species as a 20 nautical mile buffer around all major haul-outs and rookeries, as well as associated terrestrial, air and aquatic zones, and three large offshore foraging areas (58 FR 45269; August 27, 1993). In 1997, NMFS reclassified Steller sea lions as two distinct population segments (DPSs) based on genetic studies and other information (62 FR 24345; May 5, 1997). Steller sea lion populations that primarily occur west of 144° W. (Cape Suckling, Alaska) comprise the western DPS (wDPS), while all others comprise the eastern DPS (eDPS); however, there is regular movement of both DPSs across this boundary (Jemison *et al.* 2013). Upon this reclassification, the wDPS became listed as endangered while the eDPS remained as threatened (62 FR 24345; May 5, 1997). In November 2013, the eDPS was delisted (78 FR 66140). Based on recent observations of branded animals in Southeast Alaska, NMFS estimates that 98 percent of Steller seas lion occurring within the action area belong to the eDPS, leaving 2 percent to the wDPS (Suzie Teerlink, pers. comm, May 19, 2017). The current abundance estimate for the eDPS in Alaska is between 60,131–74,448, and 49,497 animals for the wDPS (Muto *et al.* 2017).

Steller sea lions forage in nearshore and pelagic waters where they are opportunistic predators. They feed primarily on a wide variety of fishes and cephalopods. Because the action area contains a herring processing plant, animals may linger in the area to feed opportunistically. However, strong residency time may be limited because the plant does not operate from October through March (when pile activities would occur). Anecdotal evidence from staff at the fish processing plant indicate that multiple (up to 10) Steller sea lions may reside in the area for multiple days (pers. comm, Solstice, July 5, 2017).

Steller sea lions use terrestrial haulout sites to rest and take refuge. They also gather on well-defined, traditionally used rookeries to pup and breed. These habitats are typically gravel, rocky, or sand beaches; ledges; or rocky reefs. There are no established haul-outs in the action area; however, individuals in the action area may rest on rocks and along the shoreline intermittently. No critical habitat for this species is designated in Southeast Alaska.

Steller sea lions are included in Alaska subsistence harvests. Since subsistence harvest surveys began in 1992, the number of households hunting and harvesting sea lions has remained relatively constant at low levels (Wolf *et al.* 2013). In 2012, the community of Sitka had an estimated subsistence take of 1 Steller sea lion (Wolf *et al.* 2013).

Harbor Seal

Harbor seals range from Baja California north along the west coasts of Washington, Oregon, California, British Columbia, and Southeast Alaska; west through the Gulf of Alaska, Prince William Sound, and the Aleutian Islands; and north in the Bering Sea to Cape Newenham and the Pribilof Islands. They haul out on rocks, reefs, beaches, and drifting glacial ice, and feed in marine, estuarine, and occasionally fresh waters. Harbor seals are generally non-migratory, with local movements associated with such factors as tides, weather, season, food availability, and reproduction.

Harbor seals in Alaska are partitioned into 12 separate stocks based largely on genetic structure: (1) The Aleutian Islands stock, (2) the Pribilof Islands stock, (3) the Bristol Bay stock, (4) the North Kodiak stock, (5) the South Kodiak stock, (6) the Prince William Sound stock, (7) the Cook Inlet/Shelikof stock, (8) the Glacier Bay/Icy Strait stock, (9) the Lynn Canal/Stephens Passage stock, (10) the Sitka/Chatham stock, (11) the Dixon/Cape Decision stock, and (12) the Clarence Strait stock. Only the Sitka/Chatham stock is considered in this proposed IHA. The range of this stock includes Cape Bingham south to Cape Ommaney and the adjacent coastal and inshore waters, including the project area.

Within the action area, harbor seals are present year round with peak abundance February through April (Straley and Pendell 2017). Monthly group size ranges from 0–5 animals but

in low numbers. Average group size is 1–2 individuals (Straley and Pendell 2017). Similar to Steller sea lions, harbor seals may linger in the action area for multiple days; however, no designated haul-outs are within close proximity.

Harbor seals are included in Alaska subsistence harvests. Since subsistence harvest surveys began in 1992, there have been declines in the number of households hunting and harvesting seals in Southeast Alaska (Wolf et al. 2013). In 2012, the community of Sitka had an estimated subsistence take of 49 harbor seals (Wolf *et al.* 2013).

Cetaceans

Humpback Whale

The humpback whale is distributed worldwide in all ocean basins. In winter, most humpback whales occur in the subtropical and tropical waters of the Northern and Southern Hemispheres, and migrate to high latitudes in the summer to feed. The historic summer feeding range of humpback whales in the North Pacific encompassed coastal and inland waters around the Pacific Rim from Point Conception, California, north to the Gulf of Alaska and the Bering Sea, and west along the Aleutian Islands to the Kamchatka Peninsula and into the Sea of Okhotsk and north of the Bering Strait (Johnson and Wolman 1984).

Under the MMPA, there are three stocks of humpback whales in the North Pacific: (1) The California/Oregon/Washington and Mexico stock, consisting of winter/spring populations in coastal Central America and coastal Mexico which migrate to the coast of California to southern British Columbia in summer/fall; (2) the central North Pacific stock, consisting of winter/spring populations of the Hawaiian Islands which migrate primarily to northern British Columbia/Southeast Alaska, the Gulf of Alaska, and the Bering Sea/Aleutian Islands; and (3) the western North Pacific stock, consisting of winter/spring populations off Asia which migrate primarily to Russia and the Bering Sea/Aleutian Islands. The central North Pacific stock is the only stock that is found near the project activities.

On September 8, 2016, NMFS published a final rule dividing the globally listed endangered species into 14 DPSs, removing the worldwide species-level listing, and in its place listing four DPSs as endangered and one DPS as threatened (81 FR 62259; effective October 11, 2016). Two DPSs (Hawaii and Mexico) are potentially present within the action area. The Hawaii DPS is not listed and the Mexico DPS is listed as threatened under the ESA. The Hawaii DPS is estimated to contain 11,398 animals where the Mexico DPS is estimated to contain 3,264 animals.

Within the action area, humpback whales are seen most frequently from September through February although sighting may extend into April (Straley and Pendell 2017). Survey data indicates that the typical group size for humpback whales in the area is between 2 and 4 whales, and approximately 2.18 whales occur in the area per day. The maximum group size is unknown. When present in the area, humpback whales are foraging primarily on herring.

Killer Whale

Killer whales have been observed in all oceans and seas of the world, but the highest densities occur in colder and more productive waters found at high latitudes. Killer whales are found throughout the North Pacific, and occur along the entire Alaska coast, in British Columbia and Washington inland waterways, and along the outer coasts of Washington, Oregon, and California (Muto *et al.* 2017).

Based on data regarding association patterns, acoustics, movements, and genetic differences, eight killer whale stocks are now recognized: (1) The Alaska Resident stock; (2) the Northern Resident stock; (3) the Southern Resident stock; (4) the Gulf of Alaska, Aleutian Islands, and Bering Sea Transient stock; (5) the AT1 Transient stock; (6) the West Coast transient stock, occurring from California through southeastern Alaska; and (7) the Offshore stock, and (8) the Hawaiian stock. Only the Alaska resident; Northern resident; Gulf of Alaska, Aleutian Islands, and Bering Sea Transient (Gulf of Alaska transient); and the West coast transient stocks are considered in this application because other stocks occur outside the geographic area under consideration. Any of these four stocks could be seen in the action area; however, the Northern resident stock is most likely to occur in the area. The trend for the Northern resident stock is an increasing population with an average of 2.1 percent annual increase over a 36 year time period. For all other stocks, population trends are unknown.

In the action area, killer whales are known to occur but there sightings are unpredictable. Between 0 and 12 killer whales can occur within the project area with typical group size of between four and eight whales with a maximum group size of eight (Straley and Pendell 2017).

Harbor Porpoise

The harbor porpoise inhabits temporal, subarctic, and arctic waters. In the eastern North Pacific, harbor porpoises range from Point Barrow, Alaska, to Point Conception, California. Harbor porpoise primarily frequent coastal waters and occur most frequently in waters less than 100 m deep (Hobbs and Waite 2010). They may occasionally be found in deeper offshore waters.

In Alaska, harbor porpoises are currently divided into three stocks, based primarily on geography: (1) The Southeast Alaska stock—occurring from the northern border of British Columbia to Cape Suckling, Alaska, (2) the Gulf of Alaska stock—occurring from Cape Suckling to Unimak Pass, and (3) the Bering Sea stock—occurring throughout the Aleutian Islands and all waters north of Unimak Pass. Only the Southeast Alaska stock is considered in this application because the other stocks are not found in the geographic area under consideration. The 2016 SAR for this stock further delineated population estimates (Muto *et al.* 2017). The total estimated annual level of human-caused mortality and serious injury for Southeast Alaska harbor porpoise (n = 34) exceeds the calculated PBR of 8.9 porpoise. However, the calculated PBR is considered unreliable for the entire stock because it is based on estimates from surveys of only a portion (the inside 7 of Southeast Alaska) of the range of this stock as currently designated. Because the total stock abundance estimates are more than 8 years old (with the exception of the 2010–2012 abundance estimates provided for the inland waters of Southeast Alaska) and the frequency of incidental mortality and serious injury in U.S. commercial fisheries throughout Southeast Alaska is not known, the Southeast Alaska stock of harbor porpoise is classified as a strategic stock. Population trends and status of this stock relative to its Optimum Sustainable Population are currently unknown.

There are no subsistence use of this species; however, as noted above, entanglement in fishing gear contributes to human-caused mortality and serious injury. Muto *et al.* (2017) also reports harbor porpoise are vulnerable to physical modifications of nearshore habitats resulting from urban and industrial development (including waste management and nonpoint source runoff) and activities such as construction of docks and other over-water structures, filling of shallow areas,

dredging, and noise (Linnenschmidt *et al.* 2013).

In the action area, harbor porpoises are considered infrequent but could occur during any month with average group size of five individuals; maximum group size is eight individuals (Straley and Pendell 2017).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To 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 (2016) 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. The functional groups and associated frequencies along with likely best hearing ranges are provided below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group). For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information.

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between approximately 7 Hz and 35 kHz;
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera Kogia and Cephalorhynchus; including two members of the genus Lagenorhynchus, on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz;
- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz; and
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz.

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).

Five marine mammal species (three cetacean and two pinniped species) have the reasonable potential to co-occur with the proposed survey activities. Of the cetacean species that may be present, the humpback whale is classified as low-frequency cetaceans (*i.e.,* mysticete species), the killer whale is classified as a mid-frequency cetacean (*i.e.,* all delphinid and ziphiid species and the sperm whale), and the harbor porpoise is classified as high-frequency cetaceans (*i.e.,* porpoises and Kogia spp.). The Steller sea lion is classified as an otariid while the harbor seal is classified as a phocid.

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 by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section will consider the content of this section, the ''Estimated Take by Incidental Harassment'' 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

The ADOT's construction work involving in-water pile driving and pile removal could effect marine mammals by exposing them to elevated noise levels in the vicinity of the activity area leading to an auditory threshold shifts (TS). NMFS defines a noise-induced 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, 2016). The amount of threshold shift is customarily expressed in dB (ANSI 1995, Yost 2007). A TS can be permanent or temporary. As described in NMFS (2016), 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). When analyzing the auditory effects of noise exposure, it is often helpful to broadly categorize sound as either impulsive—noise with high peak sound pressure, short duration, fast rise-time, and broad frequency content—or non-impulsive. When considering auditory effects, vibratory pile driving is considered to be non-impulsive source while impact pile driving is treated as an impulsive source.

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 2016). Available data from humans and other terrestrial mammals indicate that a 40 dB threshold shift approximates PTS onset (see NMFS 2016 for review).

Temporary Threshold Shift (TTS)—NMFS defines TTS as 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, 2016). Based on data from cetacean TTS measurements (see Finneran 2014 for a review), 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; Finneran *et al.* 2002).

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.

Behavioral Harassment

Exposure to noise from pile driving and removal also has the potential to behavioral disturb marine mammals. Disturbance may result in changing durations of surfacing and dives, number of blows per surfacing, 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, and/or flight responses. Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). These potential behavioral responses to sound are highly variable and context-specific and reactions, if any, depend on species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day, and many other factors (Richardson *et al.* 1995; Wartzok *et al.* 2003; Southall *et al.* 2007). For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC 2003; Wartzok *et al.,* 2003).

In 2016, Alaska DOT documented observations of marine mammals during construction activities (*i.e.,* pile driving and down-hole drilling) at the Kodiak Ferry Dock (see 80 FR 60636 for Final IHA **Federal Register** notice). In the marine mammal monitoring report for that project (ABR 2016), 1,281 Steller sea lions were observed within the Level B disturbance zone during pile driving or drilling (*i.e.,* documented as Level B take). Of these, 19 individuals demonstrated an alert behavior, seven 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 meters 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 activities and habitat and the fact the same species are involved, we expect similar behavioral responses of marine mammals to the specified activity.

Marine Mammal Habitat Effects

The project would occur in an active marine commercial and industrial area. The dock footprint is previously disturbed with abandoned dock structures associate with the former Alaska Pulp Mill in the area. Removing the timber piles would likely benefit the habitat by removing creosote-treated wood. Construction activities at the GPIP dock could have temporary impacts on marine mammal habitat and their prey as a result of elevated noise levels from pile driving and removal; however, any impacts are expected to be minor or temporary. Impact pile driving, the loudest noise source, would last for only 10 minutes per day for six non-consecutive days. No dredging or other construction-related activities that could increase turbidity beyond the localized impacts from pile driving would occur.

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 whether the number of takes is ''small'' 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 the use of pile hammers has the potential to result in disruption of behavioral patterns for individual marine mammals. As described above, TTS is also a form of Level B harassment. There is some potential for slight auditory injury (Level A harassment) to result (*e.g.,* PTS onset), primarily for mysticetes and/or high frequency species. Auditory injury is unlikely to occur for mid-frequency species and otariids (*i.e.,* Steller sea lions). The proposed mitigation and monitoring measures are expected to minimize the severity of such 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.

Described in the most basic way, 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 temporary or 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. Below, we describe these components in more detail and present the proposed take estimate.

Acoustic Thresholds

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

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience,

demography, behavioral context) and can be difficult to predict (Southall *et al.* 2007, Ellison *et al.* 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.* vibratory pile-driving) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* impact pile driving) sources. CBS's proposed activity includes the use of continuous (vibratory hammer) and impulsive (impact hammer) sources, and therefore the 120 and 160 dB re 1 μPa (rms) are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Technical Guidance, 2016) 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).

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final technical guidance, and are provided in Table 2. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 2—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* $L_{p,flat}$: 202 dB $L_{E,HF,24h}$: 155 dB	*Cell 6* $L_{E,HF,24H}$: 173 dB
Phocid Pinnipeds (PW) (Underwater)	*Cell 7* $L_{pk,flat}$: 218 dB $L_{E,PW,24h}$: 185 dB	*Cell 8* $L_{E,PW,24h}$: 201 dB
Otariid Pinnipeds (OW) (Underwater)	*Cell 9* $L_{pk,flat}$: 232 dB $L_{E,OW,24h}$: 203 dB	*Cell 10* $L_{E,OW,24h}$: 219 dB

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

* **Note:** Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa^{2}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 pak 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.

When 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 (*i.e.,* accumulation of energy) in the new thresholds as well as the weighting functions, we developed an optional 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 will result in some degree of overestimate of Level A 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. We consider the calculated isopleths in conjunction with other operational or biological information to arrive at reasonable estimates of potential Level A harassment. For stationary sources such as pile driving, NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity (*i.e.,* accumulated all energy output by the activity in a 24-hr period), it would incur some degree of PTS. Inputs used in the User Spreadsheet and the resulting isopleths are provided in Table 3.

TABLE 3—TECHNICAL GUIDANCE USER SPREADSHEET INPUTS

User Spreadsheet Input	Vibratory Hammer	Impact Hammer
Spreadsheet Tab Used	A. Non-Impulse-Stat-Cont	E.1. Impact pile driving
Source Level (Single Strike/shot SEL)	See Table 4	
Weighting Factor Adjustment (kHz)	2.5	2.0
a) Number of strikes per pile	N/A	400
a) Number of piles per day	N/A	1
Activity Duration (hours) within 24-h period	See Table 4	N/A
Propagation (xLogR)	15	15
Distance of source level measurement (meters)	10	10

Distances to Level A and Level B thresholds were calculated based on various source levels for a given activity and pile type (*e.g.,* impact hammering 48 in pile, vibratory removal of timber piles) and, for Level A harassment, accounted for the maximum duration of that activity per day using the spreadsheet tool developed by NMFS. For Level B harassment areas, distances were calculated using a practical spreading loss constant (15 log R) and source level. Once the distances to thresholds were calculated, total ensonified area was calculated. For all Level B and some Level A thresholds, land was a limiting factor in determining area. Table 4 contains all calculated distances to Level A and B harassment thresholds.

TABLE 4—DISTANCES TO LEVEL A AND B THRESHOLDS AND RESULTING ENSONIFIED AREA

Source activity and duration	Estimated source level at 10 meters (dB) [1]	Distance (m) to Level A and Level B Thresholds					
		Level A [2]					Level B all species
		Low-frequency cetaceans (m)	Mid-frequency cetaceans (m)	High-frequency cetaceans (m)	Phocid (m)	Otariid (m)	
Vibratory Pile Driving							
12 and 16-inch wood removal (5 hours per day)	155	8.0	0.7	11.8	4.8	0.3	2,154
30-inch steel temporary installation (3 hours per day)	166	30.6	2.7	45.3	18.6	1.3	[3] 11,659
30-inch steel temporary removal (1 hour per day)	166	14.7	1.3	21.8	8.9	0.6	[3] 11,659
30-inch steel permanent installation (2 hours per day)	166	23.4	2.1	34.5	14.2	1.0	[3] 11,659
48-inch steel permanent installation (2 hours per day)	168.2	32.7	2.9	48.4	19.9	1.4	[3] 16,343
Impact Pile Driving							
30-inch steel permanent installation (10 minutes per day)	196	859.2	30.6	1,023.5	459.8	33.5	859.2
48-inch steel permanent installation (10 minutes per day)	198.6	1,280.7	45.5	1,525.5	685.4	49.9	1,280.7

[1] Source levels (SLs) are derived from the Port of Anchorage test pile project (Austin et al. 2016, CH2M 2016) and Alaska Department of Transportation hydroacoustic studies (Denes et al. 2016). 30″ pile driving SLs were used as a proxy for pile removal.

[2] The values provided here represent the distances at which an animal may incur PTS if that animal remained at that distance for the entire duration of the activity. For example, a humpback whale (low frequency cetacean) would have to remain 8 meters from timber piles being removed for 5 hours for PTS to occur.

[3] These represent calculated distances based on practical spreading model; however, land at the end of Silver Bay obstructs underwater sound transmission at approximately 9,500 m from the source.

Marine Mammal Occurrence

In this section, we provide the information about the presence, density, or group structure of marine mammals that will inform the take calculations.

Data on marine mammals in the project area is limited. Land-based surveys conducted at Sitka's Whale Park occurred from September through May, annually, from 1994 to 2000 (Straley and Pendell, 2017). From 2000 to 2016, Straley also collected marine mammal data from small vessels throughout the year. There are no density data available; therefore, probability of occurrence based on group sightings and typical group sizes were used in take calculations (Table 5).

TABLE 5—MARINE MAMMAL DATA FROM LAND-BASED SURVEYS AT SITKA'S WHALE PARK FROM SEPTEMBER THROUGH MAY, ANNUALLY, FROM 1994–2000

Common name	Months sighted	Avg. count per month (Oct, Nov, Dec)	Typical group size	Max group size
Humpback whale	September–April	50, 116, 101	2–4	unknown
Killer whale	October–March	12, 12, 4	4–8	8
Harbor porpoise	September, March, April	7, 0, 0	5	8
Steller sea lion	September–April	10, 12, 107	1–2	100
Harbor seal	September–April	1, 1, 0	1–2	2

[1] Only months when the project would occur are included here. For full counts, please see section 4 in CBS's application.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

Because density data are not available for this area, we used group sighting data as an indicator of how often marine mammals may be present during the 16 days of pile driving/removing activity in consideration of the Level A and B harassment zones. We also considered typical group size to determine how many animals may be present on any given day. For all species, we used the following equation to estimate the number of animals, by species, potentially taken from exposure to pile driving and removing noise: *Estimated Take = Number of animals × number of days animals are expected during pile activity by type* (Table 6).

The Sitka Whale Park surveys found humpback whale groups may include up to four individuals. Based on sighting frequency which indicates this species is present more often during winter months when the project would occur, we conservatively estimate that a group of 4 humpback whales may occur within the Level A harassment zone (1,210 m and 1,803 m for 30-in and 48-in pile driving respectively) on any two of the six days of impact pile driving and in the Level B harassment zone on any of the 16 days of pile activities. Therefore, Level A take equals 4 whales times 2 days while Level B take equals 4 whales times 16 days.

For killer whales, it is assumed eight killer whales could be present within the Level B harassment zone on any two days of pile activity; therefore, we are proposing to authorize 16 takes. No Level A take is anticipated due to proposed shut down mitigation measures (see *Mitigation* section).

Harbor porpoise typically travel in groups of five and we anticipate a group could enter the Level A zone on two of the six days of impact pile driving and another group could be present within the Level B zone on two days of the project. Therefore, we anticipate ten Level A takes (five animals × two days) and ten Level B takes (five animals × two days) of harbor porpoise.

Steller sea lions are common in the area during the proposed work with one to ten animals present on any given day of work. We assume that on any day of the 16 days of pile driving, 10 Steller sea lions could be present within Sawmill Cove and another group of 4 Steller sea lions could be present in the farther reaches of the disturbance zone, for a combined Level B exposure of 14 Steller sea lions on each day of pile driving. Therefore, over the course of 16 days of pile driving, we anticipate 224 sea lions may be taken (14 animals × 16 days); however, as described above, this is likely representative of the number of exposures, not individuals taken. No Level A takes of Steller sea lions are anticipated from impact pile driving due to the small harassment zone and mitigation shut down measures (see *Mitigation* section).

Harbor seals are found in the action area throughout the year but in low numbers. Group size is typically one to two animals. It is anticipated that two harbor seals could be present within the Level A zone every other day of the 6 days of impact pile driving. It is also assumed that a group of 2 harbor seals could be encountered in the Level B disturbance zone during the 16 days of pile driving. Therefore, we anticipate 6 Level A takes (2 animals × 3 days) and 32 Level B takes (2 animals × 16 days) of harbor seals.

Duration is a strong driver in identifying distances to Level A thresholds and this must be balanced with expected animal movement. Although the Technical Guidance user spreadsheet identified Level A harassment distances from vibratory pile driving and removal, these distances are incredibly close to the source and an animal would have to remain that close for extended durations (1–5 hours). In contrast, impact threshold distances are much larger and consider only 10 minutes (400 strikes) of activity, making a Level A take more probabilistic. The CBS proposed to shut down operations should a marine mammal enter the Level A zone (0.3 to 48.4 m depending on pile type and if activity is vibratory pile driving or removing) to avoid Level A take. Because we do not expect a marine mammal to remain at these close distances for long periods of time, we do not believe the potential for Level A take exists and; therefore we are not authorizing Level A take from vibratory pile activities and we are not requiring CBS shut down during any activities involving a vibratory hammer unless an animal comes within 10 m which is a zone established to prevent non-auditory physical injury.

For harbor seals and Steller sea lions, the number of animals potentially present likely reflects the same individuals occurring over multiple days; therefore the number of takes likely represents exposures versus individuals. For all cetacean species, it is likely the calculated takes do reflect the number of individuals exposed because they would be expected to be transiting through the action area, not lingering like pinnipeds.

For purposes of ESA consultation, we looked at probability of Steller sea lions and humpback whales from each DPS that may be found in the action area. For Steller sea lions, we determined the probability of an animal being from the wDPS to be 2 percent while the remaining animals would be from the eDPS (see *Description of Marine Mammals* section). We also calculated the number of humpback whales that could be from the Mexico and Hawaii DPS. Wade et al. (2016) analyzed humpback whale movements throughout the North Pacific Ocean between winter breeding areas and summer feeding areas, using a comprehensive photo-identification study of humpback whales in 2004–2006 during the SPLASH project (Structure of Populations, Levels of Abundance and Status of Humpbacks). The analysis found that humpback whales off Southeast Alaska are most likely to be from the Hawaii DPS (93.9%

probability) while the Mexico DPS whales have a 6.1 percent probability of occurrence.

TABLE 6—ESTIMATED TAKE OF MARINE MAMMALS, BY STOCK, INCIDENTAL TO PILE REMOVAL AND PILE DRIVING

Common name	Stock/DPS (Nbest)	Level A	Level B	Percent of stock (Level B)
Humpback whale	Hawaii DPS (11,398)	7	60	0.5
	Mexico DPS (3,264)	1	4	0.12
Killer whale	Alaska Resident (2,347)	0	16	*0.68
	Northern Resident (261)			*6.1
	Gulf of Alaska, Aleutian Islands, Bering Sea (587)			*2.7
	West Coast Transient (243)			*6.5
Harbor porpoise	Southeast Alaska (975)	10	10	1.0
Steller sea lion	Western U.S. (36,551)	0	5	0.14
	Eastern U.S. (49,497)	0	219	0.44
Harbor seal	Sitka/Chatham Straight (14,855)	6	32	0.22

*These percentages assume all 16 takes comes from any given stock.

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 such activity, ''and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking'' for certain subsistence uses. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation can ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully balance 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—which considers the nature of the potential adverse impact being mitigated (likelihood, scope, range), as well as the likelihood that the measure will be effective if implemented; and the likelihood of effective implementation, 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, designed to minimize noise exposure, would be included in the IHA:

- CBS will first attempt to direct pull old, abandoned piles that would minimize noise input into the marine environment; if those efforts prove to be ineffective, they may proceed with a vibratory hammer.
- CBS will operate the vibratory hammer at a reduced energy setting (30 to 50 percent of its rated energy).
- CBS will use a softening material (*e.g.,* high-density polyethylene (HDPE) or ultra-high-molecular-weight polyethylene on all templates to eliminate steel on steel noise generation.
- A ''soft start'' technique will be used at the beginning of each pile installation to allow any marine mammal that may be in the immediate area to leave before hammering at full energy. CBS is proposing to initiate noise from vibratory hammers for 15 seconds at reduced energy followed by 1-minute waiting period. The procedure will be repeated two additional times. If an impact hammer is used, CBS will be required to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a one minute waiting period, then two subsequent 3-strike sets. If any marine mammal is sighted within a shut-down zone during the 30 minute survey prior to pile driving, or during the soft start, CBS will delay pile-driving until the animal is confirmed to have moved outside and on a path away from the area or if 15 minutes (for pinnipeds or small cetaceans) or 30 minutes (for large cetaceans) have elapsed since the last sighting of the marine mammal within the shut-downzone. This soft-start will be applied prior to beginning pile driving activities each day or when pile driving hammers have been idle for more than 30 minutes.
- CBS will drive all piles with a vibratory hammer to the maximum extent possible (*i.e.,* until a desired depth is achieved or to refusal) prior to using an impact hammer. CBS will also use the minimum impact hammer energy needed to safely install the piles.
- CBS will implement the shut-down zones identified in Table 7 to minimize harassment.

TABLE 7—PROPOSED PILE DRIVING SHUT DOWN ZONES DESIGNED TO MINIMIZE LEVEL A TAKE

Source	Shutdown zones in meters				
	Low-frequency cetaceans (humpback whale)	Mid-frequency cetaceans (killer whale)	High-frequency cetaceans (harbor porpoise)	Phocid pinnipeds (harbor seal)	Otariid pinnipeds (Steller sea lion)
Vibratory Pile Driving					
All	10 m				
Impact Pile Driving					
30-inch steel (installation)	[1] 200	50	[1] 200	[1] 150	50
48-inch steel (installation)	[1] 200	100	[1] 200	[1] 150	50

[1] Indicates a shutdown zone that does not encompass the entire Level A zone. The CBS is requesting Level A take of humpback whales, harbor porpoises, and harbor seals associated with impact pile driving.

Based on our evaluation of the applicant's proposed measures, 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 to both compliance as well as ensuring that the most value is obtained from the required monitoring.

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

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

Monitoring Protocols—Monitoring would be conducted before, during, and after pile driving and removal activities. Monitoring will initiate 30 minutes prior to pile driving through 30 minutes post-completion of pile driving activities. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes.

One land-based protected species observer (PSO) will be present during all pile activity; during impact pile driving, a secondary boat-based PSO will be on watch. The land-based PSO will be located at the GPIP construction site and will be able to view the area across Silver Bay to the west and east of Sugarloaf Point and monitor the mouth of Silver Bay to determine whether marine mammals enter the action area from East Channel of Sitka Sound (the entrance monitoring zone). The PSO will have no other primary duties than watching for and reporting on events related to marine mammals. The PSO will scan the monitoring zone for the presence of listed species for 30 minutes before any pile driving or removal activities take place. Each day prior to commencing in-water work the PSO will conduct a radio check with the construction foreman or superintendent. The PSO will brief the foreman or supervisor as to the shutdown procedures if any marine mammals are observed likely to enter or within a shutdown zone, and will have the foreman brief the crew, requesting that the crew notify the PSO when a marine mammal is spotted. CBS proposed the PSO will work in shifts lasting no longer than 4 hours with at least a 1-hour break between shifts, and will not perform duties as an PSO for more than 12 hours in a 24-hr period (to reduce PSO fatigue). The PSO will remain onsite each day until all in-water pile driving/removal is completed.

No less than 30 minutes prior to any pile driving, the boat-based PSO will begin monitoring the Level A and B harassment zones A boat-based PSO is not required during timber pile removal due to limited harassment zones. This PSO will transit to the head of Silver Bay to ensure that there are no marine mammals for which take is not authorized or to document species for which take is authorized. The boat-based PSO will communicate with the construction foreman or superintendent once the area is determined to be clear and pile driving activities can begin. The boat-based PSO will then transit back to the construction site and spend the rest of the pile driving time monitoring the area from the boat (see Figure 3 in CBS's application).

If any marine mammals are present within a shutdown zone, pile driving and removal activities will not begin until the animal(s) has left the shutdown zone or no marine mammals have been observed in the shutdown zone for 15 minutes (for pinnipeds) or 30 minutes (for cetaceans). The boat-

based PSO will remain near the mouth of Sawmill Cove for the duration of pile driving to monitor for any animals approaching the area.

The following measures also apply to visual monitoring:

(1) Monitoring will be conducted by independent (*i.e.,* not construction personnel) qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. At least one observer must have prior experience working as an observer. Other observers may substitute education (undergraduate degree in biological science or related field) or training for experience. In addition, all PSOs must have:

(a) 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;

(b) Advanced education in biological science or related field (undergraduate degree or higher required);

(c) Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);

(d) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(e) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

(f) 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 and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

(g) 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.

In addition, CBS must submit to NMFS OPR the curriculum vitae (CV) of all observers prior to monitoring.

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 would result in the harassment of marine mammals within the designated harassment zones due to increased noise levels during 16 days. Six days of work are dedicated to removing 280 old piles, which would emit low levels of noise into the aquatic environment if removed via a vibratory hammer. Vibratory pile driving, which also has relatively low source levels, would occur for only 2 hours per day and there would be at least one day in between pile driving activity when installing the permanent piles. Impact pile driving would result in the loudest sound levels; however, CBS would install only 6 piles with an impact hammer (four 30-in and two 48-in piles) to proof the pile after driving it with a vibratory hammer. Proofing a pile is relatively short-term activity with 400 strikes occurring over 10 minutes per pile. Considering this and the fact only one pile would be installed per day, if PTS occurs, it is likely slight PTS (*e.g.,* PTS onset). Due to the brief duration of expected exposure, any Level B harassment would be temporary and any behavioral changes as a result are expected to be minor.

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.
- The number of piles in the design has been reduced to the lowest amount practicable (other designs required more piles); therefore, the amount of pile activity is minimal at 16 days over the course of 3 months.
- Extremely limited impact pile driving would occur (ten minutes per day for six non-consecutive days).
- The project and ensonified areas include a cove and dead-end bay (Silver Bay) with no significant marine mammal habitat.

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, 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.

NMFS is proposing to authorize a very small amount of Level A takes of marine mammals. Level B takes are more numerous and still only constitute between 0.12 and 6.5 percent of a given stock (Table 7). For pinnipeds, the number of takes likely represents repeated exposures of a smaller number of animals; therefore, the percent of stock taken is likely even smaller. Finally, the area where these takes may occur represents a negligible area with respect to each stock's range; therefore, it is unlikely a larger percentage of a stock's population would move through the action area.

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

Alaska Natives have traditionally harvested subsistence resources, including sea lions and harbor seals. In 2012 (the most recent year for which information is available), the community of Sitka had an estimated subsistence take of 49 harbor seals and 1 Steller sea lion (Wolf *et al.* 2013). CBS contacted the Alaska Harbor Seal Commission, the Alaska Sea Otter and Steller Sea Lion Commission, and the Sitka Tribe of Alaska and these organizations expressed no concerns about the project. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the Alaska Regional Office, whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take of the wDPS of Steller sea lions and the humpback whale Mexico DPS, which are listed under the ESA. As such, the Permit and Conservation Division has requested initiation of Section 7 consultation with the NMFS Alaska Regional Office for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to CBS for conducting pile driving and removal, Sitka, from October 1, 2017–December 31, 2017, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains the conditions that would be included in the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This IHA is valid only for takes of marine mammals incidental to pile driving and pile removal associated with the Gary Paxton Industrial Park Dock Modification Project in Sawmill Cove, Alaska.

2. *General Conditions*

(a) A copy of this IHA must be in the possession of the CBS, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species authorized for taking are the humpback whale (*Megaptera novaeangliae*), killer whale (*Orcinus orca*), harbor porpoise (*Phocoena phocoena*), harbor seal (*Phoca vitulina*), and Steller sea lion (*Eumetopias jubatus*)

(c) The taking, by Level A and B harassment is authorized for humpback whales, harbor porpoises, and harbor seal. Take, by Level B harassment only, is authorized for killer whales and Steller sea lions.

(d) The taking by serious injury or death of any of the species listed in condition 2(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(e) The take, by Level A harassment, of killer whales and Steller sea lions is prohibited and may result in the modification, suspension, or revocation of this IHA.

(f) The CBS shall conduct briefings between construction supervisors and crews, marine mammal monitoring team prior to the start of all pile activities, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

3. *Mitigation Measures*

The holder of this Authorization is required to implement the following mitigation measures:

(a) CBS will first attempt to direct pull old, abandoned piles; if those efforts prove to be ineffective, they may proceed with a vibratory hammer.

(b) CBS will operate the vibratory hammer during pile driving at a reduced energy setting (30–50 percent).

(c) CBS will use a will use a softening material (*e.g.,* high-density polyethylene (HDPE) or ultra-high-molecular-weight polyethylene (UHMW)) on all templates to eliminate steel on steel noise generation.

(d) A ''soft start'' technique will be used at the beginning of each pile installation to allow any marine mammal that may be in the immediate area to leave before hammering at full energy. The soft start requires CBS to initiate noise from vibratory hammers for 15 seconds at reduced energy followed by 1-minute waiting period. The procedure will be repeated two additional times. If an impact hammer is used, CBS will be required to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a one minute waiting period, then two subsequent 3–strike sets. This soft-start will be applied prior to beginning pile driving activities each day or when pile driving hammers have been idle for more than 30 minutes.

(e) If any marine mammal is sighted within a shut-down zone prior to pile-driving, or during the soft start, CBS will delay pile-driving until the animal is confirmed to have moved outside and on a path away from the area or if 15 minutes (for pinnipeds or small cetaceans) or 30 minutes (for large cetaceans) have elapsed since the last sighting of the marine mammal within the safety zone.

(f) CBS will drive all piles with a vibratory hammer until a desired depth is achieved or to refusal prior to using an impact hammer. CBS will also use the minimum impact hammer energy needed to safely install the piles.

(g) For all pile driving and pile removal activities, the entity shall implement a minimum shutdown zone of 10 m radius around the pile. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease. For impact pile driving, CBS shall implement a shutdown zone based on species observed (See Table 2 for minimum radial distances required for shutdown zones).

4. *Monitoring*

The holder of this Authorization is required to conduct marine mammal monitoring during all pile driving and pile removal activities. Monitoring and reporting shall be conducted in accordance with the application.

(a) One land-based PSO and one boat-based PSO will be used to monitor the area during all pile driving and removing the temporary piles (no boat-based PSO is required during timber pile removal). The land-based PSO will be located at the GPIP construction site.

(b) The land-based PSO will scan the monitoring zone for the presence of listed species for 30 minutes before, during, and 30 minutes after any pile driving or removal activities take place.

(c) The land-based PSO will work in shifts lasting no longer than 4 hours with at least a 1-hour break between shifts, and will not perform duties as a PSO for more than 12 hours in a 24-hr period. The PSO will remain onsite each

day until all in-water pile driving/removal is completed.

(d) No less than 30 minutes prior to any pile driving, the boat-based PSO will begin monitoring the Level B harassment zone. Note a boat-based PSO is not required during timber pile removal. This PSO will transit to the head of Silver Bay to ensure there are no marine mammals for which take is not authorized or to document species for which take is authorized. The boat-based PSO will communicate with the construction foreman or superintendent once the area is determined to be clear and pile driving activities can begin. The boat-based PSO will then transit back to the mouth of Sawmill Cove and spend the rest of the pile driving time monitoring the area from the boat.

(e) Monitoring will be conducted by independent (*i.e.,* not construction personnel) qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. At least one observer must have prior experience working as an observer. Other observers may substitute education (undergraduate degree in biological science or related field) or training for experience. In addition, all PSOs must have:

(i) 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;

(ii) Advanced education in biological science or related field (undergraduate degree or higher required);

(iii) Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);

(iv) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(v) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

(vi) 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 and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

(vii) 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.

(f) In addition, CBS must submit to NMFS the curriculum vitae (CV) of all observers prior to monitoring.

5. *Reporting*

The holder of this Authorization is required to:

(a) Submit a draft report to NMFS on all monitoring conducted under the IHA within 90 calendar days of the completion of marine mammal monitoring or sixty days prior to the issuance of any subsequent IHA for this project, whichever comes first. A final report shall be prepared and submitted to NMFS within thirty days following resolution of comments on the draft report from NMFS. This report shall include details within the Monitoring Plan and the following:

(i) The amount, by species, of Level A and B takes documented. Total Level B take should be corrected for any area unobserved.

(ii) Detailed information about any implementation of shutdowns, including the distance of animals to the pile driving and removal activities and description of specific actions that ensued and resulting behavior of the animal, if any.

(iii) Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals.

(b) Reporting injured or dead marine mammals:

(i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as a serious injury, or mortality, CBS shall immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the Alaska Stranding Coordinator, NMFS. The report must include the following information:

1. Time and date of the incident;

2. Description of the incident;

3. Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

4. Description of all marine mammal observations and active sound source use in the 24 hours preceding the incident;

5. Species identification or description of the animal(s) involved;

6. Fate of the animal(s); and

7. Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with CBS to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. CBS may not resume their activities until notified by NMFS.

(ii) In the event that CBS discovers an injured or dead marine mammal, and the PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), CBS shall immediately report the incident to the Office of Protected Resources, NMFS, and the Alaska Stranding Coordinator, NMFS.

The report must include the same information identified in 5(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with CBS to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that CBS discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), CBS shall report the incident to the Office of Protected Resources, NMFS, and the Alaska Stranding Coordinator, NMFS, within 24 hours of the discovery. CBS shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

6. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

We request comment on our analyses, the draft authorization, and any other aspect of this Notice of Proposed IHA for the proposed pile driving and removal. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: July 20, 2017.

Catherine Marzin,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–15659 Filed 7–25–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2017–0003; OMB Control Number 0704–0386]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Small Business Programs

AGENCY: Defense Acquisition Regulations System; Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use under Control Number 0704–0386 through September 30, 2017. DoD proposes that OMB approve an extension of the information collection requirement, to expire three years after the approval date.

DATES: DoD will consider all comments received by September 25, 2017.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0386, using any of the following methods:

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

○ *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0386 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Jennifer Johnson, OUSD(AT&L)DPAP/DARS, 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Johnson, at 571–372–6106. The information collection requirements addressed in this notice are available on at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html.* Paper copies are available from Ms. Jennifer Johnson, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Small Business Programs; OMB Control Number 0704–0386.

Needs and Uses: DoD needs this information to improve administration under the small business subcontracting program and to evaluate a contractor's past performance in complying with its subcontracting plan.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Number of Respondents: 41.

Responses per Respondent: 1.

Annual Responses: 41.

Average Burden per Response: About 1 hour.

Annual Response Burden Hours: 41.

Frequency: On occasion.

Summary of Information Collection

This information collection includes requirements relating to DFARS part 219, Small Business Programs. The information collection requirement at DFARS 252.219–7003, Small Business Subcontracting Plan, becomes necessary when: (1) A prime contractor has identified specific small business concerns in its subcontracting plan; and (2) subsequent to award substitutes one of the small businesses identified in its subcontracting plan with a firm that is not a small business. The intent of this information collection is to alert the contracting officer of this situation.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2017–15649 Filed 7–25–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2017–0002; OMB Control Number 0704–0252]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); Part 251, Use of Government Sources by Contractors

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through September 30, 2017. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD will consider all comments received by September 25, 2017.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0252, using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: osd.dfars@mail.mil. Include OMB Control Number 0704–0252 in the subject line of the message.

Fax: 571–372–6094.

Mail: Defense Acquisition Regulations System, Attn: Ms. Carrie Moore, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, 571–372–6104. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html.* Paper copies are available from Ms. Carrie Moore, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Part 251, Use of Government Sources by Contractors, and an associated clause at DFARS 252.251–7000, Ordering from Government Supply Sources; OMB Control Number 0704–0252.

Needs and Uses: This information collection permits contractors to place orders from Government supply sources, including Federal Supply Schedules, requirements contracts, and Government stock. Contractors are required to provide a copy of their written authorization to use Government supply sources with their order. The authorization is used by the Government source of supply to verify that a contractor is authorized to place such orders and under what conditions.

Affected Public: Businesses or other for-profit and not-for profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Revision.

Number of Respondents: 654.

Responses per Respondent: 5.

Annual Responses: 3,270.

Average Burden per Response: .5 hour.

Annual Burden Hours: 1,635.

Reporting Frequency: On occasion.

Summary of Information Collection

This information collection includes requirements relating to DFARS part 251, Contractor Use of Government Supply Sources. The clause at DFARS 252.251–7000, Ordering from Government Supply Sources, requires a contractor to provide a copy of an authorization when placing an order under a Federal Supply Schedule, a Personal Property Rehabilitation Price Schedule, or an Enterprise Software Agreement.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2017–15652 Filed 7–25–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2017–0004; OMB Control Number 0704–0446]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); Evaluation Factor for Use of Members of the Armed Forces Selected Reserve

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed revision of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed revision of a public information collection requirement and seeks public comment on the provisions thereof. The Office of Management and Budget (OMB) has approved this information collection for use through September 30, 2017. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD will consider all comments received by September 25, 2017.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0446, using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: osd.dfars@mail.mil. Include OMB Control Number 0704–0446 in the subject line of the message.

Fax: 571–372–6094.

Mail: Defense Acquisition Regulations System, Attn: Ms. Carrie Moore, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, at 571–372–6093. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html.* Paper copies are available from Ms. Carrie Moore, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS): Evaluation Factor for Use of Members of the Armed Forces Selected Reserve; OMB Control Number 0704–0446.

Needs and Uses: DFARS 215.370–3 prescribes the use of the provision at DFARS 252.215–7005, Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve, in solicitations that include an evaluation factor to provide a preference for offerors that intend to perform the contract using employees or individual subcontractors who are members of the Selected Reserve. The documentation provided by an offeror with their proposal will be used by contracting officers to validate that Selected Reserve members will be utilized in the performance of the contract. This information collection implements a requirement of section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163).

Affected Public: Businesses or other for-profit and not-for profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Revision.

Number of Respondents: 13.

Responses per Respondent: 1.

Annual Responses: 13.

Average Burden per Response: Approximately 20 hours.

Annual Burden Hours: 620.

Reporting Frequency: On occasion.

Summary of Information Collection

For solicitations that include the provision at DFARS 252.215–7005, the provision requires offerors to include documentation with their proposal that supports their intent to use employees or individual subcontractors who are members of the Selected Reserve in order to receive a preference under the associated evaluation factor. Such documentation may include, but is not limited to, existing company documentation indicating the names of the Selected Reserve members who are currently employed by the company, or a statement that positions will be set aside to be filled by Selected Reserve members, along with verifying documentation.

DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of

automated collection techniques or other forms of information technology.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2017–15650 Filed 7–25–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2017–OS–0010]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for generic collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 25, 2017.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Regular Generic Clearance for the Collection of NGA Customer Satisfaction Strategy Survey; OMB Control Number 0704–XXXX.

Needs and Uses: The information collection requirement is necessary to garner qualitative and quantitative customer and stakeholder feedback in an efficient and timely manner and is motivated by the Administration's commitment to improving service delivery. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, early warning of issues with service, and otherwise focus attention on areas where communication, training or changes in operations might improve delivery of products or services.

Type of Review: New.

Affected Public: Individuals or households.

Estimated Number of Annual Respondents: 29,285.

Average Expected Annual Number of Activities: 8.

Below we provide projected average estimates for the next three years:

Average Number of Respondents per Activity: 500.

Responses per Respondent: 1.

Annual Responses: 29,285.

Average Burden per Response: 13.89 minutes.

Annual Burden Hours: 6,779.5 hours.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

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

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: July 21, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–15684 Filed 7–25–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2009–OS–0160]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition, Technology and Logistics, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 25, 2017.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 4800 Mark Center Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

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

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics (OUSD AT&L), Manufacturing and Industrial Based Policy (MIBP), ATTN: Jonathan Wright, Alexandria, VA 22350–6500, or call MIBP, at 571–372–6271.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Industrial Capabilities Questionnaire; DD Form 2737; OMB Control Number 0704–0377.

Needs and Uses: The information collection requirement is necessary to

provide the adequate industrial capability analyses to indicate a diverse, healthy, and competitive industrial base capable of meeting Department demands. Additionally, the information is required to perform the industrial assessments required by Chapter 148, section 2502 of Title 10 of the U.S. Code; and to support development of a defense industrial base information system as required by Section 722 of the 1992 Defense Production Act, as amended, and Section 802 of Executive Order 12919.

Affected Public: Business or other for profit; Not-for-profit institutions.

Annual Burden Hours: 153,600.

Number of Respondents: 12,800.

Responses per Respondent: 1.

Annual Responses: 12,800.

Average Burden per Response: 12 hours.

Frequency: On Occasion.

Respondents are companies/facilities specifically identified as being of interest to the Department of Defense. Industrial Capabilities Questionnaire DD Form 2737 records pertinent information needed to conduct industrial base analysis for senior DoD leadership to ensure a robust defense industrial base to support the warfighter.

Dated: July 21, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–15667 Filed 7–25–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2017–OS–0035]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition, Technology and Logistics, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 25, 2017.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 4800 Mark Center Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

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

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Armed Forces Pest Management Board (AFPMB), Contingency Liaison Office, ATTN: Major Leah Chapman, 2460 Linden Lane, Bldg. 172, Silver Spring, MD 20910, or call the AFPMB Contingency Liaison Office at 301–295–7476.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Pre-embarkation Certificate of Disinsection, DD Form X773; OMB Control Number 0704–XXXX.

Needs and Uses: The information collection requirement is necessary to provide proof of aircraft disinsection to foreign countries that require it, before cargo and aircrew will be allowed to dis-embark in those countries.

Affected Public: Individuals or households.

Annual Burden Hours: 166.67.

Number of Respondents: 1,000.

Responses per Respondent: 1.

Annual Responses: 1,000.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

Respondents are DoD-contracted pest managers. These pest management professionals would be required to fill out the certificate of disinsection, log it in the appropriate database, and provide a copy to the aircrew. Aircraft disinsection (spraying with insecticide to kill all insects aboard) is currently required in 14 countries for arriving military aircraft. Most of those countries also require documentation proving that the aircraft was disinsected, per their instructions in the Foreign Clearance Guide (FCG). The burden for this collection is calculated based on the number of times U.S. aircraft currently enter countries with the requirement to produce a certificate of disinsection. The certificates used, are unique to each of the countries with the requirement. They are not collections managed by the U.S. Government. The Armed Forces Pest Management Board (AFPMB) published Technical Guide (TG) for pest managers and aircrew to follow. This guide standardizes our requirements for disinsection in the FCG for all countries our aircraft enter. One such requirement is the use of a standardized form by all DoD that satisfies the documentation requirements of disinsection for these 14 countries.

Dated: July 21, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–15664 Filed 7–25–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 17–04]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification.

FOR FURTHER INFORMATION CONTACT: Pamela Young, (703) 697–9107, *pamela.a.young14.civ@mail.mil,* or Kathy Valadez, (703) 697–9217; *kathy.a.valadez.civ@mail.mil,* DSCA/DSA–RAN.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 17–04 with attached Policy Justification.

Dated: July 21, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

MAY 22 2017

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 17-04, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance for the Kingdom of Saudi Arabia for defense articles and services estimated to cost $250 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Regional Balance (Classified document provided under separate cover)

BILLING CODE 5001–06–C

Transmittal No. 17–04

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Kingdom of Saudi Arabia

(ii) *Total Estimated Value:*

Major Defense Equipment* ..	$ 0 million
Other	$250 million
Total	$250 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE): None

Non-MDE includes: Continuation of a naval blanket order training program inside and outside of Saudi Arabia that includes, but is not limited, to English Language training, professional military education, technical training, publications and technical documentation, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support.

(iv) *Military Department:* Navy

(v) *Prior Related Cases, if any:* SR–P–TCY

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* May 22, 2017

*as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Kingdom of Saudi Arabia—Navy Blanket Order Training

The Kingdom of Saudi Arabia has requested the continuation of a naval blanket order training program inside and outside of Saudi Arabia that includes, but is not limited to English Language training, professional military education, technical training, publications and technical documentation, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support. The estimated value is $250 million.

This proposed sale will enhance the foreign policy and national security objectives of the United States by helping to improve the security of a

strategic regional partner that has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The proposed sale will enable Saudi Arabia and the Royal Saudi Naval Force (RSNF) to maintain military performance levels and provide an increased ability to meet current and future maritime threats. The training will support the RSNF in its role patrolling and providing protection for critical industrial infrastructure and for the sea lines of communications. The RSNF will also use the training to enhance interoperability with the United States and other coalition maritime forces. Saudi Arabia will have no difficulty absorbing these services.

The proposed sale of this training will not alter the basic military balance in the region.

The prime contractor will be Kratos Defense & Security Solutions of San Diego, CA. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will require the assignment of approximately 88 contractor representatives to Saudi Arabia for approximately three years to support personnel training. Implementation of this sale will not require the assignment of any additional U.S. Government representatives to Saudi Arabia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2017–15676 Filed 7–25–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2017–OS–0013]

Submission for OMB Review; Comment Request

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 25, 2017.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Overseas Citizen Population Survey; 0704–0539.

Type of Request: Revision.

Number of Respondents: 18,000.

Responses per Respondent: 1.

Annual Responses: 18,000.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 3,000 hours.

Needs and Uses: The information collection requirement is necessary for Federal Voting Assistance Program (FVAP), an agency of the Department of Defense, to fulfill the mandate of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA of 1986 [42 U.S.C. 1973ff]). UOCAVA requires a statistical analysis report to the President and Congress on the effectiveness of assistance under the Act, a statistical analysis of voter participation, and a description of State/Federal cooperation. The data obtained through this study will allow FVAP to refine its methodology for estimating the number of overseas U.S. civilians who are eligible to vote and who have registered and participated in the past, and using these estimates to address the question of whether the registration and voting propensity of the overseas civilian population differs from that of a comparable domestic or military populations. Conducting this research will help FVAP meet its federal and congressional mandates in terms of reporting annually on its activities and on overall voter registration and participation rates after each Presidential election. The data obtained through this study is also intended to provide insights into existing barriers to UOCAVA voting and recommendations for addressing these challenges.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

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

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: July 21, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–15679 Filed 7–25–17; 8:45 am]

BILLING CODE 5001–06–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 Number: PR17–54–000.

Applicants: B&W Pipeline, LLC.

Description: Tariff filing per 284.123(b),(e)/: Compliance Tariff Filing to be effective 7/17/2017; Filing Type: 990.

Filed Date: 7/17/17.

Accession Number: 201707175068.

Comments/Protests Due: 5 p.m. ET 8/7/17.

Docket Numbers: RP17–898–000.

Applicants: Blue Lake Gas Storage Company.

Description: Petition for Approval of Settlement Agreement of Blue Lakes Gas Storage Company.

Filed Date: 07/12/2017.

Accession Number: 20170712–5202.

Comment Date: 5:00 p.m. Eastern Time on Monday, July 24, 2017.

Docket Numbers: RP17–846–000.

Applicants: Cargill, Incorporated, Macquarie Energy LLC.

Description: Supplement to Temporary Waiver Request of Cargill, Incorporated, et al.

Filed Date: 07/18/2017.

Accession Number: 20170718–5120.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, July 25, 2017.

Docket Numbers: RP17–903–000.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: Colorado Interstate Gas Company, L.L.C. submits tariff filing per 154.204: Non-Conforming Negotiated Rate Agreement (AESC #213006–TF1CIG) to be effective 9/1/2017.

Filed Date: 07/18/2017.

Accession Number: 20170718–5061.

Comment Date: 5:00 p.m. Eastern Time on Monday, July 31, 2017.

The filings are accessible in the Commission's eLibrary system by clicking on the links or 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: July 19, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–15607 Filed 7–25–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–437–005.

Applicants: Marcus Hook 50, L.P.

Description: Compliance filing: Settlement rate implementation to be effective 12/28/2016.

Filed Date: 7/19/17.

Accession Number: 20170719–5086.

Comments Due: 5 p.m. ET 8/9/17.

Docket Numbers: ER17–1320–001.

Applicants: Odyssey Solar, LLC.

Description: Report Filing: Supplement to 4 to be effective N/A.

Filed Date: 7/19/17.

Accession Number: 20170719–5090.

Comments Due: 5 p.m. ET 8/9/17.

Docket Numbers: ER17–2112–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–07–19_Planning Resource Auction Offer Window Filing to be effective 9/18/2017.

Filed Date: 7/19/17.

Accession Number: 20170719–5148.

Comments Due: 5 p.m. ET 8/9/17.

Docket Numbers: ER17–2113–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Request for Waiver of Midcontinent Independent System Operator, Inc.

Filed Date: 7/19/17.

Accession Number: 20170719–5179.

Comments Due: 5 p.m. ET 8/9/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or 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: July 20, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–15647 Filed 7–25–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC17–12–000]

Commission Information Collection Activities (FERC–523); Comment Request; Revision and Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is submitting its information collection FERC–523, (Application for Authorization for the Issuance of Securities or the Assumption of Liabilities) to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission previously issued a Notice in the **Federal Register** (82 FR 20475, 5/2/2017) requesting public comments. The Commission received no comments on FERC–523 and is making this notation in its submittal to OMB.

DATES: Comments on the collection of information are due by August 25, 2017.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0043, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–4718.

A copy of the comments should also be sent to the Commission, in Docket No. IC17–12–000, by either of the following methods:

- eFiling at Commission's Web site: *http://www.ferc.gov/docs-filing/efiling.asp.*
- Mail/Hand Delivery/Courier: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–523, Application for Authorization for the Issuance of Securities or the Assumption of Liabilities.

OMB Control No.: 1902–0043.

Type of Request: Three-year approval of the FERC–523 information collection requirements with no changes to the current reporting requirements.

Abstract: The information collected by FERC–523 is required to implement the statutory provisions of section 204

of the Federal Power Act (FPA) (16 U.S.C. 824c). Under section 204 of the FPA no public utility or licensee shall issue any security, or assume any obligation or liability as guarantor, endorser, surety, or otherwise in respect of any security of another person, until the public utility applies for and receives Commission approval by order authorizing the issue or assumption of the liability. The Commission issues an order if it finds that such issue or assumption (a) is for lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant as a public utility, and which will not impair its ability to perform that service, and (b) is reasonably necessary or appropriate for such purposes.

The Commission uses the information contained in filings to determine its acceptance and/or rejection of applications for authorization to either issue securities or to assume an obligation or liability by the public utilities and their licensees who submit these applications.

The specific application requirements and filing format are found at 18 CFR part 34; and 18 CFR 131.43 and 131.50. This information is filed electronically.

Type of Respondents: Public utilities subject to the Federal Power Act.

Estimate of Annual Burden [1]*:* The Commission estimates the reduction in the annual public reporting burden for the FERC–523, as follows:

FERC–523, APPLICATIONS FOR AUTHORIZATION FOR ISSUANCE OF SECURITIES OR ASSUMPTION OF LIABILITY

Information collection requirements	Number of respondents [2] (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours and cost per response [3] (4)	Total annual burden hours and total annual cost (3) * (4) = (5)
FERC–523	145	1	145	70 $5,355	10,150 $776,475

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: July 20, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–15646 Filed 7–25–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2205–010; ER10–1821–015; ER12–2159–009; ER12–919–008.

Applicants: Meadow Creek Project Company LLC, Goshen Phase II LLC, Canadian Hills Wind, LLC, Rockland Wind Farm LLC.

Description: Notice of Change in Status of Meadow Creek Project Company LLC, et al.

Filed Date: 7/20/17.

Accession Number: 20170720–5130.

Comments Due: 5 p.m. ET 8/10/17.

Docket Numbers: ER17–814–001; ER17–816–001; ER17–815–001; ER10–2543–004; ER10–2606–012.

Applicants: Verso Energy Services LLC, Verso Luke LLC, Verso Escanaba LLC, Verso Androscoggin LLC, Consolidated Water Power Company.

Description: Notice of Change in Status of the Verso MBR Sellers.

Filed Date: 7/20/17.

Accession Number: 20170720–5077.

Comments Due: 5 p.m. ET 8/10/17.

Docket Numbers: ER17–1778–001.

Applicants: HD Project One LLC.

Description: Tariff Amendment: MBRA Application Amendment to be effective 7/21/2017.

Filed Date: 7/20/17.

Accession Number: 20170720–5040.

Comments Due: 5 p.m. ET 8/10/17.

Docket Numbers: ER17–2044–001.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 3215R2 People's Electric Cooperative NITSA NOA to be effective 6/1/2017.

Filed Date: 7/20/17.

Accession Number: 20170720–5062.

Comments Due: 5 p.m. ET 8/10/17.

Docket Numbers: ER17–2114–000.

Applicants: The Dayton Power and Light Company, Ohio Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Interconnection Agreement SA No. 1461 between Dayton and Ohio Power to be effective 7/21/2017.

Filed Date: 7/20/17.

Accession Number: 20170720–5059.

Comments Due: 5 p.m. ET 8/10/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or 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/*

[1] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

[2] The number of respondents is derived from the actual number of applications processed.

[3] The Commission staff thinks that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. Based upon FERC's 2017 annual average of $158,754 (for salary plus benefits), the average hourly cost is $76.50/hour.

docs-filing/efiling/filing-req.pdf. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 20, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–15645 Filed 7–25–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR17–17–000]

Belle Fourche Pipeline Company, Bridger Pipeline LLC; Notice of Petition for Declaratory Order

Take notice that on July 18, 2017, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2016), Belle Fourche Pipeline Company (Belle Fourche) and Bridger Pipeline LLC (Bridger), filed a petition seeking a declaratory order approving the overall tariff and rate structure set forth in the transportation service agreement governing the transportation of crude oil on Belle Fourche and Bridger's pipeline systems, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on August 18, 2017.

Dated: July 20, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–15648 Filed 7–25–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA–04–2017–3757; FRL 9965–49–Region 4]

Coronet Industries, Inc.: Plant City, Hillsborough County, Florida, Notice of Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of settlement.

SUMMARY: Under 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement with CEMEX Construction Materials Florida, LLC, and Hexion Inc. concerning the Coronet Industries Site located in Plant City, Hillsborough County, Florida. The settlement addresses recovery of CERCLA costs for response actions performed by the EPA at the Site.

DATES: The Agency will consider public comments on the settlement until August 25, 2017. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the proposed settlement is inappropriate, improper, or inadequate.

ADDRESSES: Copies of the settlement are available from the Agency by contacting Ms. Paula V. Painter, Program Analyst, using the contact information provided in this notice. Comments may also be submitted by referencing the Site's name through one of the following methods:

- *Internet: https://www.epa.gov/aboutepa/about-epa-region-4-southeast#r4-public-notices.*
- *U.S. Mail:* U.S. Environmental Protection Agency, Superfund Division, Attn: Paula V. Painter, 61 Forsyth Street SW., Atlanta, Georgia 30303.
- *Email: Painter.Paula@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Paula V. Painter at 404/562–8887.

Dated: July 11, 2017.

Anita L. Davis,

Chief, Enforcement and Community Engagement Branch, Superfund Division.

[FR Doc. 2017–15720 Filed 7–25–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R09–SFUND–2017–03; FRL–9965–32–Region 9]

Sycamore Removal Site, Hollywood, CA; Notice of Proposed Settlement Agreement and Order on Consent

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement.

SUMMARY: This notice announces the availability for review and comment of a proposed administrative settlement agreement under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), between the U.S. Environmental Protection Agency (''EPA''), and 953 N Sycamore (LA), LLC (''Sycamore LLC''), regarding the Sycamore Superfund Removal Site in Hollywood, California. The Settlement Agreement requires the purchaser to conduct a removal action to address soil and soil gas contamination at the Sycamore Site.

DATES: Comments must be received on or before August 25, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–SFUND–2017–03, to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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, the full EPA public comment policy, information about CBI or multimedia

submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Taly Jolish, Assistant Regional Counsel, Office of Regional Counsel (ORC–3), Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105; tel: (415) 972–3925; fax: (415) 947–3570; *Jolish.Taly@epa.gov.*

SUPPLEMENTARY INFORMATION: Sycamore LLC is agreeing to perform a removal action to clean up soil and soil gas contaminated with chlorinated volatile organic compounds (VOCs), including tetrachloroethylene, trichloroethylene, and cis-1,2-dichloroethylene, and with aromatic VOCs, including benzene, toluene, and xylene. The removal action will reduce the risk to future users of the property and the surrounding community from exposure to contamination primarily caused by historical dry cleaning operations at the property. Under the terms of the settlement, Sycamore LLC will complete the removal action and pay EPA's costs for oversight of the cleanup activities. In exchange, Sycamore LLC will receive a covenant not to sue from the United States.

EPA will consider all comments submitted by the date set forth above and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate the proposed settlement is inappropriate, improper, or inadequate.

Dated: July 14, 2017.

Enrique Manzanilla,

Director, Superfund Division, U.S. Environmental Protection Agency, Region 9.

[FR Doc. 2017–15729 Filed 7–25–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2016–0771; FRL–9958–88–OAR]

Notice of Opportunity To Comment on an Analysis of the Greenhouse Gas Emissions Attributable to Production and Transport of Beta vulgaris ssp. vulgaris (Sugar Beets) for Use in Biofuel Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In this notice, the Environmental Protection Agency (EPA) is inviting comment on its analysis of the upstream greenhouse gas emissions attributable to the production of *Beta vulgaris ssp. vulgaris* (sugar beets) for use as a biofuel feedstock. This notice describes EPA's greenhouse gas analysis of sugar beets produced for use as a biofuel feedstock, and describes how EPA may apply this analysis in the future to determine whether biofuels produced from sugar beets meet the necessary greenhouse gas reduction threshold required for qualification as renewable fuel under the Renewable Fuel Standard program. This notice considers a scenario in which non-cellulosic beet sugar is extracted for conversion to biofuel and the remaining beet pulp co-product is used as animal feed. Based on this analysis, we anticipate that biofuels produced from sugar beets could qualify as renewable fuel or advanced biofuel, depending on the type and efficiency of the fuel production process technology used.

DATES: Comments must be received on or before August 25, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2016–0771, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Christopher Ramig, Office of Air and Radiation, Office of Transportation and Air Quality, Mail Code: 6401A, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: 202–564–1372; fax number: 202–564–1177; email address: *ramig.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

This notice is organized as follows:

I. Introduction
II. Analysis of GHG Emissions Associated With Production and Transport of Sugar Beets for Use as a Biofuel Feedstock
A. Overview of Beta vulgaris ssp. vulgaris (Sugar Beets)
B. Analysis of Upstream GHG Emissions
1. Methodology and Scenarios Evaluated
2. Domestic Impacts
3. International Impacts
4. Feedstock Transport
5. Results of Upstream GHG Lifecycle Analysis
6. Fuel Production and Distribution
7. Risk of Potential Invasiveness
III. Summary

I. Introduction

Section 211(o) of the Clean Air Act establishes the renewable fuel standard (''RFS'') program, under which EPA sets annual percentage standards specifying the amount of renewable fuel, as well as three subcategories of renewable fuel, that must be used to reduce or replace fossil fuel present in transportation fuel, heating oil or jet fuel. With limited exceptions, renewable fuel produced at facilities that commenced construction after enactment of the Energy Independence and Security Act of 2007 (''EISA''), must achieve at least a twenty percent reduction in lifecycle greenhouse gas emissions as compared to baseline 2005 transportation fuel. Advanced biofuel and biomass-based diesel must achieve at least a fifty percent reduction, and cellulosic biofuel must achieve at least a sixty percent reduction.

As part of changes to the RFS program regulations published on March 26, 2010 [1] (the ''March 2010 RFS rule'') to implement EISA amendments to the RFS program, EPA identified a number of renewable fuel production pathways that satisfy the greenhouse gas reduction requirements of the Act. Table 1 to 40 CFR 80.1426 of the RFS regulations lists three critical components of approved fuel pathways: (1) Fuel type; (2) feedstock; and (3) production process. In addition, for each pathway, the regulations specify a ''D code'' that indicates whether fuel produced by the specified pathway meets the requirements for renewable fuel or one of the three renewable fuel subcategories. EPA may independently approve additional fuel pathways not currently listed in Table 1 to 40 CFR 80.1426 for participation in the RFS program, or a party may petition for EPA to evaluate a new fuel pathway in accordance with 40 CFR 80.1416. Pursuant to 40 CFR 80.1416, EPA received petitions from Green Vision Group, Tracy Renewable Energy, and Plant Sensory Systems, submitted under

[1] See 75 FR 14670.

partial claims of confidential business information (CBI), requesting that EPA evaluate the GHG emissions associated with biofuels produced using sugar beets as feedstock, and that EPA provide a determination of the renewable fuel categories, if any, for which such biofuels may be eligible.

EPA's lifecycle analyses are used to assess the overall GHG impacts of a fuel throughout each stage of its production and use. The results of these analyses, considering uncertainty and the weight of available evidence, are used to determine whether a fuel meets the necessary GHG reductions required under the CAA for it to be considered renewable fuel or one of the subsets of renewable fuel. Lifecycle analysis includes an assessment of emissions related to the full fuel lifecycle, including feedstock production, feedstock transportation, fuel production, fuel transportation and distribution, and tailpipe emissions. Per the CAA definition of lifecycle GHG emissions, EPA's lifecycle analyses also include an assessment of significant indirect emissions, such as indirect emissions from land use changes and agricultural sector impacts.

This document describes EPA's analysis of the GHG emissions from feedstock production and feedstock transport associated with sugar beets when used to produce biofuel, including significant indirect impacts. This notice considers a scenario in which non-cellulosic beet sugar (primarily sucrose, glucose and/or fructose) is extracted for conversion to biofuel and the remaining beet pulp co-product is used as animal feed. As will be described in Section II, we estimate the GHG emissions associated with production and transport of sugar beets for use as a biofuel feedstock are approximately 45 kilograms of CO_2-equivalent per wet short ton ($kgCO_2e$ per wet short ton) of sugar beets.[2] Based on these results, we believe biofuels produced from sugar beets through recognized conversion processes could qualify as advanced biofuel and/or conventional (non-advanced) renewable fuel, depending on the type and efficiency of the fuel production process technology used. EPA is seeking public comment on its analysis of greenhouse gas emissions related to sugar beet feedstock production and transport.

If appropriate, EPA will update this analysis based on comments received in response to this notice. EPA will use this updated analysis as part of the evaluation of facility-specific petitions received pursuant to 40 CFR 80.1416 that propose to use sugar beets as a feedstock for the production of biofuel.[3] Based on this information, EPA will determine the GHG emissions associated with petitioners' biofuel production processes, as well as emissions associated with the transport and use of the finished biofuel. EPA will combine these assessments into a full lifecycle GHG analysis used to determine whether the fuel produced at an individual facility satisfies the CAA GHG emission reduction requirements necessary to qualify as renewable fuel or one of the subcategories of renewable fuel under the RFS program.

II. Analysis of GHG Emissions Associated With Production and Transport of Sugar Beets for Use as a Biofuel Feedstock

A. Overview of Beta vulgaris ssp. vulgaris (Sugar Beets)

Beta vulgaris ssp. vulgaris, (commonly known as sugar beets) of the order *Caryophylalles,* is a widely cultivated plant of the Altissima group. Sugar beets are cultivated for their high percentage concentration of sucrose in their root mass. Domestication of the plant group took place approximately 200 years ago in Europe to selectively breed for sugar content from crosses between *Beta vulgaris* cultivars, including chard plants and fodder beets.[4]

Sugar beets are a biennial crop species grown across a wide tolerance of soil conditions in areas of temperate climate, and tend to be grown in rotation with other plant varieties.[5] Sugar beets are grown for their relatively high sugar content, approximately 13 to 18 percent of the plant's total mass, with around three quarters of the plant mass comprised of water.[6] Once harvested, sugar beets are highly perishable and need to be processed in a short period of time.[7]

According to the U.S. Department of Agriculture (USDA), the largest region for sugar beet production is the area of the Red River Valley of western Minnesota and eastern North Dakota, and sugar beets are commonly grown at agricultural scale across five regions of the country, encompassing 11 states.[8] Western regions tend to require more irrigation while sugar beets grown in the eastern U.S. region make greater use of natural rainfall.[9]

Since the mid-1990s, sugar beets have accounted for about 55 percent of sugar production in the U.S.[10] Sugar beets are included in the U.S. sugar program, designed to support domestic sugar prices through loans to sugar processors. The U.S. sugar program also includes a marketing allotment that sets the amount of sugar that domestic processors can sell in the U.S. for human consumption, and provides quotas on the amount of sugar that can be imported into the U.S.[11] Sugar produced under the program cannot be used for biofuel purposes with an exception for surplus sugar made available under the USDA Feedstock Flexibility Program that specifically directs the excess sugar to be used for the purpose of domestic biofuel production.[12]

Like other sugars, beet sugar can be fermented and used as a feedstock for biofuel production. The non-cellulosic sugars of sugar beets, the vast majority of which is sucrose, can be converted directly into a refined sugar available for processes such as alcoholic fermentation to produce biofuels (*e.g.,* ethanol).[13] Much of the water needed

[2] For purposes of this notice, we assume that sugar beets have an average moisture content of 76%. See Food and Agriculture Organization, 1999, ''Agribusiness Handbooks Vol. 4 Sugar Beets/White Sugar'', *http://www.responsibleagroinvestment.org/sites/responsibleagroinvestment.org/files/FAO_Agbiz%20handbook_White%20Sugar_0.pdf* (Last Accessed: January 4, 2017).

[3] Assuming the fuel pathway proposed in such petitions involve extraction of non-cellulosic beet sugar for conversion to biofuel and use of the resulting beet pulp co-product as animal feed.

[4] Juliane C. Dohm et al., ''The Genome of the Recently Domesticated Crop Plant Sugar Beet (Beta Vulgaris),'' *Nature* 505, no. 7484 (January 23, 2014): 546–49.

[5] Michael J. McConnell, ''USDA ERS—Background,'' *Crops Sugar & Sweeteners Background,* October 12, 2016, *http://www.ers.usda.gov/topics/crops/sugar-sweeteners/background/.*

[6] FAO, ''Sugar Crops and Sweeteners and Derived Products,'' accessed November 30, 2016, *http://www.fao.org/es/faodef/fdef03e.HTM.*

[7] Michael J. McConnell, ''USDA ERS—Policy,'' *USDA ERS—Policy,* November 1, 2016, *https://www.ers.usda.gov/topics/crops/sugar-sweeteners/policy.aspx.*

[8] Michael J. McConnell, ''USDA ERS—Background.''

[9] Michael J. McConnell, ''USDA ERS—Background.''

[10] Michael J. McConnell, ''USDA ERS—Background.''

[11] The U.S. sugar program is managed by USDA and supports domestic sugar prices through loans to sugar processors, a marketing allotment program, and quotas on the amount of sugar that can be imported to the U.S. Farm Security and Rural Investment Act of 2002. Public Law 107–171, Sec. 1401–1403.

[12] ''Feedstock Flexibility Program,'' page, accessed November 17, 2016, *https://www.fsa.usda.gov/programs-and-services/energy-programs/feedstock-flexibility/index.*

[13] Dr. Hossein Shapouri, Dr. Michael Salassi, and J. Nelson Fairbanks, ''The Economic Feasibility of Ethanol Production from Sugar in the United States'' (USDA, July 2006), *http://www.usda.gov/oce/reports/energy/EthanolSugarFeasibilityReport3.pdf.*

for the fermentation process is provided by the sugar beets themselves. Sugar beet pulp is a fibrous co-product of the beet sugar extraction process.[14] The sugar beet pulp is often dried to reduce transportation costs and is widely sold as feed supplement for cattle and other livestock.[15] While biofuel production from beet sugar has historically been limited in the U.S., sugar beets accounted for about 17 percent of European ethanol production in 2014.[16]

B. Analysis of Upstream GHG Emissions

EPA evaluated the upstream GHG emissions associated with using sugar beets as a biofuel feedstock based on information provided by USDA, petitioners, and other data sources. Upstream GHG emissions include emissions from production and transport of sugar beets used as a biofuel feedstock. The methodology EPA used for this analysis is generally the same approach used for the March 2010 RFS rule for lifecycle analyses of several other biofuel feedstocks, such as corn, soybean oil, and sugarcane.[17] The subsections below describe this methodology, including assumptions and results of our analysis.

1. Methodology and Scenarios Evaluated

The analysis EPA prepared for sugar beets used the same set of models that were used for the March 2010 RFS rule, including the Forestry and Agricultural Sector Optimization Model (FASOM) developed by Texas A&M University for domestic impacts, and the Food and Agricultural Policy and Research Institute international models as maintained by the Center for Agricultural and Rural Development (FAPRI–CARD) at Iowa State University for international impacts. For more information on the FASOM and FAPRI–CARD models, refer to the March 2010 RFS rule preamble (75 FR 14670) and Regulatory Impact Analysis (RIA).[18] Several modifications were made to the domestic and international agricultural economic modeling that differed from previous analyses in order to accurately represent the U.S. sugar program.[19] Memoranda to the docket include detailed information on model inputs, assumptions, calculations, and the results of our assessment of the upstream GHG emissions for sugar beet biofuels.[20] We invite comments on the scenarios and assumptions used for this analysis, in particular on the key assumptions described in this section.

Sugar beets grown under the U.S. sugar program cannot be used for the purpose of biofuel production, except under very limited conditions specified in the Feedstock Flexibility Program.[21] Therefore, for this analysis, EPA assumed that there would be no change in sugar production on U.S. sugar program-designated acres because of demand for beet sugar for biofuel feedstock use.[22] In our modeling, growers selling sugar beets to sugar processors under the U.S. sugar program in the control case continued to do so regardless of new demand for sugar beets as a biofuel feedstock in the test case. As a result of this assumption, in our modeling, demand for acreage to grow sugar beets for biofuel feedstock could only be fulfilled by converting acres from other crops besides sugar beets, and/or from other land uses besides crop production (*e.g.,* pastureland, Conservation Reserve Program land).

Our analysis also considers the significant restrictions on the trade of sugar beets between the U.S. and other countries. The U.S. does not export beet sugar, as this would violate the terms of participation in the sugar program. While the U.S. does import cane sugar under international agreements, it does not import raw beet sugar.[23] Beet sugar may only enter the U.S. as refined sugar from Canada or Mexico under the North American Free Trade Agreement (NAFTA) and similar trade agreements, or as components of sugar-containing products.[24] This quantity is strictly regulated. EPA is unaware of existing trade agreements that would allow raw beet sugar imports for any purpose, including biofuel production. This makes it unlikely that beet sugar would be imported for use as biofuel feedstock.

Although sugar beets were modeled as grown in the U.S., we also intend that this analysis would cover sugar beets grown and processed into biofuels from other countries and imported to the U.S. as finished biofuel. We expect the vast majority of beet sugar-based biofuel used in the U.S. will come from sugar beets produced in the U.S., and incidental amounts of fuel from crops produced in other nations will not impact our average GHG emissions. Sugar beets require similar climatic regions as those where they are grown in the U.S., and would similarly impact crops such as wheat in those regions while sugar beet pulp would displace corn as livestock feed. Therefore, EPA interprets this upstream analysis as applicable, regardless of the country of origin assuming that sugar beet pulp is used as a livestock feed supplement.

To assess the impacts of an increase in sugar beet demand for renewable fuel production, EPA modeled two scenarios: (1) A control case with ''business-as-usual'' assumptions [25] and no biofuel production from sugar beets

[14] Eggleston, Gillian et al., ''Ethanol from Sugar Crops.'' In, Singh, Bharat P., *Industrial Crops and* Uses. CABI, 2010, pp. 74–75.

[15] Greg Lardy, ''Feeding Sugar Beet Byproducts to Cattle,'' accessed November 30, 2016, *https://www.ag.ndsu.edu/publications/livestock/feeding-sugar-beet-byproducts-to-cattle.*

[16] ePURE, ''European Renewable Ethanol—Key Figures,'' accessed November 17, 2016, *http://epure.org/media/1227/european-renewable-ethanol-statistics-2015.pdf.*

[17] The March 2010 RFS rule preamble (75 FR 14670, March 26, 2010) and Regulatory Impact Analysis (RIA) (EPA–420–R–10–006) provide further discussion of our approach. These documents are available online at *https://www.epa.gov/renewable-fuel-standard-program/renewable-fuel-standard-rfs2-final-rule-additional-resources.*

[18] The March 2010 RFS rule preamble (75 FR 14670, March 26, 2010) and Regulatory Impact Analysis (RIA) (EPA–420–R–10–006) provide further discussion of our approach. These documents are available online at *https://www.epa.gov/renewable-fuel-standard-program/renewable-fuel-standard-rfs2-final-rule-additional-resources.*

[19] These differences are discussed further in Sections II.D.2 and II.D.3 below.

[20] The memoranda and modeling files are available in the docket. EPA–HQ–OAR–2016–0771.

[21] Harry Baumes, et al. (USDA), ''Summary of Discussions Between US EPA and USDA Regarding Sugar Beets.''

[22] The U.S. sugar program designates acres of land used to grow sugar beets sold to domestic sugar processors who receive price support loans and are regulated by USDA market allotments under the program.

[23] The international agreements that allow for sugar import to the U.S. are primarily governed by NAFTA and the Uruguay Round Agreement on Agriculture, but also by CAFTA. See USDA's Web site on the Sugar Import Program for more details: *https://www.fas.usda.gov/programs/sugar-import-program* (Last accessed December 30, 2016).

[24] Mark A. McMinimy, ''U.S. Sugar Program Fundamentals,'' April 6, 2016, *https://fas.org/sgp/crs/misc/R43998.pdf.*

[25] To assess the impacts of an increase in renewable fuel volume from business-as-usual (what is likely to have occurred without the RFS biofuel mandates) to levels required by the statute, we established a control case and other cases for a number of biofuels. The control case included a projection of renewable fuel volumes that might be used to comply with the RFS renewable fuel volume mandates in full. The case is designed such that the only difference between the scenario case and the control case is the volume of an individual biofuel, all other volumes remaining the same. In the March 2010 RFS rule, for each individual biofuel, we analyzed the incremental GHG emission impacts of increasing the volume of that fuel from business as usual levels to the level of that biofuel projected to be used in 2022, together with other biofuels, to fully meet the CAA requirements. Rather than focus on the GHG emissions impacts associated with a specific gallon of fuel and tracking inputs and outputs across different lifecycle stages, we determined the overall aggregate impacts across sectors of the economy in response to a given volume change in the amount of biofuel produced. For this analysis, we compared impacts in the control case to the impacts in a new sugar beets case. The control case used for the March 2010 RFS rule, and used for this analysis, has zero gallons of sugar beet biofuel production.

and (2) a sugar beet biofuel case where 300 million ethanol-equivalent gallons of biofuels are assumed to be from beet sugar in 2022, requiring the use of 12 million wet short tons of sugar beets for biofuel production. The analysis presented in this notice considered all GHG emissions associated with the cultivation and production of sugar beets intended for biofuel feedstock use, as well as emissions from transporting these sugar beets to a biofuel production facility. In lifecycle analysis literature these emissions are often referred to as the ''upstream'' emissions, because they occur upstream of the fuel production facility (*i.e.,* before the biofuel feedstock arrives at that facility).

The analysis presented in this notice does not include fuel production or ''downstream'' emissions, which consists of emissions associated with fuel transport and fuel combustion. Once comments on the upstream emissions described in this notice have been considered, we intend to combine the upstream analysis with the fuel production and downstream emissions associated with fuel produced at an individual biofuel facility to determine the lifecycle GHG emissions associated with that fuel. This lifecycle analysis would reflect any differences in emissions that may exist between producing different types of biofuels from sugar beets. Our analysis of the upstream emissions associated with sugar beets assumed that non-cellulosic sugars are extracted from the beets before the sugars are converted, and that the beet pulp would then be sold into feed markets. Fuel production methods that also convert the pulp into fuel (*e.g.,* through pyrolysis of the beet) or use the pulp for other purposes may not be compatible with this analysis.

We evaluated a scenario with biofuels produced from this amount of sugar beets for multiple reasons. Although biofuel production from sugar beets is currently small in the U.S., recent trends in domestic sugar beet yields and acreage indicate that 12 million wet short tons of sugar beets could be produced as biofuel feedstocks if a significant market demand emerged. An additional 12 million wet short tons of sugar beets would represent a 34 percent increase in U.S. sugar beet cultivation compared to 2015 levels.[26] According to USDA data, harvested acres of sugar beets since 2010 were, on average, about 30 percent lower than their most recent peak levels in the 1990s, an average difference of approximately 360,000 harvested acres.[27] Increasing beet yields over time has reduced the number of acres needed to satisfy production targets under the U.S. sugar program.[28] National average sugar beet yields since 2010 have been approximately 25 percent higher than yields during the 1990s, and reached almost 31 wet short tons per acre in the 2015 crop year.[29] Were beet acres to return to their 1990s peak, the additional approximately 360,000 harvested acres would produce about 11.2 million wet short tons of beets at these 2015 yield levels. However, based on the steady increase in yields over time, it seems likely that beet yields will continue to increase between now and 2022. If national average beet yields reach at least 33.4 wet short tons per acre by 2022, a fairly modest increase of about 8 percent over 2015 levels, an additional 12 million wet short tons of beets could be produced on these additional 360,000 acres. Since further expansion of beet area beyond the historical peak is also possible, an increase in beet production of 12 million wet short tons appears to be very feasible. We welcome comment on this assumption.

In our analysis, FASOM allowed for sugar beet production in all areas of the continental 48 states where sugar beets had been grown historically, including states and areas that do not currently take part in the U.S. sugar program. The model was allowed to determine which of these regions would be optimal for growing sugar beets for biofuel feedstock, based on least cost of production and transport, and considering the opportunity cost of using that land for other uses (*e.g.,* to produce other crops, grazing, forestry). The factors that contributed to these crop production choices include crop yield, input quantities, and growing strategies.

Following the methodology established in the March 2010 RFS rule, EPA used the FAPRI model to evaluate the international impacts of producing and transporting 12 million wet short tons of sugar beets for biofuel production in the U.S. The FAPRI model included a representation of the U.S. sugar program, and modeled domestic sugar production as a function of this program. Production and consumption levels in the U.S. were set according to the parameters of the sugar program and were not affected by market forces. Because the existing U.S. sugar production module in FAPRI did not respond to market forces, for modeling purposes EPA had to make assumptions regarding in which regions sugar beets for biofuel feedstock use would be grown. Crop yields and the quantity of crop area displaced by expanded sugar beet production also had to be set by assumption, since the U.S. sugar module in FAPRI lacks market forces to create demand-pull for new beet acres. In order to derive the quantity of crop area displaced, EPA used a crop yield of approximately 26 wet short tons per acre, the 10-year national average yield for sugar beets (for crop years 2005 through 2014).[30] Actual yields on any given acre may be higher or lower than this assumed value, based on factors such as location, annual variation in growing conditions, growing practices, and crop rotation strategies. Because the FAPRI analysis assumed to displace acres in North Dakota and California, we did not believe that it was appropriate to use the USDA 2022 national average projections for sugar beets yield. As an alternative, EPA believes using the 10-year national average was a reasonable assumption for our international agricultural sector modeling. The increase in sugar yield trends over the last few decades suggests that future yields are unlikely to be lower than the 10-year average. As further support for our yield assumptions in FAPRI, we note that FASOM projected sugar beet yields in 2022 that are close to the assumptions used in FAPRI.[31] We welcome comment on this assumption.

For the purposes of FAPRI modeling, EPA assumed that sugar beets for fuel use would be produced in equal amounts in North Dakota and California for the following reasons: At the onset of our analysis, these were the regions with indications of significant sugar beet biofuel interest.[32] They are also

[26] See, USDA, ''Sugarbeet Area and Planted Harvested Yield and Production States and United States 2013–2015,'' in *Crop Production 2015 Summary, January 2016,* ISSN: 1057–7823, *http://usda.mannlib.cornell.edu/usda/current/CropProdSu/CropProdSu-0112-2016.pdf.* This assumes an ethanol conversion rate of 25 gallons of ethanol/wet short ton of beets.

[27] USDA, ''NASS Quick Stats'', *https://quickstats.nass.usda.gov* (Last Accessed: November 16, 2016).

[28] USDA, ''NASS Quick Stats'', *https://quickstats.nass.usda.gov* (Last Accessed: November 16, 2016).

[29] USDA, ''NASS Quick Stats'', *https://quickstats.nass.usda.gov* (Last Accessed: November 16, 2016).

[30] USDA, ''NASS Quick Stats'', *https://quickstats.nass.usda.gov* (Last Accessed: November 16, 2016).

[31] See ''Sugar Beets for Biofuel Upstream Analysis Technical Memorandum'' in the docket for details. EPA–HQ–OAR–2016–0771.

[32] At the time of this modeling we had received the petitions from Green Vision Group proposing to produce ethanol from sugar beets grown in North Dakota and Tracy Renewable Energy proposing to produce ethanol from sugar beets grown in California but we had not received the petition from

Continued

both regions with a long history of sugar beet production. As a simplifying assumption, EPA assumed that all crops grown in each of these regions were displaced by sugar beets proportionally to their crop area in the control case. We recognize there are significant differences in the way the sugar beet biofuel scenarios were implemented in FASOM and FAPRI for this analysis. For example, FASOM chose to produce all sugar beets for biofuels in North Dakota, whereas in FAPRI we modeled this production in North Dakota and California by assumption. Since these modeling exercises occurred concurrently, not sequentially, we could not anticipate what choices FASOM would make at the outset of our FAPRI modeling. This led to some differences in the regions utilized to produce beets. However, the nationwide agricultural market results projected by FASOM and FAPRI were similar, due to similar dominant trends in feed markets and crop exports at the national level. The similarity of these relevant national market results between the two models, despite differences in U.S. growing regions, indicates that the international impacts projected by the FAPRI model would not have been significantly different if we had applied the growing assumptions from FASOM. These results are discussed below and are available in the docket for this notice.[33] We welcome comment on these assumptions and our results.

The sugar beet scenario modeled included a number of key assumptions, such as biofuel and pulp yields per wet short ton of beets, and the amount of corn livestock feed displaced per pound of pulp. These key assumptions are discussed below. Information on additional assumptions, including sugar beet crop inputs (*e.g.,* fertilizer, energy) is available in the docket for this notice.

In conducting research for this analysis, we located sources for beet pulp yield of 0.06 dry short tons of sugar beet pulp per wet short tons of sugar beets [34] and displacement rates of 0.9 pounds of corn feed displaced in cattle diets [35] for every pound of sugar beet pulp. In livestock production, the fibrous sugar beet pulp is used as a roughage replacement making it of use primarily for ruminants rather than other types of livestock.[36] In our analysis, sugar beet pulp use by the livestock market was an important factor leading to GHG reductions. Therefore this notice evaluates only using the non-cellulosic portion of sugar beets for biofuel production.

2. Domestic Impacts

On the basis of least cost, FASOM chose to grow all sugar beets in North Dakota, with approximately 477,000 acres of land required to grow the additional sugar beets.

The vast majority of the new sugar beet acres in North Dakota was from displacement of other crops rather than from new cropland (432,000 acres from displaced crops, or nearly 91 percent of needed acres). Increasing sugar beet production in North Dakota primarily displaced wheat acreage, but also soybeans, corn, and hay among other crops.[37] Most of these displaced crops shifted to other U.S. regions, and some crops, such as soybeans, shifted to new acreage that was more productive than the North Dakota acres from where they were displaced. Table II.1 indicates that production levels for hay, soy, and most other crops are maintained.[38] However, national crop area and production for wheat and corn declined significantly.

TABLE II.1—CHANGES IN U.S. PRODUCTION (MILLION POUNDS) AND HARVESTED AREA (THOUSAND ACRES) IN 2022 RELATIVE TO CONTROL CASE [39]

	Production difference from control case (million pounds)	Harvested area difference from control case (thousand acres)
Sugar Beets	+23,976	+477
Hay	+8	−106
Corn	−867	−96
Wheat	−352	−98
All Else	+3	−56
Total ...	+22,768	+121

The reductions in corn and wheat production were driven by different proximate causes (though both were ultimately driven by increased demand for sugar beets) and led to somewhat different impacts on commodity use and trade. In the case of wheat, the decline in production led to a decline in exports. As shown in Section II.B.3, the decline in wheat exports created pressure on international wheat markets and wheat production increased outside the U.S.

In the case of corn, the potential market impacts were mitigated by the increased availability of sugar beet pulp into U.S. feed markets as a result of beet sugar biofuel production. As described in Section II.A, sugar beet pulp is a co-product used as livestock feed supplement, mainly substituting for corn. Based on the FASOM results for 2022, approximately 1.4 billion pounds of sugar beet pulp were produced and sent to the feed market. In turn this displaced approximately 1.2 billion pounds of corn, which was significantly greater than the approximately 867 million pounds of corn production lost to displaced acres. This led to a decrease in total demand for corn in U.S. markets and, as a result, U.S. exports of corn increased. As discussed in Section II.B.3 below, this reduced the price of corn internationally and lessened the demand pull for corn to be grown in other countries.

The rest of the needed sugar beet acres in North Dakota, approximately 46,000 acres, came from new cropland, particularly from cropland pasture (high-value pasture land that can also be utilized as cropland with minimal preparation) and from acres that would otherwise take part in the Conservation Reserve Program. Pasture area rose modestly in some other states causing the conversion of some forest acres to pasture. This relatively small decrease in forestland pushed up prices slightly for forest products, leading foresters to intensify growth on their stands. Relative to other feedstocks EPA has evaluated for the RFS program, these domestic shifts in land use were minor, and after the various land use changes were considered the net domestic land use change emissions impacts were close to zero.

3. International Impacts

In the FAPRI model, the expansion of sugar beet cropland used to produce biofuel feedstock also led to increases in corn exports and decreases in wheat exports. Similar to the drivers of the

Plant Sensory Systems proposing to produce ethanol from sugar beets grown in Florida. EPA does not expect results would have varied significantly if sugar beets had been modeled by assumption in Florida under FAPRI due to the similarity of these results to the results from FASOM.

[33] See EPA–HQ–OAR–2016–0771.

[34] Panella, Lee and Stephen R. Kaffka, ''Sugar Beet (*Beta vulgaris L*) as a Biofuel Feedstock in the United States.'' Chapter 10 in Sustainability of the Sugar and Sugar Ethanol Industries; Eggleston, G.; ACS Symposium Series; American Chemical Society: Washington DC, 2010, pp. 165.

[35] To make a simplifying assumption, we averaged the value from corn in backgrounding diets and finishing diets. Lardy, Greg, and Rebecca Schafar, ''Feeding Sugar Beet Byproducts to Cattle,'' North Dakota State University, May 2008, pp. 2.

[36] Harry Baumes, et al. (USDA), ''Summary of Discussions Between US EPA and USDA Regarding Sugar Beets''.

[37] See ''FASOM Sugar Beets Results'' in the docket. EPA–HQ–OAR–2016–0771.

[38] Soy is captured in the ''All Else'' category in Table II.1. See ''FASOM Sugar Beets Results'' in the docket EPA–HQ–OAR–2016–0771 for more detail.

[39] Totals may differ from subtotals due to rounding.

domestic results discussed in Section II.B.2, beet production displaced wheat acres, but the beet pulp co-product reduced domestic demand for corn. Further, the magnitude of these export impacts was quite similar between the two models, as shown in Table II.2 below.[40]

TABLE II.2—CHANGES IN U.S. CORN AND WHEAT EXPORTS IN 2022 RELATIVE TO CONTROL CASE BY MODEL

[Million pounds]

	Difference from control case in FASOM	Difference from control case in FAPRI
Corn	+307	+355
Wheat	−292	−281

With sugar beet pulp displacing corn feed, FAPRI modeling indicated that in 2022, both corn production and acreage would decline globally. Production outside the U.S. of certain other crops however increased in response to U.S. increasing demand for sugar beets; most significantly wheat and soybeans. Wheat increased internationally in terms of both production and acreage, with a strong response particularly in India. Soybean acres and production also increased, particularly in Brazil. Table II.3 below summarizes the non-U.S. increases in harvested area by crop type, while Table II.4 shows which countries had the largest impacts.

TABLE II.3—NON-U.S. HARVESTED AREA BY CROP IN 2022 RELATIVE TO CONTROL CASE

[Thousand acres][41]

	Difference from control case
Sugar Beets	0
Corn	−45
Wheat	+43

TABLE II.3—NON-U.S. HARVESTED AREA BY CROP IN 2022 RELATIVE TO CONTROL CASE—Continued

[Thousand acres][41]

	Difference from control case
Soybeans	+20
All Else	+37
Total	+55

As increasing sugar beet pulp use for livestock feed in the U.S. freed up more corn for export, international livestock feed prices declined modestly, and with it was a small rise in meat production globally. Many of these changes occurred in Brazil and this caused some expansion in grazing land, including in the Amazon region. This caused further international land use change impacts, as shown in Table II.4 below.

TABLE II.4—NON-U.S. CHANGES IN AGRICULTURAL LAND BY REGION IN 2022 RELATIVE TO CONTROL CASE

[Thousand acres][42]

	Change in area harvested	Change in pasture acres	Total change in acres
Brazil	+9	+20	+29
India	+15	.....	+15
Rest of Non-USA	+32	.....	+32
Total Non-USA	.....	.....	+75

4. Feedstock Transport

When harvested, sugar beets are heavy and perishable; therefore, transport of sugar beets from field to processing site is expected to occur over short distances. Information from stakeholders and literature states that sugar beets used for biofuels are shipped by truck from point of production to the plant with typical distances for transport around 30 miles.[43] GHG emissions for the transport of sugar beets are based on emission factors developed for the March 2010 RFS rule for trucks including capacity, fuel economy, and type of fuel used.[44]

5. Results of Upstream GHG Lifecycle Analysis

As described above, EPA analyzed the GHG emissions associated with feedstock production and transport. Table II.5 below breaks down by stage the calculated GHG upstream emissions for producing biofuels from sugar beets in 2022.

TABLE II.5—UPSTREAM GHG LIFECYCLE EMISSIONS FOR SUGAR BEETS

[gCO_2-eq/wet short ton]

Process	Emissions (gCO_2-eq/wet short ton)
Net Agriculture (w/o land use change)	+21,615
Domestic Land Use Change	−882
International Land Use Change, Mean	+16,038
(Low/High)	(+9249/+23,672)

[40] Impacts on the exports of other crops were relatively minor, but interested readers can examine the full set of FAPRI crop trade impacts in the docket.

[41] These totals do not include pastureland in Brazil. Totals may differ from subtotals due to rounding.

[42] Totals may differ from subtotals due to rounding. Brazil totals include pastureland. Other regions are cropland only.

[43] Farahmand, K., N. Dharmadhikari, and V. Khiabani. ''Analysis of Transportation Economics of Sugar-Beet Production in the Red River Valley of North Dakota and Minnesota using Geographical Information System.'' Journal of Renewable Agriculture 7(2013):126–131.

[44] The March 2010 RFS rule preamble (75 FR 14670, March 26, 2010) and Regulatory Impact Analysis (RIA) (EPA–420–R–10–006) provide further discussion of our approach. These documents are available online at *https://www.epa.gov/renewable-fuel-standard-program/renewable-fuel-standard-rfs2-final-rule-additional-resources.*

TABLE II.5—UPSTREAM GHG LIFECYCLE EMISSIONS FOR SUGAR BEETS—Continued

[gCO_2-eq/wet short ton]

Process	Emissions (gCO_2-eq/wet short ton)
Feedstock Transport	+8,183
Total Upstream Emissions, Mean	+44,954
(Low/High)	(+38,210/+52,588)

Net agricultural emissions included domestic and international impacts related to changes in crop inputs such as fertilizer, energy used in agriculture, livestock production, and other agricultural changes in the scenario modeled. Increased demand for sugar beets resulted in positive net agricultural emissions relative to the control case. Compared with other crops, sugar beets required relatively high levels of agricultural chemical inputs (*e.g.,* herbicides and pesticides).[45] Domestic land use change emissions were close to zero for sugar beets, as described in Section II.B.2.

International land use change emissions increased as a result of demand for sugar beets. The increase in international land use change emissions for sugar beets was significantly larger than the decrease in domestic land use change emissions. This is because increased demand for sugar beets led to a significant reduction in key U.S. crop exports (*e.g.,* wheat exports), but very little change in domestic consumption of agricultural goods. These greater international emissions led to a net increase in global land use change emissions. Feedstock transport included emissions from moving sugar beets from the farm to a biofuel production facility, as described in Section II.B.4 above.

6. Fuel Production and Distribution

Sugar beets are suitable for the same biofuel conversion processes as sugarcane. In Europe, where sugar beets are widely used as biofuel feedstock, virtually all of the fuel is non-cellulosic beet sugar ethanol produced through fermentation with the beet pulp sold into the feed markets. Based on these data, and on information from our petitioners and other stakeholders, EPA anticipates that most biofuel produced from sugar beets in the U.S. would also be from the non-cellulosic sugars via fermentation. Our upstream analysis would apply for all facilities where non-cellulosic beet sugar is converted to biofuel and the co-product beet pulp is used as animal feed.

Given the importance of the beet pulp co-product on the upstream GHG emissions associated with beet pulp, pathways that do not produce a beet pulp feed coproduct, or use it for purposes other than animal feed, may not be compatible with our analysis. EPA would likely need to conduct supplemental upstream GHG analysis in order to determine the lifecycle GHG emissions associated with fuels produced under these types of pathways.

After reviewing comments received in response to this action, EPA will combine the evaluation of upstream GHG emissions associated with the use of sugar beet feedstock with an evaluation of the GHG emissions associated with individual producers' production processes and finished fuels to determine whether fuel produced at petitioners' facilities from the sugar in sugar beets satisfy the CAA lifecycle GHG emissions reduction requirements for renewable fuels. Each biofuel producer seeking to generate Renewable Identification Numbers (RINs) for non-grandfathered volumes of biofuel from sugar beets will need to submit a petition requesting EPA's evaluation of their new renewable fuel pathway pursuant to 40 CFR 80.1416 of the RFS regulations, and include all of the information specified at 40 CFR 80.1416(b)(1).[46]

Because EPA is evaluating the GHG emissions associated with the production and transport of sugar beet feedstock through this notice and comment process, petitioners requesting EPA's evaluation of biofuel pathways involving sugar beet feedstock need not include the information for new feedstocks specified at 40 CFR 80.1416(b)(2). Based on our evaluation of the upstream GHG emissions attributable to the production and transport of sugar beet feedstock, including our assumptions regarding the average yield of ethanol in mmBtu per wet short ton of sugar beets used, EPA anticipates that if a facility produces emissions of no more than approximately 23 $kgCO_2e$/mmBtu of ethanol, the fuel produced would meet the 50 percent advanced biofuel GHG reduction threshold.[47] If a facility produces no more than 53 $kgCO_2e$/mmBtu of ethanol, EPA anticipates it would meet the 20 percent renewable fuel GHG reduction threshold. EPA will evaluate petitions for fuel produced from sugar beet feedstock on a case-by-case basis, and will make adjustments as necessary for each facility including consideration of differences in the yield of ethanol per wet short ton of sugar beets used.[48] We welcome comments on this application of our upstream analysis.

7. Risk of Potential Invasiveness

Sugar beets were not listed on the Federal noxious weed list nor did they appear on USDA's composite listing of introduced, invasive, and noxious plants by U.S state.[49] [50] Based on consultation with USDA, EPA does not believe sugar beets pose a risk of invasiveness at this time. Current cultivars of sugar beets require extensive weed management to survive.[51] However, USDA notes that future cross breeding, hybridization, and genetic manipulation could change the

[45] Harry Baumes, et al. (USDA), ''Summary of Discussions Between US EPA and USDA Regarding Sugar Beets''.

[46] Petitioners with pending petitions involving use of sugar from sugar beets as feedstock will not be required to submit new petitions. However, if any information has changed from their original petitions, EPA will request that they update that information.

[47] In this case, emissions produced by the facility refers to fuel production emissions, including emissions associated with energy used for fuel, feedstock and co-product operations at the facility. For more details on the assumptions used in this analysis, see ''Sugar Beets for Biofuel Upstream Analysis Technical Memorandum'' in the docket. EPA–HQ–OAR–2016–0771.

[48] For example, EPA may need to consider additional feedstock transportation emissions in cases where beet sugar extraction and biofuel production do not occur in the same location, as may be the case for biofuel produced under the USDA Feedstock Flexibility Program.

[49] USDA, ''Federal Noxious Weed List,'' July 13, 2016, *https://www.aphis.usda.gov/plant_health/plant_pest_info/weeds/downloads/weedlist.pdf.*

[50] USDA, ''State and Federal Noxious Weeds List,'' accessed November 17, 2016, *http://plants.usda.gov/java/noxComposite.*

[51] Harry Baumes, et al. (USDA), ''Summary of Discussions Between US EPA and USDA Regarding Sugar Beets.''

invasiveness potential of beets, in which case a re-evaluation may be required.[52] Based on currently available information, EPA does not believe monitoring and reporting of data for invasiveness concerns would be a requirement for biofuel producers generating fuel from sugar beets at this time.

III. Summary

EPA invites public comment on its analysis of GHG emissions associated with the production and transport of sugar beets as a feedstock for biofuel production. This notice analyzes a non-cellulosic sugar beet-to-biofuel production process. Although EPA has not received a petition for cellulosic sugar beet biofuel production, the agency is aware of interest in this process and invites comment on the analysis of beet pulp and its effect on agricultural markets. EPA will consider public comments received when evaluating petitions received pursuant to 40 CFR 80.1416 that involve pathways using sugar beets as a feedstock.

Dated: January 18, 2017.

Christopher Grundler,

Director, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2017–15721 Filed 7–25–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9965–17–OA]

Notification of a Public Meeting of the Chartered Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the chartered SAB to: Conduct three quality reviews of (1) the SAB peer review of EPA's Draft Assessment entitled *Toxicological Review of Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX);* (2) the draft SAB report on *Economy-wide Modeling of the Benefits and Costs of Environmental Regulation* and (3) the draft SAB review of the EPA's *Framework for Assessing Biogenic CO_2 Emissions from Stationary Sources* (2014); and receive briefings on SAB projects and future topics from the EPA.

DATES: The public meeting will be held on Tuesday, August 29, 2017, from 10:30 a.m. to 5:00 p.m. and Wednesday, August 30, 2016, from 9:00 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held at the Residence Inn Arlington Capital View, 2850 South Potomac Ave., Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the meeting may contact Mr. Thomas Carpenter, Designated Federal Officer (DFO), EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; via telephone/voice mail (202) 564–4885, or email at *carpenter.thomas@epa.gov.* General information concerning the SAB can be found on the EPA Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the scientific and technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB will hold a public meeting to discuss and deliberate on the topics below. The chartered SAB will conduct quality reviews of three draft reports. The SAB quality review process ensures that all draft reports developed by SAB panels, committees or workgroups are reviewed and approved by the Chartered SAB before being finalized and transmitted to the EPA Administrator. These reviews are conducted in a public meeting as required by FACA.

Quality Review of the draft SAB Review of EPA's Draft Assessment entitled Toxicological Review of Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX): The National Center for Environmental Assessment (NCEA) in the EPA's Office of Research and Development (ORD) develops toxicological reviews/assessments for various chemicals for IRIS. NCEA is developing a draft IRIS assessment for Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX) and has asked the SAB to peer review the draft document. The draft will be a reassessment of RDX. NCEA's draft Toxicological Review of Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX) currently posted to the IRIS database includes an oral reference dose (RfD) (posted in 1988), and a cancer descriptor and oral cancer slope factor (posted in 1990). Epidemiological data, experimental animal data, and other relevant data from studies of the noncancer and cancer effects of RDX are being evaluated in this reassessment. The reassessment is expected to include an updated RfD and oral cancer assessment. Background on the current advisory activity, IRIS Assessment for Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX) can be found on the SAB Web site at *https://yosemite.epa.gov/sab/sabproduct.nsf/0/50370BADC61C408685257E380077D825?OpenDocument.*

Quality Review of the draft SAB report on Economy-wide Modeling of the Benefits and Costs of Environmental Regulation: The EPA requested that the SAB provide review of the EPA's modeling and ability to measure full regulatory impacts and to make recommendations on the use of economy-wide modeling frameworks to characterize the social costs, benefits, and economic impacts of air regulations with the aim of improving benefit-cost and economic impact analyses used to inform decision-making at the agency. As a first step, the EPA has asked the SAB to provide feedback on its draft charge questions and analytic blueprint. Background on the current advisory activity, Economy-wide Modeling of the Benefits and Costs of Environmental Regulation can be found on the SAB Web site at *https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebProjectsCurrentBOARD/07e67cf77b54734285257bb0004f87ed!OpenDocument&TableRow=2.1#2.*

Quality review of a draft SAB review report on the Framework for Assessing Biogenic CO_2 Emissions from Stationary Sources: In 2012, the SAB completed a review of the first draft accounting framework addressing scientific and technical issues associated with biogenic carbon dioxide (CO_2) emissions, *Accounting Framework for Biogenic CO_2 Emissions from Stationary Sources* (September 2011). The EPA subsequently revised the 2011 framework and requested the SAB to conduct a review of the *Framework for Assessing Biogenic CO_2 Emissions from Stationary Sources* (November 2014). The purpose of the 2014 framework is to develop a method for calculating the adjustment, or Biogenic Assessment Factor (BAF), for carbon emissions associated with the combustion of biogenic feedstocks taking into account the biological carbon cycle effects

[52] Harry Baumes, et al. (USDA), ''Summary of Discussions Between US EPA and USDA Regarding Sugar Beets.''

associated with their growth, harvest and processing. The SAB convened the Biogenic Carbon Emissions Panel to review the framework. Background on the current advisory activity, Biogenic Carbon Dioxide Emissions from Stationary Sources—Assessment Framework can be found on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Biogenic%20CO2%20Framework?OpenDocument.*

Briefings and updates: The SAB will receive updates from SAB members on the current activities of committees and panels developing advisory reports and briefings on future topics from the EPA staff.

Availability of Meeting Materials: A meeting agenda and other materials for the meeting will be placed on the SAB Web site at *http://epa.gov/sab.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Members of the public can submit relevant comments pertaining to the EPA's charge, meeting materials, or the group providing advice. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for the SAB to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the DFO directly.

Oral Statements: In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes. Persons interested in providing oral statements at the August 29–30, 2017, meeting should contact Mr. Thomas Carpenter, DFO, in writing (preferably via email) at the contact information noted above by August 21, 2017 to be placed on the list of registered speakers. *Written Statements:* Written statements for the August 29–30, 2017, meeting should be received in the SAB Staff Office by August 21, 2017, so that the information can be made available to the SAB for its consideration prior to the meeting. Written statements should be supplied to the DFO at the contact information above via email (preferred) or in hard copy with original signature. Submitters are requested to provide a signed and unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Carpenter at the phone number or email address noted above, preferably at least ten days prior to the meeting, to give the EPA as much time as possible to process your request.

Dated: July 11, 2017.

Khanna Johnston,

Acting Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2017–15722 Filed 7–25–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0006; FRL–9963–50]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before August 25, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (BPPD) (7511P), main telephone number: (703) 305–7090, email address: *BPPDFRNotices@epa.gov;* or Michael Goodis, Registration Division (RD) (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT** for the division listed at the end of the pesticide petition summary of interest.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the

disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain the data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available at *http://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petitions so that the public has an opportunity to comment on these requests for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petitions may be obtained through the petition summaries referenced in this unit.

Amended Tolerances for Non-Inerts

1. PP 6E8503. (EPA–HQ–OPP–2016–0600). BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709, requests to amend the tolerance in 40 CFR 180.589 for residues of the fungicide, boscalid, 3-pyridinecarboxamide,2-chloro-N-(4′-chloro[1,1′-biphenyl]-2-yl) in or on Vegetable, legume, edible-podded, subgroup 6A from 1.6 ppm to 5.0 ppm. Gas chromatography using mass spectrometry (GC/MS) is used to measure and evaluate the chemical in dry and succulent beans and peas. Contact: RD.

2. PP 6E8484. (EPA–HQ–OPP–2016–0254). IR–4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W., Princeton, NJ 08540, requests that upon establishing tolerances for this petition under ''New Tolerances'' above, 40 CFR part 180.475 is amended to remove existing tolerances for residues of the fungicide difenoconazole, 1-[2-[2-chloro-4-(4-chlorophenoxy)phenyl]-4-methyl-1,3-dioxolan-2-ylmethyl]-1H-1,2,4-triazole, including its metabolites and degradates, to be determined by measuring only difenoconazole in or on brassica, head and stem, subgroup 5A at 1.9 ppm, brassica, leafy greens, subgroup 5B at 35 ppm; grape at 4.0 ppm; and turnip, greens at 35 ppm. Contact: RD.

3. PP 6F8517. (EPA–HQ–OPP–2016–0639). Tessenderlo Kerley, Inc., 2255 N. 44th St., Suite 300, Phoenix, AZ 85008, requests to amend the tolerance in 40 CFR 180.415 for residues of the fungicide, aluminum tris (O-ethylphosphonate), in or on Fruit, citrus, group 10 from 5.0 ppm to 9.0 ppm. Adequate enforcement methodology available in the Pesticide Analytical Manual (PAM II, Method II) is used to measure and evaluate the chemical in the above citrus group. Contact: RD.

New Tolerance Exemptions

1. PP 6F8514. (EPA–HQ–OPP–2017–0185). FMC Corporation, FMC Tower at Cira Centre South, 2929 Walnut St., Philadelphia, PA 19104, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the fungicide, plant regulator, and nematocide *Bacillus licheniformis* strain FMCH001 in or on all food commodities. The petitioner believes no analytical method is needed because an analytical method for residues is not applicable. It is expected that, when used as proposed, *Bacillus licheniformis* strain FMCH001 would not result in residues that are of toxicological concern. Contact: BPPD.

2. PP 6F8515. (EPA–HQ–OPP–2017–0186). FMC Corporation, FMC Tower at Cira Centre South, 2929 Walnut St., Philadelphia, PA 19104, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the fungicide and plant regulator *Bacillus subtilis* strain FMCH002 in or on all food commodities. The petitioner believes no analytical method is needed because an analytical method for residues is not applicable. It is expected that, when used as proposed, *Bacillus subtilis* strain FMCH002 would not result in residues that are of toxicological concern. Contact: BPPD.

New Tolerances for Non-Inerts

1. PP 6E8484. (EPA–HQ–OPP–2016–0254). IR–4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W., Princeton, NJ 08540, requests to establish tolerances in 40 CFR part 180.475 for residues of the fungicide difenoconazole, 1-[2-[2-chloro-4-(4-chlorophenoxy)phenyl]-4-methyl-1,3-dioxolan-2-ylmethyl]-1H-1,2,4-triazole, including its metabolites and degradates, to be determined by measuring only difenoconazole in or on brassica, leafy greens, subgroup 4–16B at 35 ppm; cranberry at 0.6 ppm; fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 4.0 ppm; guava at 3.0 ppm; kohlrabi at 2.0 ppm; papaya at 0.6 ppm; and vegetable, brassica, head and stem, group 5–16 at 2.0 ppm. Available analytical methods for crops include gas chromatography (GC) equipped with a nitrogen -phosphorous detector; and LC/MS/MS; and for meat, milk, poultry or eggs, Syngenta's method, AG544A, is used to measure and evaluate the chemical difenoconazole. Contact: RD.

2. PP 6F8499. (EPA–HQ–OPP–2016–0752). Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419, requests to establish a tolerance in 40

CFR part 180 for residues of the fungicide benzovindiflupyr in or on Sugarcane, cane, at 0.3 parts per million (ppm). The GRM042.03A and GRM042.04A for plant products are used to measure and evaluate the chemical benzovindiflupyr. Contact: RD.

3. PP 6F8522. (EPA–HQ–OPP–2016–0754). Nufarm Americas Inc., 4020 Aerial Center Parkway, Suite 101, Morrisville, NC 27545., requests to establish a tolerance in 40 CFR part 180 for residues of the bactericide/fungicide oxytetracycline in or on citrus, group 10–10, at 0.6 parts per million (ppm) and citrus, dried pulp, at 1.2 ppm. The LC/MS/MS is used to measure and evaluate the chemical oxytetracycline, utilizing turbo ion spray in the positive ionization mode. Contact: RD.

4. PP 6F8542. (EPA–HQ–OPP–2017–0167). Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide benzovindiflupyr in or on grasses grown for seed, hay at 7 parts per million (ppm); grasses grown for seed, straw at 6ppm and grasses grown for seed, forage at .15 ppm. The GRM042.03A and GRM042.04A methods for plant products are used to measure and evaluate the chemical benzovindiflupyr. Contact: RD.

Authority: 21 U.S.C. 346a.

Dated: June 19, 2017.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2017–15730 Filed 7–25–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0007; FRL–9963–52]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before August 25, 2017.

ADDRESSES: Submit your comments, identified by the Docket Identification (ID) Number and the File Symbol of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications. EPA received the following applications to register new active ingredients:

File Symbol: 279–GARA. *Docket ID number:* EPA–HQ–OPP–2017–0187. *Applicant:* FMC Corporation, FMC Tower at Cira Centre South, 2929 Walnut St., Philadelphia, PA 19104. *Product name: Bacillus licheniformis* strain FMCH001 Technical. *Active ingredient:* Fungicide, plant regulator, and nematocide—*Bacillus licheniformis* strain FMCH001 at 100.0%. *Proposed use:* For manufacturing use only.

File Symbol: 279–GARI. *Docket ID number:* EPA–HQ–OPP–2017–0187. *Applicant:* FMC Corporation, FMC Tower at Cira Centre South, 2929 Walnut St., Philadelphia, PA 19104. *Product name:* F4018–4. *Active ingredients:* Fungicide, plant regulator, and nematocide—*Bacillus licheniformis* strain FMCH001 at 3.50% and *Bacillus subtilis* strain FMCH002 at 4.00%. *Proposed use:* A biological fungicide and nematocide for seed treatment use to control listed fungal diseases and provide protection from listed soil nematodes.

File Symbol: 279–GARO. *Docket ID number:* EPA–HQ–OPP–2017–0187. *Applicant:* FMC Corporation, FMC Tower at Cira Centre South, 2929 Walnut St., Philadelphia, PA 19104. *Product name:* F4022–1. *Active ingredients:* Insecticide, fungicide, plant regulator, and nematocide—Bifenthrin at 16.3% and *Bacillus licheniformis*

strain FMCH001 at 1.0%. *Proposed use:* For mixing directly with liquid fertilizer to control listed soil pests.

File Symbol: 279–GART. *Docket ID number:* EPA–HQ–OPP–2017–0187. *Applicant:* FMC Corporation, FMC Tower at Cira Centre South, 2929 Walnut St., Philadelphia, PA 19104. *Product name: Bacillus subtilis* strain FMCH002 Technical. *Active ingredient:* Fungicide and plant regulator—*Bacillus subtilis* strain FMCH002 at 100.0%. *Proposed use:* For manufacturing use only.

Authority: 7 U.S.C. 136 *et seq.*

Dated: July 6, 2017.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2017–15746 Filed 7–25–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10072—Mirae Bank, Los Angeles, California

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC) as Receiver for Mirae Bank, Los Angeles, California (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed Receiver of Mirae Bank on June 26, 2009. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to:

Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Date: July 20, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–15623 Filed 7–25–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10391—First Southern National Bank Statesboro, Georgia

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for First Southern National Bank, Statesboro, Georgia (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of First Southern National Bank on August 19, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: July 21, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–15710 Filed 7–25–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10510—First National Bank of Crestview, Crestview, Florida

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC) as Receiver for First National Bank of Crestview, Crestview, Florida (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed Receiver of First National Bank of Crestview on January 16, 2015. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: July 21, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–15656 Filed 7–25–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10335—The First State Bank, Camargo, Oklahoma

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC) as Receiver for The First State Bank, Camargo, Oklahoma (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed Receiver of The First State Bank on January 28, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the

receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to:

Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Date: July 20, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–15621 Filed 7–25–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination—10314 Allegiance Bank of North America, Bala Cynwyd, Pennsylvania

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10314 Allegiance Bank of North America, Bala Cynwyd, Pennsylvania (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Allegiance Bank of North America (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds. Effective July 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: July 21, 2017.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 2017–15709 Filed 7–25–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request (3064–0099; –0118; –0148 and –0153)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995. On April 28, 2017, the FDIC requested comment for 60 days on a proposal to renew the information collections described below. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of these collections, and again invites comment on this renewal.

DATES: Comments must be submitted on or before August 25, 2017.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Counsel, MB–3007, or Jennifer Jones (202–898–6768), Counsel, MB–3105, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza or Jennifer Jones, at the FDIC address above.

SUPPLEMENTARY INFORMATION: On April 28, 2017, (82 FR 19718), the FDIC requested comment for 60 days on a proposal to renew the information collections described below. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of these collections, and again invites comment on this renewal.

Proposal to renew the following currently approved collections of information:

1. *Title:* Application for Waiver of Prohibition on Acceptance of Brokered Deposits.

OMB Number: 3064–0099.

Form Number: None.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

Type of burden	Estimated number of respondents	Estimated time per response (hours)	Frequency of response	Total annual estimated burden (hours)
Reporting	30	6	On Occasion	180

General Description of Collection: Section 29 of the Federal Deposit Insurance Act prohibits undercapitalized insured depository institutions from accepting, renewing, or rolling over any brokered deposits. Adequately capitalized institutions may do so with a waiver from the FDIC, while well-capitalized institutions may accept, renew, or roll over brokered deposits without restriction. This information collection captures the burden associated with preparing and filing an application for a waiver of the prohibition on the acceptance of brokered deposits.

There is no change in the method or substance of the collection. The overall reduction in burden hours is a result of economic fluctuation. In particular, the number of respondents has decreased while the hours per response remain the same.

2. *Title:* Management Official Interlocks.

OMB Number: 3064–0118.

Form Number: None.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

Type of burden	Estimated number of respondents	Estimated time per response	Frequency of response	Total annual estimated burden (hours)
Reporting	3	7	On Occasion	21

General Description of Collection: The FDIC's Management Official Interlocks regulation, 12 CFR 348, which implements the Depository Institutions Management Interlocks Act (DIMIA), 12 U.S.C. 3201–3208, generally prohibits bank management officials from serving simultaneously with two unaffiliated depository institutions or their holding companies but allows the FDIC to grant exemptions in appropriate circumstances. Consistent with DIMIA, the FDIC's Management Official Interlocks regulation has an application requirement requiring information specified in the FDIC's procedural regulation. The rule also contains a notification requirement.

There is no change in the method or substance of the collection. The overall reduction in burden hours is a result of economic fluctuation as well as the change in complexity of the reporting institutions. In particular, the number of respondents has decreased while the hours per response have increased due to the complexity of the reporting institutions.

3. *Title:* Interagency Statement on Sound Practices Concerning Complex Structured Finance Transactions.

OMB Number: 3064–0148.

Form Number: Interagency Statement on Sound Practices Concerning Elevated Risk Complex Structured Finance Activities.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

Type of burden	Estimated number of respondents	Estimated time per response	Frequency of response	Total annual estimated burden (hours)
Recordkeeping	4	25	On Occasion	100

General Description of Collection: The Interagency Statement on Sound Practices Concerning Complex Structured Finance Transactions describes the types of internal controls and risk management procedures that the Agencies believe are particularly effective in assisting financial institutions to identify, evaluate, assess, document, and control the full range of credit, market, operational, legal and reputational risks. A financial institution that engages in complex structured finance transactions should maintain a set of formal, written, firm-wide policies and procedures that are designed to allow the institution to identify and assess these risks.

There is no change in the method or substance of the collection. The overall reduction in burden hours is a result of economic fluctuation. In particular, the number of respondents has decreased while the hours per response remain the same.

4. *Title:* Regulatory Capital Rules.

OMB Number: 3064–0153.

Form Number: None.

Affected Public: State nonmember banks, state savings associations, and certain subsidiaries of those entities.

Burden Estimate:

ESTIMATED HOURLY BURDEN

BASEL III advanced approaches: recordkeeping and disclosure	Type of burden	Estimated number of respondents	Estimated time per response	Frequency of response	Total annual estimated burden
Implementation plan—Section _.121(b): Ongoing	Recordkeeping	2	330.0	On Occasion	660
Documentation of advanced systems—Section _.122(j): Ongoing.	Recordkeeping	2	19.0	On Occasion	38
Systems maintenance—Sections _.122(a), _123(a), _.124(a): Ongoing.	Recordkeeping	2	27.9	On Occasion	56
Supervisory approvals—Sections _.122(d)–(h), _.132(b)(3), _.132(d)(1), _.132(d)(1)(iii): Ongoing.	Recordkeeping	2	16.8	On Occasion	34
Control, oversight and verification of systems—Sections _.122 to _.124: Ongoing.	Recordkeeping	2	11.1	On Occasion	22
(CCR)—Section _.132(b)(2)(iii)(A): One-time	Recordkeeping	1	80.0	On Occasion	80
(CCR)—Section _.132(b)(2)(iii)(A): Ongoing	Recordkeeping	2	16.0	On Occasion	32
(CCR)—Section _.132(d)(2)(iv): One-time	Recordkeeping	1	80.0	On Occasion	80
(CCR)—Section _.132(d)(2)(iv): Ongoing	Recordkeeping	2	40.0	On Occasion	80
(CCR)—Section _.132(d)(3)(vi): One-time	Recordkeeping	1	80.0	On Occasion	80
(CCR)—Section _.132(d)(3)(viii): One-time	Recordkeeping	1	80.0	On Occasion	80
(CCR)—Section _.132(d)(3)(viii) Ongoing	Recordkeeping	2	10.0	Quarterly	80
(CCR)—Section _.132(d)(3)(ix): One-time	Recordkeeping	1	40.0	On Occasion	40
(CCR)—Section _.132(d)(3)(ix): Ongoing	Recordkeeping	2	40.0	On Occasion	80
(CCR)—Section _.132(d)(3)(x): One-time	Recordkeeping	1	20.0	On Occasion	20
(CCR)—Section _.132(d)(3)(xi): One-time	Recordkeeping	1	40.0	On Occasion	40
(CCR)—Section _.132(d)(3)(xi): Ongoing	Recordkeeping	2	40.0	On Occasion	80

ESTIMATED HOURLY BURDEN—Continued

BASEL III advanced approaches: recordkeeping and disclosure	Type of burden	Estimated number of respondents	Estimated time per response	Frequency of response	Total annual estimated burden
(OC)—Section _.141(b)(3), _.141(c)(1), _.141(c)(2)(i)–(ii), _.153: One-time.	Recordkeeping	1	40.0	On Occasion	40
(OC)—Section _.141(c)(2)(i)-(ii): Ongoing	Recordkeeping	2	10.0	Quarterly	80
Sections _.142 and _.171: Ongoing	Disclosure	2	5.8	On Occasion	12
(CCB and CCYB)—Section _.173, Table 4 (CR) _.173, Table 5 (Securitization) _.173, Table 9 (IRR) _.173, Table 12: Ongoing.	Disclosure	2	35.0	Quarterly	280
(CCB and CCYB)—Section _.173, Table 4 (CR) Section _.173, Table 5 (Sec.) Section _.173, Table 9 (IRR) Section _.173, Table 12: One-time.	Disclosure	1	280.0	On Occasion	280
Subtotal: One-time Recordkeeping and Disclosure.					740
Subtotal: Ongoing Recordkeeping and Disclosure.					1,533
Total Recordkeeping and Disclosure					2,273

Minimum regulatory capital ratios: recordkeeping	Type of burden	Estimated number of respondents	Estimated time per response	Frequency of response	Total annual estimated burden
(CCR Operational Requirements)—Sections _.3(c) and _.22(h)(2)(iii)(A): Ongoing.	Recordkeeping	3,787	16.0	On Occasion	60,592
Subtotal: One-time Recordkeeping					0
Subtotal: Ongoing Recordkeeping					60,592
Total Recordkeeping					60,592

Standardized approach: recordkeeping and disclosure	Type of burden	Estimated number of respondents	Estimated time per response	Frequency of response	Total annual estimated burden
(QCCP)—Section _.35(b)(3)(i)(A): One-time	Recordkeeping	1	2.0	On Occasion	2
(QCCP)—Section _.35(b)(3)(i)(A): Ongoing	Recordkeeping	3,787	2.0	On Occasion	7,574
(CT)—Section _.37(c)(4)(i)(E): One-time	Recordkeeping	1	80.0	On Occasion	80
(CT)—Section _.37(c)(4)(i)(E): Ongoing	Recordkeeping	3,787	16.0	On Occasion	60,592
(SE)—Section _.41(b)(3) and _.41(c)(2)(i): One-time.	Recordkeeping	1	40.0	On Occasion	40
(SE)—Section _.41(c)(2)(i): Ongoing	Recordkeeping	3,787	2.0	On Occasion	7,574
(S.E.)—Section _.42(e)(2), (C.R.) Sections_.62(a),(b),& (c), (Q&Q) Sections _.63(a) & (b): One-time.	Disclosure	1	226.3	On Occasion	226
(S.E.)—Section _.42(e)(2), (C.R.) Sections_.62(a),(b),& (c), (Q&Q) Sections_.63(a) & (b) and _.63 Tables: Ongoing.	Disclosure	1	131.3	Quarterly	525
Subtotal: One-time Recordkeeping and Disclosure.					348
Subtotal: Ongoing Recordkeeping and Disclosure.					76,265
Total Recordkeeping and Disclosure					76,613
Total Burden Hours					139,478

General Description of Collection: This collection comprises the disclosure and recordkeeping requirements associated with minimum capital requirements and overall capital adequacy standards for insured state nonmember banks, state savings associations, and certain subsidiaries of those entities. The data is used by the FDIC to evaluate capital before approving various applications by insured depository institutions, to evaluate capital as an essential component in determining safety and soundness, and to determine whether an institution is subject to prompt corrective action provisions.

There is no change in the method or substance of the collection. The overall reduction in burden hours is a result of economic fluctuation. In particular, the number of respondents has decreased while the hours per response remain the

same. The overall reduction in burden hours also reflects a decrease in the number of entities that will incur any one-time implementation burden, as a majority of the entities have already fully implemented the one-time requirements associated with the rule.

Request for Comment

Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, 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 collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 20th day of July, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–15617 Filed 7–25–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10124—Jennings State Bank, Spring Grove, Minnesota

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC) as Receiver for Jennings State Bank, Spring Grove, Minnesota (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed Receiver of Jennings State Bank on October 2, 2009. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: July 21, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–15655 Filed 7–25–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10453—Second Federal Savings and Loan Association of Chicago, Chicago, Illinois

NOTICE IS HEREBY GIVEN that the Federal Deposit Insurance Corporation (FDIC) as Receiver for Second Federal Savings and Loan Association of Chicago, Chicago, Illinois (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed Receiver of Second Federal Savings and Loan Association of Chicago on July 20, 2012. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: July 20, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–15622 Filed 7–25–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 21, 2017.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *Riverview Financial Corporation,* Harrisburg, Pennsylvania; to acquire voting shares of CBT Financial Corp., and thereby indirectly acquire shares of Clearfield Bank, both of Clearfield, Pennsylvania.

Board of Governors of the Federal Reserve System, July 20, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–15593 Filed 7–25–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (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 notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 10, 2017.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Dr. Robert Troia; Dr. Carol Drake; Virginia Fusco; Carl J. Troia, Jr.; Cynthia Troia; Troia Investments, LLC; Troia Family Limited Partnership; DN HSIRI; Anne Troia; Barbara Troia; Matthew Troia; Christina Troia; and Nicholas Troia; all of Omaha, Nebraska;* individually, and as a group acting in concert, to retain shares of 3MV Bancorp, Inc., Omaha, Nebraska, and thereby retain shares of ACCESSbank, Omaha, Nebraska.

Board of Governors of the Federal Reserve System, July 21, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–15706 Filed 7–25–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 21, 2017.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *United Community Banks, Inc., Blairsville, Georgia;* to merge with Four Oaks Fincorp, Inc., and thereby directly acquire its subsidiary, Four Oaks Bank & Trust Company, both of Four Oaks, North Carolina.

Board of Governors of the Federal Reserve System, July 21, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–15705 Filed 7–25–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

DATE AND TIME: July 26, 2017, Noon.

PLACE: 1700 K St. NW., Washington, DC 20006.

AGENDA: Federal Retirement Thrift Investment Board Member Meeting.

STATUS: Closed to the public.

MATTER TO BE CONSIDERED: Information covered under 5 U.S.C. 552b(c)(6) and (c)(9)(B).

Adjourn

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: July 24, 2017.

Megan Grumbine,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2017–15793 Filed 7–24–17; 11:15 am]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day-17–1128]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted 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 notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (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 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; (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 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention:

CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

State Unintentional Drug Overdose Reporting System (SUDORS) (OMB Control Number 0920–1128, exp. 8/31/2018)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In 2013, there were nearly 44,000 drug overdose deaths, including nearly 36,000 unintentional drug overdose deaths, in the United States. More people are now dying of drug overdose than automobile crashes in the US. A major driver of the problem are overdoses related to opioids, both opioid pain relievers (OPRs) and illicit forms such as heroin. In order to address this public health problem, the U.S. Department of Health and Human Services (HHS) has made addressing the opioid abuse problem a high priority.

In order to support targeting of drug overdose prevention efforts, detect new trends in fatal unintentional drug overdoses, and assess the progress of HHS's initiative to reduce opioid abuse and overdoses, the State Unintentional Drug Overdose Reporting System (SUDORS) conducts ongoing surveillance of fatal unintentional opioid-related drug overdoses to support prevention and response efforts in states with a high burden of opioid-related overdoses. This collection generates public health surveillance information on unintentional fatal opioid-related drug overdoses at the national, state, and local levels that is more detailed, useful, and timely than is currently available. This information will help develop, inform, and assess the progress of drug overdose prevention strategies at the national, state, and local levels.

SUDORS will collect information that is not currently collected on death certificates such as whether the drug(s) causing the overdoses were injected or taken orally, a toxicology report on the decedent, if available, and risk factors for fatal drug overdoses including previous drug overdoses, decedent's mental health, and whether the decedent recently exited a treatment program. Without this information, drug overdose efforts are often based on limited information available on the death certificate and anecdotal evidence.

CDC is expanding the state opioid surveillance program to include additional states. In fiscal year 2016, CDC was appropriated funds to work with state health departments to improve the timeliness of fatal opioid overdose surveillance by developing the Enhanced State Opioid Overdose Surveillance program (ESOOS), with 16 states originally approved. ESOOS provides states a delivery schedule for reporting fatal opioid overdoses to CDC using SUDORS. In fiscal year 2017, ESOOS received a significant increase in funding through congressional appropriation to expand the number of states using the SUDORS OMB package for mortality data collection. The next data delivery will occur in October 2017. As a result, CDC now requests OMB approval for three years for this revision to include all 50 states.

The purpose of the revision is twofold: (1) Increase burden hours associated with increasing the number of states using the SUDORS OMB package from the 16 approved to all 50 states; and (2) implement updates to the web-based system to improve performance, functionality, and accessibility as well as minimal revisions to the SUDORS collection instrument. Minimal changes to the SUDORS module include revisions to question wording and response choices, as well as additional categories available to capture information that previously could only be captured in a narrative field, to better capture contextual information such as day/time a decedent was last seen alive, whether a decedent had a recent opioid use relapse, evidence of prescription drug use, and evidence of rapid overdose. These changes would not affect burden hours per response, the increase in burden hours is associated with increasing the number of states using the SUDORS OMB package from the 16 approved to all 50 states.

Participation is based on secondary data and is dependent on separate data collection efforts in each state managed by the state health departments or their bona fide agent. The estimated annual burden hours are 16,550 with an increase of 9,542 burden hours from the previously approved collection. There are no costs to respondents.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Total number of responses per respondent	Average burden per response (in hours)	Total burden hours (in hours)
Public Agencies	Retrieving and refile records	50	662	30/60	16,550
Total					16,550

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–15671 Filed 7–25–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2016–0090; Docket Number NIOSH 288–A]

A Performance Test Protocol for Closed System Transfer Devices Used During Pharmacy Compounding and Administration of Hazardous Drugs; Extension of Comment Period

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice and extension of comment period.

SUMMARY: On September 15, 2016 the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), published a notice in the **Federal Register** [81 FR 63482] announcing a public meeting and request for public comment on a draft testing protocol.

Written comments were to be received by December 7, 2016. NIOSH initially extended the public comment period to June 7, 2017 [81 FR 88687]. NIOSH extended the comment period again to August 30, 2017 [82 FR 25290]. NIOSH is extending the public comment period to close on February 28, 2018. The longer timeframe will allow companies to test the protocol with the proposed challenge agents and permit full participation in the protocol design process.

FOR FURTHER INFORMATION CONTACT: Deborah V. Hirst, NIOSH, Alice Hamilton Laboratories, 1090 Tusculum Avenue, MS R–5, Cincinnati, Ohio 45226, telephone (513) 841–4141 (not a toll free number), Email: *DHirst@cdc.gov.*

ADDRESSES: You may submit comments, identified by CDC–2016–0090 and Docket Number NIOSH 288–A, by either of the following two methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2017–15727 Filed 7–25–17; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Sunshine Act Meeting: Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (BSC, NCEH/ATSDR)

TIMES AND DATES:

8:30 a.m.–4:30 p.m., EDT, September 13, 2017

8:30 a.m.–11:30 a.m., EDT, September 14, 2017

PLACE: CDC, 4770 Buford Highway, Building 102, Conference Room 2202, Atlanta, Georgia 30341.

STATUS: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention announces the meeting of the BSC, NCEH/ATSDR. This meeting is open to the public. The meeting room accommodates approximately 60 people. The public is also welcome to listen to the meeting by joining the teleconference at the USA toll-free, dial-in number, 1–888–790–2009 Passcode: 7865774. The deadline for notification of attendance is August 30, 2017. The public comment period is scheduled on Wednesday, September 13, 2017 from 2:00 p.m. until 2:15 p.m.; from 2:40 p.m. until 2:55 p.m.; and from 3:25 p.m. until 3:40 p.m., and on Thursday, September 14, 2017 from 10:10 a.m. until 10:25 a.m. EDT (15 minutes). Individuals wishing to make a comment during Public Comment period, please email your name, organization, and phone number by Monday, September 4, 2017 to Dr. William Cibulas at *wic1@cdc.gov.*

MATTERS TO BE CONSIDERED: The Secretary, Department of Health and Human Services (HHS) and by delegation, the Director, CDC and Administrator, NCEH/ATSDR, are authorized under Section 301 (42 U.S.C. 241) and Section 311 (42 U.S.C. 243) of the Public Health Service Act, as amended, to: (1) Conduct, encourage, cooperate with, and assist other appropriate public authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments; (2) assist states and their political subdivisions in the prevention of infectious diseases and other preventable conditions and in the promotion of health and wellbeing; and (3) train state and local personnel in health work. The BSC, NCEH/ATSDR provides advice and guidance to the Secretary, HHS; the Director, CDC and Administrator, ATSDR; and the Director, NCEH/ATSDR, regarding program goals, objectives, strategies, and priorities in fulfillment of the agency's mission to protect and promote people's health. The Board provides advice and guidance that will assist NCEH/ATSDR in ensuring scientific quality, timeliness, utility, and dissemination of results. The Board also provides guidance to help NCEH/ATSDR work more efficiently and effectively with its various constituents and to fulfill its mission in protecting America's health. The agenda items for the BSC Meeting will include NCEH/ATSDR Director Updates; Noise-Induced Hearing Loss; NCEH/ATSDR Program Responses to BSC Guidance and Action Items; Lead Poisoning Prevention Program Updates; Flint Registry; Revision of blood lead level reference value (status); Discussion of Legislative Requirements of new Lead Exposure Poisoning Federal Advisory Committee; Amyotrophic Lateral Sclerosis (ALS) Program Update; Environmental Health Tracking Program update; updates from the National Institute of Environmental Health Sciences, the National Institute for Occupational Safety and Health, the US Department of Energy and the US Environmental Protection Agency.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Shirley Little, NCEH/ATSDR, CDC, 4770 Buford Highway, Mail Stop F–45, Atlanta, Georgia 30341; Telephone 770/488–0577, Email: *snl7@cdc.gov.*

The Director, Management Analysis and Services Office, 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.

Claudette Grant,

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 2017–15782 Filed 7–24–17; 11:15 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Sunshine Act Meeting: Board of Scientific Counselors, National Center for Health Statistics (NCHS)

TIMES AND DATES:

11:00 a.m.–5:30 p.m., EDT, September 6, 2017

8:30 a.m.–1:00 p.m., EDT, September 7, 2017

PLACE: NCHS Headquarters, 3311 Toledo Road, Hyattsville, Maryland 20782.

STATUS: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), National Center for Health Statistics (NCHS) announces the following meeting of the aforementioned committee. This meeting is open to the public; however, visitors must be processed in accordance with established federal policies and procedures. For foreign nationals or non-U.S. citizens, pre-approval is required (please contact Gwen Mustaf, 301–458–4500, *glm4@cdc.gov,* or Virginia Cain, *vcain@cdc.gov* at least 10 days in advance for requirements). All visitors are required to present a valid form of picture identification issued by a state, federal or international government. As required by the Federal Property Management Regulations, Title 41, Code of Federal Regulation, Subpart 101–20.301, all persons entering in or on Federal controlled property and their packages, briefcases, and other containers in their immediate possession are subject to being x-rayed and inspected. Federal law prohibits the knowing possession or the causing to be present of firearms, explosives and other dangerous weapons and illegal substances. The meeting room accommodates approximately 78 people.

MATTERS TO BE CONSIDERED: This committee is charged with providing advice and making recommendations to the Secretary, Department of Health and Human Services; the Director, CDC; and the Director, NCHS, regarding the scientific and technical program goals and objectives, strategies, and priorities of NCHS. The agenda includes welcome remarks by NCHS leadership; update from the Division of Health Care Statistics; update on National Committee on Vital and Health Statistics (NCVHS) activities; update on improving data collection.

Requests to make oral presentations should be submitted in writing to the contact person listed below. All requests must contain the name, address, telephone number, and organizational affiliation of the presenter. Written comments should not exceed five single-spaced typed pages in length and must be received by August 22, 2017. Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Virginia S. Cain, Ph.D., Director of Extramural Research, NCHS/CDC, 3311 Toledo Road, Room 2627, Hyattsville, Maryland 20782, telephone (301) 458–4500, email *vcain@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–15783 Filed 7–24–17; 11:15 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–1984–14, CMS–10326, CMS–2088–17, CMS–10452, CMS–10320 and CMS–10418]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by August 25, 2017.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR*, Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at Web site address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C.

3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. No comments were received in response to the 60-day comment period. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement of a previously approved collection; *Title of Information Collection:* Hospice Facility Cost Report; *Use:* Providers of services participating in the Medicare program are required under §§ 1815(a), 1833(e), and 1861(v)(1)(A) of the Social Security Act (42 U.S.C. 1395g) to submit annual information to determine costs for health care services rendered to Medicare beneficiaries. In addition, regulations at 42 CFR 413.20, 413.24 and 418.310 require adequate cost data and cost reports from providers on an annual basis. The Form CMS–1984–14 cost report is needed to determine a provider's reasonable costs incurred in furnishing medical services to Medicare beneficiaries. The data is used by CMS to calculate: Market basket weight and the labor related shares, Rate setting and payment refinement, and Medicare and total facility margins for Medicare-covered services by type of service. *Form Number:* CMS–1984–14 (OMB control number: 0938–0758); *Frequency:* Annually; *Affected Public:* Private sector—Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 3,545; *Total Annual Responses:* 3,545; *Total Annual Hours:* 666,460. (For policy questions regarding this collection contact Yaakov Feinstein at 410–786–3137.)

2. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Electronic Submission of Medicare Graduate Medical Education (GME) Affiliation Agreements; *Use:* Sections 1886(h)(4)(F) and 1886(d)(5)(B)(v) of the Act establish limits on the number of allopathic and osteopathic FTE residents that hospitals may count for purposes of calculating direct GME payments and the indirect medical education (IME) adjustment. In addition, under the authority granted by section 1886(h)(4)(H)(ii) of the Act, the Secretary issued regulations on May 12, 1998 (63 FR 26358) to allow institutions that are members of the same Medicare GME affiliated group to elect to apply their direct GME and IME FTE resident caps based on the aggregate cap of all hospitals that are part of a Medicare GME affiliation group. Under those regulations, specified at § 413.79(f) for direct GME and at § 412.105(f)(1)(vi) for IME, hospitals that are part of the same Medicare GME affiliated group are permitted to adjust each hospital's caps to reflect the rotation of residents among affiliated hospitals during an academic year. Under § 413.75(b), a Medicare GME affiliated group may be formed by two or more hospitals if: (1) The hospitals are located in the same urban or rural area or in a contiguous area and have a shared rotational arrangement as specified at § 413.79(f)(2); (2) the hospitals are not located in the same or in a contiguous area, but have a shared rotational arrangement and they are jointly listed as the sponsor, primary clinical site, or major participating institution for one or more programs as these terms are used in the most recent publication of the Graduate Medical Education Directory, or as the sponsor or is listed under ''affiliations and outside rotations'' for one or more programs in Opportunities, Directory of Osteopathic Post-Doctoral Education Programs; or (3) effective beginning July 1, 2003, two or more hospitals are under common ownership and have a shared rotational arrangement under § 413.79(f)(2). *Form Number:* CMS–10326 (OMB control number: 0938–1111); *Frequency:* Annually; *Affected Public:* Business or other For-profit and Not-for-profit institutions; *Number of Respondents:* 125; *Total Annual Responses:* 125; *Total Annual Hours:* 166. (For policy questions regarding this collection contact Renate Dombrowski at 410–786–4645.)

3. *Type of Information Collection Request:* Reinstatement with change of a previouslyapproved collection; *Title of Information Collection:* Community Mental Health Center Cost Report; *Use:* Providers of services participating in the Medicare program are required under sections 1815(a) and 1861(v)(1)(A) of the Social Security Act (42 U.S.C. 1395g) to submit annual information to achieve settlement of costs for health care services rendered to Medicare beneficiaries. In addition, regulations at 42 CFR 413.20 and 413.24 require adequate cost data and cost reports from providers on an annual basis. The Form CMS–2088–17 cost report is needed to determine a provider's reasonable costs incurred in furnishing medical services to Medicare beneficiaries and reimbursement due to or due from a provider. The primary function of the cost report is to collect data that is used by CMS to support program operations, payment refinement activities and to make Medicare Trust Fund projections. *Form Number:* CMS–2088–17 (OMB control number: 0938–0037); *Frequency:* Yearly; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 219; *Total Annual Responses:* 219; *Total Annual Hours:* 19,710. (For policy questions regarding this collection contact Jill Keplinger at 410–786–4550.)

4. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* CMS Enterprise Identity Management; *Use:* HIPAA regulations require covered entities to verify the identity of the person requesting Personal Health Information (PHI) and the person's authority to have access to that information. Per the HIPAA Security Rule, covered entities, regardless of their size, are required under Section164.312(a)(2)(i) to ''assign a unique name and/or number for identifying and tracking user identity.'' A 'user' is defined in Section 164.304 as a ''person or entity with authorized access''. Accordingly, the Security Rule requires covered entities to assign a unique name and/or number to each employee or workforce member who uses a system that receives, maintains or transmits electronic PHI, so that system access and activity can be identified and tracked by user. This pertains to workforce members within health plans, group health plans, small or large provider offices, clearinghouses and beneficiaries. Federal law requires that CMS take precautions to minimize the security risk to the Federal information system. FIPS PUB 201—1 Para 1.2: ''Homeland Security Presidential Directive 12 (HSPD 12), signed by the President on August 27, 2004, established the requirements for a common identification standard for the identification of credentials issued by Federal Departments and agencies to Federal employees and contractors (including contractor employees) for gaining physical access to Federally controlled facilities and logical access to Federally controlled information systems. HSPD 12 directs the department of Commerce to develop a Federal Information Processing Standards (FIPS) publication to define such a common identification credential.'' *Form Number:* CMS–10452 (OMB control number: 0938–1236); *Frequency:* Annually; *Affected Public:* Individuals and Households; *Number of Respondents:* 750,000; *Total Annual*

Responses: 750,000; *Total Annual Hours:* 300,000. (For policy questions regarding this collection contact Robert Burger at 410–786–2125.)

5. *Type of Information Collection Request:* Extension of a currently approved information collection; *Title of Information Collection:* Health Care Reform Insurance Web Portal Requirements 45 CFR part 159; *Use:* In accordance with the provisions of the ACA referenced above, the U.S. Department of Health and Human Services created a Web site called *healthcare.gov* to meet these and other provisions of the law, and data collection was conducted for six months based upon an emergency information collection request. The interim final rule published on May 5, 2010 served as the emergency **Federal Register** notice for the prior information collection request. The Office of Management and Budget (OMB) reviewed the request under emergency processing and approved it on April 30, 2010.

CMS updated the web portal system where state Departments of Insurance and issuers log in using a custom user ID and password validation. The states are asked to provide information on issuers in their state and various Web sites maintained for consumers. The issuers are also tasked with providing information on their major medical insurance products and plans. They are ultimately given the choice to download a basic information template to enter data then upload into the web portal; to manually enter data within the web portal itself; or to submit .xml files containing their information. Once the states and issuers submit their data, they will receive an email notifying them of any errors, and that their submission was received.

CMS mandates that issuers verify and update their information on a quarterly basis and requests that States verify State-submitted information on an annual basis. In the event that an issuer enhances its existing plans, proposes new plans, or deactivates plans, the organization would be required to update the information in the web portal. Changes occurring during the three month quarterly periods will be allowed utilizing effective dates for both the plans and rates associated with the plans. *Form Number:* CMS–10320 (OMB control number: 0938–1086); *Frequency:* Annually, Quarterly; *Affected Public:* State, Local, and Tribal Governments; *Number of Respondents:* 305; *Total Annual Responses:* 5,500; *Total Annual Hours:* 89,725. (For policy questions regarding this collection contact Kim Heckstall at 410–786–1647).

6. *Type of Information Collection Request:* Revision of currently approved collection; *Title of Information Collection:* Annual MLR and Rebate Calculation Report and MLR Rebate Notices; *Use:* Under Section 2718 of the Affordable Care Act and implementing regulation at 45 CFR part 158, a health insurance issuer (issuer) offering group or individual health insurance coverage must submit a report to the Secretary concerning the amount the issuer spends each year on claims, quality improvement expenses, non-claims costs, Federal and State taxes and licensing and regulatory fees, the amount of earned premium, and beginning with the 2014 reporting year, the amounts related to the reinsurance, risk corridors, and risk adjustment programs established under sections 1341, 1342, and 1343, respectively, of the Affordable Care Act. An issuer must provide an annual rebate if the amount it spends on certain costs compared to its premium revenue (excluding Federal and States taxes and licensing and regulatory fees) does not meet a certain ratio, referred to as the medical loss ratio (MLR). Each issuer is required to submit annually MLR data, including information about any rebates it must provide, on a form prescribed by CMS, for each State in which the issuer conducts business. Each issuer is also required to provide a rebate notice to each policyholder that is owed a rebate and each subscriber of policyholders that are owed a rebate for any given MLR reporting year. Additionally, each issuer is required to maintain for a period of seven years all documents, records and other evidence that support the data included in each issuer's annual report to the Secretary.

Under Section 1342 of the Patient Protection and Affordable Care Act and implementing regulation at 45 CFR part 153, issuers of qualified health plans (QHPs) must participate in a risk corridors program. A QHP issuer will pay risk corridors charges or be eligible to receive payments based on the ratio of the issuer's allowable costs to the target amount. Each QHP issuer is required to submit an annual report to CMS concerning the issuer's allowable costs, allowable administrative costs, premium, and proportion of market premium in QHPs. Risk corridors premium information that is specific to an issuer's QHPs is collected through a separate plan-level data form, which is included in this information collection. Additionally, each QHP issuer is required to maintain for a period of ten years all documents, records and other evidence sufficient to enable the evaluation of the issuer's compliance with applicable risk corridors standards.

On May 2, 2017, CMS published a 60-day notice in the **Federal Register** (82 FR 20481) for the public to submit written comments on this information collection; the public comment period closed on July 3, 2017. As part of the 60-day notice, CMS updated its annual burden hour estimates to reflect the actual numbers of submissions, rebates and rebate notices.

CMS received a total of six comments on a number of specific issues regarding the notice of the revised MLR PRA package. CMS has taken into consideration all of the comments and has modified the information collection instruments and instructions (the 2016 MLR Annual Reporting Form and Instructions; no comments were submitted on the 2016 Risk Corridors Plan-Level Data Form and Instructions) in order to correct errors and to provide additional clarifications. These modifications do not affect the previously estimated burden hours or costs. *Form Number:* CMS–10418 (OMB Control Number: 0938–1164); *Frequency:* Annually; *Affected Public:* Private Sector, Business or other for-profits and not-for-profit institutions; *Number of Respondents:* 545; *Number of Responses:* 2,532; *Total Annual Hours:* 200,597. (For policy questions regarding this collection, contact Christina Whitefield at (301) 492–4172.)

Dated: July 21, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–15726 Filed 7–25–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Notice of Intent To Award a Single-Source Non-Competing Continuation Application To Fund Grant Number 90DN0295 University of Massachusetts for an Additional 12 Months

SUMMARY: The Administration for Community Living (ACL) recently announced the awarding of the University of Massachusetts-Boston to the Institute of Community Inclusion (ICI). The University of Massachusetts-Boston will maintain and advance the longitudinal study describing day and employment services nationwide for individuals with developmental disabilities.

SUPPLEMENTARY INFORMATION:

Program Name: Institute of Community Inclusion.

Award Amount: $350,000.00.

Statutory Authority: The Developmental Disabilities and Bill of Rights Act of 2000.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.631.

Program Description: The Administration on Developmental and Intellectual Disabilities, an agency of the U.S. Administration for Community Living, has been funding the ICI for thirty-five years. The project's activities include: Studying the effectiveness of state developmental disabilities agencies and vocational rehabilitation agencies in promoting full inclusion of individuals with intellectual and developmental disabilities through employment and other community activities; describing national trends in the employment and economic status of youth and adults with intellectual and developmental disabilities on a state and national basis; highlighting practices and outcomes in the transition from school to employment and promote policy enhancing integrated employment at both the systems and customer levels; developing guidelines for community-based non-work activities; implementing *www.statedata.info,* a Web site illustrating service system investment in day and employment services, and *www.realworkstories.org,* a Web site featuring successes of youth with intellectual and developmental disabilities in paid jobs in their communities; provide an online catalog of innovative state-level strategies that influence policy and facilitate access to integrated employment; collaborate with the University of Minnesota and the University of Colorado to show targeted current year and longitudinal data on the project Web site and providing a create-a-chart option allowing reports to be customized. The project provides comparative nationwide longitudinal study of the employment trends of people with Intellectual/Developmental Disabilities and is a thirty-five year body of work.

Agency Contact: For further information or comments regarding this supplemental action, contact Katherine-Cargill-Willis, U.S. Department of Health and Human Services, Administration for Community Living, Administration on Intellectual and Developmental Disabilities, 330 C Street SW., Washington, DC 20201; telephone 202–795–7322; email *katherine.cargill-willis@acl.hhs.gov.*

Dated: July 17, 2017.

Mary Lazare,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2017–15663 Filed 7–25–17; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Notice of Intent To Award a Single-Source Non-Competing Continuation Application to the University of Minnesota for an Additional 12 Months

SUMMARY: The Administration for Community Living (ACL) recently announced the awarding of the University of Minnesota to the Residential Information System Project (RISP). The University of Minnesota will maintain and continue the longitudinal study of annual state-by-state and national statistics on residential services and supports for people with intellectual and developmental disabilities.

SUPPLEMENTARY INFORMATION:

Program Name: Residential Information Systems Project.

Award Amount: $350,000.00.

Statutory Authority: The Developmental Disabilities and Bill of Rights Act of 2000.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.631.

Program Description: The Administration on Developmental and Intellectual Disabilities, an agency of the U.S. Administration for Community Living, has been funding the RISP for thirty-five years. The project's activities include: Utilizing a large multistate database on individuals with developmental disabilities to examine the associations between personal characteristics, housing, financing and support models, state systems on inclusion, self-determination, satisfaction, and outcomes; conducting state policy and program surveys on key topics in residential and other community services; maintaining a clearinghouse of information and resources on consumer-controlled housing, the direct support workforce, and community living outcomes; collaborating with the University of Massachusetts and the University of Colorado to show targeted current year and longitudinal data on the project Web site and providing a create-a-chart option allowing reports to be customized. The comparative nationwide longitudinal study of the residential settings where people with Intellectual and Developmental Disabilities and supports is a forty year body of work.

Agency Contact: For further information or comments regarding this supplemental action, contact Katherine Cargill-Willis, U.S. Department of Health and Human Services, Administration for Community Living, Administration on Intellectual and Developmental Disabilities, 330 C Street SW., Washington, DC 20201; telephone 202–795–7322; email *katherine.cargill-willis@acl.hhs.gov.*

Dated: July 17, 2017.

Mary Lazare,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2017–15661 Filed 7–25–17; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Notice of Intent To Award a Single-Source Non-Competing Continuation Application To Fund Grant Number 90DN0296 the University of Colorado for an Additional 12 Months

SUMMARY: The Administration for Community Living (ACL) recently announced the awarding of the University of Colorado for the State of the States in Intellectual and Developmental Disabilities (State of the States) project. The University of Colorado will maintain and advance a comparative nationwide longitudinal study of public financial commitments and programmatic trends in developmental disabilities services and supports.

SUPPLEMENTARY INFORMATION:

Program Name: State of the States on Intellectual and Developmental Disabilities.

Award Amount: $350,000.00.

Statutory Authority: The Developmental Disabilities and Bill of Rights Act of 2000.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.631.

Program Description: The Administration on Developmental and Intellectual Disabilities, an agency of the U.S. Administration for Community Living, has been funding the State of the States project for thirty-five years. The project's activities include: A analyzing developmental disabilities financial and programmatic trends in each state and the District of Columbia; identifying trends and innovations in the financing of family support supported living, and supported employment in the states;

completing special studies, such as Medicaid spending for special education; collaborating with the University of Massachusetts and the University of Minnesota to show targeted current year and longitudinal data on the project Web site and providing a create-a-chart option allowing reports to be customized. The comparative nationwide longitudinal study of public financial commitments and programmatic trends in developmental disabilities services and supports is a thirty-year body of work.

Agency Contact: For further information or comments regarding this supplemental action, contact Katherine-Cargill-Willis, U.S. Department of Health and Human Services, Administration for Community Living, Administration on Intellectual and Developmental Disabilities, 330 C Street SW., Washington, DC 20201; telephone 202–795–7322; email *katherine.cargill-willis@acl.hhs.gov.*

Dated: July 17, 2017.

Mary Lazare,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2017–15662 Filed 7–25–17; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0880]

Generic Drug User Fee Amendments of 2012: Questions and Answers Related to Self-Identification of Facilities, Review of Generic Drug Submissions, and Inspections and Compliance; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the guidance entitled ''Generic Drug User Fee Amendments of 2012: Questions and Answers Related to Self-Identification of Facilities, Review of Generic Drug Submissions, and Inspections and Compliance.'' The Generic Drug User Fee Amendments of 2012 (GDUFA) are designed to speed the delivery of safe and effective generic drugs to the public and to improve the review process for abbreviated new drug applications (ANDAs). This guidance is intended to provide answers to common questions from the generic drug industry and other interested parties involved in the development and/or testing of generic drug products regarding the requirements and commitments of GDUFA. This guidance finalizes the draft guidance originally issued in August 2012 and issued in revised draft form in September 2013.

DATES: Submit either electronic or written comments on this guidance at any time.

ADDRESSES: 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–2012–D–0880 for ''Generic Drug User Fee Amendments of 2012: Questions and Answers Related to Self-Identification of Facilities, Review of Generic Drug Submissions, and Inspections and Compliance.'' Received comments 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.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/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.

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Sonia Kim, Center for Drug Evaluation and Research, Food and Drug

Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, 240–402–5118.

SUPPLEMENTARY INFORMATION:

I. Background

GDUFA (Pub. L. 112–144, Title III) was signed into law by the President on July 9, 2012. GDUFA is designed to speed the delivery of safe and effective generic drugs to the public and to improve the review process for ANDAs. GDUFA enables FDA to assess user fees to support critical and measurable enhancements to FDA's generic drugs program.

On August 27, 2012, FDA announced the availability of a draft guidance for industry entitled ''Generic Drug User Fee Amendments of 2012: Questions and Answers'' (77 FR 51814). On September 10, 2013, FDA announced the availability of a revised version of this guidance (78 FR 55261). The comment period on the revised draft guidance ended on December 11, 2013 (78 FR 70953). FDA received several comments on the draft guidance, and these comments as well as FDA's experience implementing GDUFA were considered as the guidance was finalized.

This guidance is intended to provide answers to common questions from generic drug industry participants and other interested parties involved in the development and/or testing of generic drug products regarding FDA's implementation of GDUFA. This guidance includes three categories of questions and answers: Self-identification of facilities, sites, and organizations; review of generic drug submissions; and inspections and compliance. The draft versions of this guidance also addressed the subject of fees. The portion of the draft guidance relating to fees was updated and finalized in November 2016 (81 FR 81774, November 18, 2016).

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Generic Drug User Fee Amendments of 2012: Questions and Answers Related to Self-Identification of Facilities, Review of Generic Drug Submissions, and Inspections and Compliance.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Electronic Access

Persons with access to the Internet may obtain the guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: July 20, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–15654 Filed 7–25–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–3906]

Consumer Antiseptic Wash Final Rule Questions and Answers; Guidance for Industry; Small Entity Compliance Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the availability of a guidance for industry entitled ''Consumer Antiseptic Wash Final Rule Questions and Answers.'' We are issuing this guidance in accordance with the Small Business Regulatory Enforcement Fairness Act to assist small businesses in better understanding and complying with the consumer antiseptic wash final rule, which established that certain active ingredients, including triclosan, used in over-the-counter (OTC) consumer antiseptic wash products are not generally recognized as safe and effective (GRASE). This guidance explains the scope of the final rule, how and when manufacturers must comply with the final rule, and which consumer antiseptic wash active ingredients were deferred from the final rule.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: 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–2017–D–3906 for ''Consumer Antiseptic Wash Final Rule Questions and Answers; Guidance for Industry; Small Entity Compliance Guide.'' Received comments 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.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on

https://www.regulations.gov. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/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.

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Pranvera Ikonomi, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5418, Silver Spring, MD 20993–0002, 240–402–0272.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Consumer Antiseptic Wash Final Rule Questions and Answers.'' We are issuing this guidance in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121, as amended by Pub. L. 110–28) [1] to assist small businesses in better understanding and complying with the consumer antiseptic wash final rule (September 6, 2016, 81 FR 61106), which established that certain active ingredients used in OTC consumer antiseptic wash products are not GRASE. This guidance explains the scope of the final rule and identifies which active ingredients were found not to be GRASE for use in consumer antiseptic wash products. This guidance explains when and how manufacturers must comply with the final rule. This guidance also explains the significance of triclosan and triclocarban under this final rule. In addition, this guidance identifies which consumer antiseptic wash active ingredients were deferred from the final rule and explains what the effectiveness and safety criteria are for these deferred consumer antiseptic wash active ingredients.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on how small businesses can better understand and comply with the consumer antiseptic wash final rule. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Electronic Access

Persons with access to the Internet may obtain the guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: July 20, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–15653 Filed 7–25–17; 8:45 am]

BILLING CODE 4164–01–P

[1] 5 U.S.C. 601 (note).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0001]

Patient Engagement Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Patient Engagement Advisory Committee (PEAC). The general function of the committee is to provide advice and recommendations to the Agency on complex issues relating to medical devices, the regulation of devices, and their use by patients. The meeting will be open to the public. This meeting will be the inaugural meeting of a new advisory committee.

DATES: The meeting will be held on October 11, 2017, from 1 p.m. to 5 p.m. and October 12, 2017, from 8 a.m. to 5 p.m.

ADDRESSES: Hilton Washington DC North/Gaithersburg, Grand Ballroom, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's telephone number is 301–977–8900. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FOR FURTHER INFORMATION CONTACT: Letise Williams, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5441, Silver Spring, MD 20993–0002, 301–796–8398, 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 Web site at *http://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:

Agenda: On October 11 and 12, 2017, the committee will discuss and make recommendations on the topic of patient input into medical device clinical trials. This meeting will provide the opportunity to bring patients, patient organization, FDA, industry, and other medical and scientific experts together for a broader discussion on this important patient-related issue.

This meeting is a key part of FDA's goal to help assure the needs and experiences of patients are included as part of FDA's deliberations involving the regulation of medical devices and their use by patients. For this meeting, FDA is seeking input from the PEAC and the public on topics such as to: (1) Better understand challenges for patients in medical device clinical trials, (2) better understand how patient input and engagement is being used to overcome these challenges (potential solutions), and (3) receive

recommendations from the PEAC on top areas for FDA to consider for action.

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 Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before September 20, 2017. Oral presentations from the public will be scheduled between approximately 3:40 p.m. to 4:10 p.m. on October 11, 2017, and approximately 9 a.m. to 9:30 a.m. and 2:30 p.m. to 3 p.m. on October 12, 2017. 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 September 12, 2017. 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 September 13, 2017.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

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 AnnMarie Williams at *Annmarie.Williams@fda.hhs.gov,* or 301–796–5966 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings. Please be advised that, for the round table portion of the meeting, FDA will prepare a summary of discussion instead of detailed transcripts.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 20, 2017.

Anna K. Abram,

Deputy Commiissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–15657 Filed 7–25–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Training in Primary Care Medicine and Dentistry

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: The Advisory Committee on Training in Primary Care Medicine and Dentistry (ACTPCMD) has scheduled a meeting. This meeting will be open to the public. Information about ACTPCMD and the agenda for this meeting can be found on the ACTPCMD Web site at *http://www.hrsa.gov/advisorycommittees/bhpradvisory/ACTPCMD.*

DATES: August 16, 2017, 10:00 a.m.–2:30 p.m. ET.

ADDRESSES: This meeting will be held by webinar and teleconference. The address for the meeting is 5600 Fishers Lane, Rockville, Maryland 20857.

- *The webinar link: https://hrsa.connectsolutions.com/actpcmd.*
- *The conference call-in number:* 1–888–946–3804. Passcode: 3214611.

FOR FURTHER INFORMATION CONTACT: Anyone requesting information regarding ACTPCMD should contact Kennita R. Carter, MD, Designated Federal Officer (DFO), Division of Medicine and Dentistry, Bureau of Health Workforce, HRSA, in one of three ways: (1) Send a request to the following address: Kennita R. Carter, MD, DFO, Division of Medicine and Dentistry, HRSA, 5600 Fishers Lane, 15N–116, Rockville, Maryland 20857; (2) call 301–945–3505; or (3) send an email to *KCarter@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACTPCMD provides advice and recommendations to the Secretary of HHS (Secretary) on policy, program development, and other matters of significance concerning the activities under section 747 of Title VII of the Public Health Service (PHS) Act, including dentistry activities. ACTPCMD prepares an annual report describing the activities of the Committee, including findings and recommendations made by the Committee concerning the activities under section 747, including dentistry activities. The annual report is submitted to the Secretary and ranking members of the Senate Committee on Health, Education, Labor and Pensions, and the House of Representatives Committee on Energy and Commerce. The Committee also develops, publishes, and implements performance measures and guidelines for longitudinal evaluations of programs authorized under Title VII, Part C, of the PHS Act, and recommends appropriation levels for programs under this Part.

During the August 16, 2017, meeting, ACTPCMD will discuss issues related to the Committee reports under development. Agenda items are subject to change as priorities dictate.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to ACTPCMD should be sent to Kennita R. Carter, MD, DFO, using the contact information above at least 3 business days prior to the meeting.

Individuals who need special assistance or another reasonable accommodation should notify Dr. Kennita R. Carter at the address and phone number listed above at least 10 days prior to the meeting.

Amy McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2017–15665 Filed 7–25–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Department of Health and Human Services (HHS).

ACTION: 30-Day notice of submission of information collection approval from the Office of Management and Budget and request for comments.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, U.S. Department of Health and Human Services has submitted a Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' to OMB for approval under the Paperwork Reduction Act (PRA).

DATES: Comments on the ICR must be received on or before August 25, 2017.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Sherrette Funn, Report Clearance Officer, at either *Sherrette.Funn@HHS.GOV* or (202) 795–7714.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

The Agency received no comments in response to the 60-day notice published in the May 8, 2017, issue of the **Federal Register** (82 FR 21392–21393).

Current Actions: Extension of approval for a collection of information.

Type of Review: Extension.

Affected Public: Individuals, households, professionals, public/private sector.

Average Expected Annual Number of Activities: 40.

Respondents per Activity: 25,000.

Annual Responses: 1,000,000.

Frequency of Response: Once per request.

Average minutes per response: 5.

Burden hours: 500,000 hours annually.

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 Office of Management and Budget control number.

Darius Taylor,

Deputy Information Collection Officer.

[FR Doc. 2017–15318 Filed 7–25–17; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, August 01, 2017, 12:00 p.m. to August 02, 2017, 05:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on July 12, 2017, 82 FR 32189.

The meeting will be held on August 1, 2017 and will start at 2:00 p.m. and end at 5:00 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: July 20, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–15614 Filed 7–25–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), 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 Cancer Institute Special Emphasis Panel NCI SPORE Review.

Date: October 19–20, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Rockville, MD 20852.

Contact Person: Majed M. Hamawy, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W120, Bethesda, MD 20892–9750, 240–276–6457 *mh101v@nih.gov*

Name of Committee: National Cancer Institute Special Emphasis Panel NCI Program Project IV (P01) Review.

Date: October 26–27, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Klaus B Piontek, MD, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W116, Bethesda, MD 20892–9750, 240–276–5413 *klaus.piontek@nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer

Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 20, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–15615 Filed 7–25–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), 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 Eye Institute Special Emphasis Panel, NEI Clinical and Epidemiological Grant Applications.

Date: August 11, 2017.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Anne E Schaffner, Ph.D., Chief, Scientific Review Branch, Division Of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, (301) 451–2020, *aes@nei.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 20, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–15616 Filed 7–25–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc., has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of May 5, 2016.

DATES: Intertek USA, Inc., was accredited and approved as a commercial gauger and laboratory as of May 5, 2016. The next triennial inspection date will be scheduled for May 2019.

FOR FURTHER INFORMATION CONTACT: Christopher J. Mocella, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 16025 Jacintoport Blvd., Suite B, Houston, TX 77015, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Intertek USA, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
11	Physical Properties Data.
12	Calculations.
17	Maritime measurement.

Intertek USA, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–03	D4006	Standard Test Method for Water in Crude Oil by Distillation.
27–04	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–06	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–11	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids.
27–13	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–46	D5002	Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer.
27–48	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–54	D1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method.
Pending	D4007	Standard Test Method for Water and Sediment in Crude Oil by the Centrifuge Method.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: July 18, 2017.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2017–15639 Filed 7–25–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc., has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of February 8, 2017.

DATES: The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on February 8, 2017. The next triennial inspection date will be scheduled for February 2020.

FOR FURTHER INFORMATION CONTACT: Christopher J. Mocella, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 481A East Shore Parkway, New Haven, CT 06512, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Intertek USA, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
1	Vocabulary.
3	Tank gauging.
7	Temperature determination.
8	Sampling.
12	Calculations.
17	Maritime measurement.

Intertek USA, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–06	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	D86	Standard Test Method for Distillation of Petroleum Products.
27–11	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids.
27–13	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–14	D2622	Standard Test Method for Sulfur in Petroleum Products (X-Ray Spectrographic Methods).
27–48	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–50	D93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27–53	D2709	Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge.
27–54	D1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method.
27–57	D7039	Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27–58	D5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: July 18, 2017.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2017–15638 Filed 7–25–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6015–N–02]

Mortgage and Loan Insurance Programs Under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: This Notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Administration under the provisions of the National Housing Act (the Act). The interest rate for debentures issued under Section 221(g)(4) of the Act during the 6-month period beginning July 1, 2017, is 2¼ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the 6-month period beginning July 1, 2017, is 2⅞ percent.

FOR FURTHER INFORMATION CONTACT: Yong Sun, Department of Housing and Urban Development, 451 Seventh Street SW., Room 5148, Washington, DC 20410–8000; telephone (202) 402–4778 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (12 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the

commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6), and 220.830. These regulatory provisions state that the applicable rates of interest will be published twice each year as a notice in the **Federal Register**.

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the annual interest rate determined by the Secretary of the Treasury pursuant to a statutory formula based on the average yield of all outstanding marketable Treasury obligations of maturities of 15 or more years.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of Section 224, that the statutory maximum interest rate for the period beginning July 1, 2017, is 2⅞ percent; and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 2⅞ percent for the 6-month period beginning July 1, 2017. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4)) with insurance commitment or endorsement date (as applicable) within the latter 6 months of 2017.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since January 1, 1980:

Effective interest rate	on or after	prior to
9½	Jan. 1, 1980	July 1, 1980
9⅞	July 1, 1980	Jan. 1, 1981
11¾	Jan. 1, 1981	July 1, 1981
12⅞	July 1, 1981	Jan. 1, 1982
12¾	Jan. 1, 1982	Jan. 1, 1983
10¼	Jan. 1, 1983	July 1, 1983
10⅜	July 1, 1983	Jan. 1, 1984
11½	Jan. 1, 1984	July 1, 1984
13⅜	July 1, 1984	Jan. 1, 1985
11⅝	Jan. 1, 1985	July 1, 1985
11⅛	July 1, 1985	Jan. 1, 1986
10¼	Jan. 1, 1986	July 1, 1986
8¼	July 1, 1986	Jan. 1. 1987
8	Jan. 1, 1987	July 1, 1987
9	July 1, 1987	Jan. 1, 1988
9⅛	Jan. 1, 1988	July 1, 1988
9⅜	July 1, 1988	Jan. 1, 1989
9¼	Jan. 1, 1989	July 1, 1989
9	July 1, 1989	Jan. 1, 1990
8⅛	Jan. 1, 1990	July 1, 1990
9	July 1, 1990	Jan. 1, 1991
8¾	Jan. 1, 1991	July 1, 1991
8½	July 1, 1991	Jan. 1, 1992
8	Jan. 1, 1992	July 1, 1992
8	July 1, 1992	Jan. 1, 1993
7¾	Jan. 1, 1993	July 1, 1993
7	July 1, 1993	Jan. 1, 1994
6⅝	Jan. 1, 1994	July 1, 1994
7¾	July 1, 1994	Jan. 1, 1995
8⅜	Jan. 1, 1995	July 1, 1995
7¼	July 1, 1995	Jan. 1, 1996
6½	Jan. 1, 1996	July 1, 1996
7¼	July 1, 1996	Jan. 1, 1997
6¾	Jan. 1, 1997	July 1, 1997
7⅛	July 1, 1997	Jan. 1, 1998
6⅜	Jan. 1, 1998	July 1, 1998
6⅛	July 1, 1998	Jan. 1, 1999
5½	Jan. 1, 1999	July 1, 1999
6⅛	July 1, 1999	Jan. 1, 2000
6½	Jan. 1, 2000	July 1, 2000
6½	July 1, 2000	Jan. 1, 2001
6	Jan. 1, 2001	July 1, 2001
5⅞	July 1, 2001	Jan. 1, 2002
5¼	Jan. 1, 2002	July 1, 2002
5¾	July 1, 2002	Jan. 1, 2003
5	Jan. 1, 2003	July 1, 2003
4½	July 1, 2003	Jan. 1, 2004
5⅛	Jan. 1, 2004	July 1, 2004
5½	July 1, 2004	Jan. 1, 2005
4⅞	Jan. 1, 2005	July 1, 2005
4½	July 1, 2005	Jan. 1, 2006
4⅞	Jan. 1, 2006	July 1, 2006
5⅜	July 1, 2006	Jan. 1, 2007
4¾	Jan. 1, 2007	July 1, 2007
5	July 1, 2007	Jan. 1, 2008
4½	Jan. 1, 2008	July 1, 2008
4⅝	July 1, 2008	Jan. 1, 2009
4⅛	Jan. 1, 2009	July 1, 2009
4⅛	July 1, 2009	Jan. 1, 2010
4¼	Jan. 1, 2010	July 1, 2010
4⅛	July 1, 2010	Jan. 1, 2011
3⅞	Jan. 1, 2011	July 1, 2011
4⅛	July 1, 2011	Jan. 1, 2012
2⅞	Jan. 1, 2012	July 1, 2012
2¾	July 1, 2012	Jan. 1, 2013
2½	Jan. 1, 2013	July 1, 2013
2⅞	July 1, 2013	Jan. 1, 2014
3⅝	Jan. 1, 2014	July 1, 2014
3¼	July 1, 2014	Jan. 1, 2015
3	Jan. 1, 2015	July 1, 2015
2⅞	July 1, 2015	Jan. 1, 2016
2⅞	Jan. 1, 2016	July 1, 2016
2½	July 1, 2016	Jan. 1, 2017
2¾	Jan. 1, 2017	July 1, 2017
2⅞	July 1, 2017	Jan. 1, 2018

Section 215 of Division G, Title II of Public Law 108–199, enacted January 23, 2004 (HUD's 2004 Appropriations Act) amended Section 224 of the Act, to change the debenture interest rate for purposes of calculating certain insurance claim payments made in cash. Therefore, for all claims paid in cash on mortgages insured under Section 203 or 234 of the National Housing Act and endorsed for insurance after January 23, 2004, the debenture interest rate will be the monthly average yield, for the month in which the default on the mortgage occurred, on United States Treasury Securities adjusted to a constant maturity of 10 years, as found in Federal Reserve Statistical Release H–15. The Federal Housing Administration has codified this provision in HUD regulations at 24 CFR 203.405(b) and 24 CFR 203.479(b).

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the ''going Federal rate'' in effect at the time the debentures are issued. The term ''going Federal rate'' is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a statutory formula based on the average yield on all outstanding marketable Treasury obligations of 8- to 12-year maturities, for the 6-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.255 and 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to Section 221(g)(4) during the 6-month period beginning July 1, 2017, is 2¼ percent.

The subject matter of this notice falls within the categorical exemption from HUD's environmental clearance procedures set forth in 24 CFR 50.19(c)(6). For that reason, no environmental finding has been prepared for this notice.

(Authority: Sections 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 1715l, 1715o; Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

Dated: July 14, 2017.

Dana T. Wade,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2017–15668 Filed 7–25–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[178A2100DD/AAKC001030/A0A501010.999900 253G]

Agency Information Collection Activities: OMB Control Number 1076–0178; Native American Business Development Institute (NABDI) Funding Solicitations and Reporting

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Assistant Secretary—Indian Affairs is

seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for the Native American Business Development Institute (NABDI) Funding Solicitation and Reporting authorized by OMB Control Number 1076–0178. This information collection expires September 30, 2017.

DATES: Submit comments on or before September 25, 2017.

ADDRESSES: You may submit comments on the information collection to Mr. Jack Stevens, Division Chief, Office of Indian Energy and Economic Development, Assistant Secretary—Indian Affairs, 1951 Constitution Avenue NW., MS–20 SIB, Washington, DC 20240; facsimile: (202) 208–4564; email: *Jack.Stevens@bia.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Jack Stevens, (202) 208–6764.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Division of Economic Development (DED), within the Office of Indian Energy and Economic Development (IEED), established the Native American Business Development Institute (NABDI) to provide technical assistance funding to federally recognized American Indian Tribes seeking to retain universities and colleges, private consulting firms, non-academic/non-profit entities, or others to prepare studies of economic development opportunities or plans. These studies and plans will empower American Indian Tribes and Tribal businesses to make informed decisions regarding their economic futures. Studies may concern the viability of an economic development project or business or the practicality of a technology a Tribe may choose to pursue. The DED will specifically exclude from consideration proposals for research and development projects, requests for funding of salaries for Tribal government personnel, funding to pay legal fees, and requests for funding for the purchase or lease of structures, machinery, hardware or other capital items. Plans may encompass future periods of five years or more and include one or more economic development factors including but not limited to land and retail use, industrial development, tourism, energy, resource development and transportation.

This is an annual program whose primary objective is to create jobs and foster economic activity within Tribal communities. The DED will administer the program within IEED; and studies and plans as described herein will be sole discretionary projects DED will consider or fund absent a competitive bidding process. When funding is available, DED will solicit proposals for studies and plans. To receive these funds, Tribes may use the contracting mechanism established by Public Law 93–638, the Indian Self-Determination Act or may obtain adjustments to their funding from the Office of Self-Governance. See 25 U.S.C. 450 *et seq.*

Interested applicants must submit a Tribal resolution requesting funding, a statement of work describing the project for which the study is requested or the scope of the plan envisioned, the identity of the academic institution or other entity the applicant wishes to retain (if known) and a budget indicating the funding amount requested and how it will be spent. The DED expressly retains the authority to reduce or otherwise modify proposed budgets and funding amounts.

Applications for funding will be juried and evaluated on the basis of a proposed project's potential to generate jobs and economic activity on the reservation.

II. Request for Comments

The IEED requests your comments on this collection concerning: (a) The necessity of this information collection 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 (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. 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.

III. Data

OMB Control Number: 1076–0178.

Title: Native American Business Development Institute (NABDI) Funding Solicitations and Reporting.

Brief Description of Collection: Indian Tribes that would like to apply for NABDI funding must submit an application that includes certain information. A complete application must contain:

- A duly-enacted, signed resolution of the governing body of the Tribe;
- A proposal describing the planned activities and deliverables products; and
- The identity (if known) of the academic institution, private consultant, non-profit/non-academic entity, or other entity the Tribe has chosen to perform the study or prepare the plan; and
- A detailed budget estimate, including contracted personnel costs, travel estimates, data collection and analysis costs, and other expenses, through DED reserves authority to reduce or otherwise modify this budget.

The DED requires this information to ensure that it provides funding only to those projects that meet the economic development and job creation goals for which NABDI was established. Applications will be evaluated on the basis of the proposed project's potential to generate jobs and economic activity on the reservation. Upon completion of the funded project, a Tribe must then submit a final report summarizing events, accomplishments, problems and/or results in executing the project.

Type of Review: Extension without change of currently approved collection.

Respondents: Indian Tribes with trust or restricted land.

Number of Respondents: 20 applicants per year; 20 project participants each year, on average.

Frequency of Response: Once per year for applications and final report.

Estimated Time per Response: 40 hours per application; 1.5 hours per progress report.

Obligation to Respond: Response is required to obtain a benefit.

Estimated Total Annual Hour Burden: 830 hours (800 for applications and 30 for final reports).

Estimated Total Annual Non-Hour Dollar Cost: $0.

Authority

The authority for this action is the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2017–15678 Filed 7–25–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[178A2100DD/AAKC001030/A0A501010.999900253G]

Indian Gaming; Extension of Tribal-State Class III Gaming Compact (Rosebud Sioux Tribe and the State of South Dakota)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the extension of the Class III gaming compact between the Rosebud Sioux Tribe and the State of South Dakota.

DATES: This notice takes effect July 26, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: An extension to an existing Tribal-State Class III gaming compact does not require approval by the Secretary if the extension does not modify any other terms of the compact. 25 CFR 293.5. The Rosebud Sioux Tribe and the State of South Dakota have reached an agreement to extend the expiration date of their existing Tribal-State Class III gaming compact to January 28, 2018. This publishes notice of the new expiration date of the compact.

Dated: July 17, 2017.

Michael S. Black,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2017–15640 Filed 7–25–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[17XL1109AF LLUT925000–L14400000–BJ0000–24–1A]

Notice of Filing of Plats of Survey; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Utah State Office, Salt Lake City, Utah, 30 calendar days from the date of this publication.

DATES: A person or party who wishes to protest this survey must file a written notice by August 25, 2017.

ADDRESSES: Written notices protesting this survey must be sent to the Utah State Director, Bureau of Land Management, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101–1345.

FOR FURTHER INFORMATION CONTACT: Daniel W. Webb, Chief Cadastral Surveyor, Bureau of Land Management, Branch of Geographic Sciences, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101–1345, telephone 801–539–4135, or *dwebb@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Monument Manager for the BLM Grand Staircase-Escalante National Monument. The lands surveyed are:

Salt Lake Meridian, Utah

T. 35 S., R. 3 E., dependent resurvey of portions of the subdivisonal lines, the independent resurvey of the line between sections 4 and 9, and a corrective resurvey of the subdivision of section 9, accepted December 21, 2016, Group No. 603, Utah.

A copy of the plat and related field notes will be placed in the open files. They will be available for public review in the BLM Utah State Office as a matter of information.

A person or party who wishes to protest against the above survey must file a written notice within 30 calendar days from the date of this publication with the Utah State Director, Bureau of Land Management, at the address listed in the **ADDRESSES** section, stating that they wish to protest. A statement of reasons for the protest may be filed with the notice of protest. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. The plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chap. 3.

Ed Roberson,

State Director.

[FR Doc. 2017–15618 Filed 7–25–17; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CR–23620; PPWOCRADIO, PCU00RP14.R50000 (177)]

Agency Information Collection Activities: Procedures for State, Tribal, Local, Plans & Grants

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service, NPS) will ask the Office of Management and Budget (OMB) to approve the information collections (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on October 31, 2017. We 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: To ensure that we are able to consider your comments on these ICs, we must receive them by September 25, 2017.

ADDRESSES: Send your comments on the IC to Tim Goddard, Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive, MS–242, Reston, VA 20192 (mail); or *tim_goddard@nps.gov* (email). Please include ''1024–0038'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about these ICs, contact Kristine Brunsman, Project Coordinator, State, Tribal, Local, Plans and Grants, Cultural Resources Partnerships and Science, National Park Service, 1849 C St. NW., Mailstop 7360, Washington, DC 20240; via fax at (202) 371–1961, or via email to *preservation_grants_info@nps.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This set of information collections has an impact on State, Tribal, and local governments that wish to participate formally with the National Park Service (NPS) in the National Historic Preservation Partnership (NHPP)

Program, and State and Tribal governments that wish to apply for Historic Preservation Fund (HPF) grants. The NPS uses the information collections to ensure compliance with the National Historic Preservation Act, as amended (54 U.S.C. 300101, *et seq.*), as well as government-wide grant requirements OMB has issued and the Department of the Interior implements through 43 CFR part 12. The information collections also produce performance data NPS uses to assess its progress in meeting its statutory mission goals pursuant to the1993 Government Performance and Results Act, as amended. This request for OMB approval includes local government burden for information collections associated with various aspects of the Certified Local Government (CLG) program; State government burden for information collections related to the CLG program; the program-specific aspects of HPF grants to States, maintenance of a State inventory of historic and prehistoric properties, tracking State Historic Preservation Office historic preservation consultation with Federal agencies, developing the Statewide Historic Preservation Plan, reporting on other State historic preservation accomplishments, the State role in the State program review process, and evaluating NPS-provided program, grants management, and CLG training for State officials; and Tribal government burden for information collections related to the program-specific aspects of both HPF grants to Tribal Historic Preservation Officers/Offices (THPOs) and HPF-supported Tribal Heritage Grants.

This request includes information collections related to HPF grants to States and to THPOs. Section 101(b) of the National Historic Preservation Act, as amended, (54 U.S.C. 302301), specifies the role of States in the NHPP Program. Section 101(c), section 103(c), and section 301 of the Act (54 U.S.C. 302502, 54 U.S.C. 302902, and 54 U.S.C. 300301), specify the role of local governments in the NHPP program. Section 101(d) of the Act (54 U.S.C. 302701) specifies the role of tribes in the NHPP Program. Section 108 of the Act (54 U.S.C. 303101) created the HPF to support activities that carry out the purposes of the Act. Section 101(e)(1) of the Act (54 U.S.C. 302902) directs the Secretary of the Interior through the NPS to ''administer a program of matching grants to the States for the purposes of carrying out'' the Act. Similarly, sections 101(d) and 101(e) of the Act direct the NPS to administer a program of grants to THPOs for carrying out their responsibilities under the Act. Section 101(e) of the Act also authorizes Tribal Heritage Grants for which THPOs and, as Section 301 defines the terms, other tribes, native Alaskan corporations, and native Hawaiian groups are eligible to apply. Section 101j of the Act (54 U.S.C. 303903) directs NPS to provide historic preservation-related education and training.

Each year Congress directs the NPS to use part of the annual appropriation from the HPF for the State grant program and the Tribal grant programs. The purpose of both the HPF State grant program and the HPF THPO grant program is to assist States and Tribes in carrying out their statutory role in the national historic preservation program. HPF grants to States and THPOs are program grants; *i.e.,* each State/THPO selects its own HPF-eligible activities and projects. Each HPF grant to a State/THPO has two years of fund availability. At the end of the first year, NPS employs a ''Use or Lose'' policy to ensure efficient and effective use of the grant funds. Each year, Congress also funds the Tribal Heritage competitive project grants to help preserve the cultural heritage of tribes, native Alaskan Corporations, and native Hawaiian organizations. All 59 states, territories, and the District of Columbia participate in the NHPP Program. Almost 2,000 local governments have become Certified Local Governments (CLGs) in order to participate in the NHPP program. Approximately 30 local governments become CLGs each year. Almost 170 federally-recognized tribes have formally joined the NHPP Program and have established THPOs and tribal historic preservation offices. Typically, each year six to nine tribes join the partnership.

The NPS developed the information collections associated with 36 CFR part 61 in consultation with State, Tribal, and local government partners. The obligation to respond is required to provide information to evaluate whether or not State, Tribal, and local governments meet minimum standards and requirements for participation in the National Historic Preservation Program; and to meet program specific requirements as well as government-wide requirements for Federal grant programs.

II. Data

OMB Control Number: 1024–0038.

Title: Procedures for State, Tribal, Local, Plans & Grants; 36 CFR 61.

Service Form Number(s): None.

Type of Request: Extension of a currently approved collection.

Description of Respondents: State, Tribal, and local governments who wish to participate formally in the National Historic Preservation Program and/or who wish to apply for Historic Preservation Fund grant assistance.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Estimated Average Number of Respondents: 2,129 respondents (59 States, territories, and District of Columbia; 170 tribal governments; and 1,900 certified local governments).

Activity	Annual number of responses	Completion time per response (hours)	Total annual burden hours
Local Government Certification Application/Agreement	40	39.75	1,590
Certified Local Government Monitoring	1,860	7.25	13,485
Certified Local Government Evaluations	465	12.00	5,580
Baseline Questionnaire for CLGs	250	6.00	1,500
Annual Achievements Report for CLGs	1,000	2.00	2,000
State Inventory Maintenance	26,904	.25	6,726
State Technical Assistance to Federal Agencies (Review & Compliance)	25,370	.25	6,343
Statewide Historic Preservation Plan	14	[1]797.00	11,158
State Program Review	15	90.00	1,350
State Cumulative Products Table	89	10.00	890
State Organization Chart and Staffing Summary	30	2.00	60
State Anticipated Activities List	30	5.75	173
State Project Notification	59	1.50	89
State Final Project Report	59	1.00	59

Activity	Annual number of responses	Completion time per response (hours)	Total annual burden hours
State Project/Activity Database Report	59	18.25	1,077
State Sources of Non-Federal Matching Share Report	52	2.25	117
State Significant Preservation Accomplishments Summary	59	3.75	221
Annual Achievements Report for States	25	2.25	56
Tribal Historic Preservation Office (THPO) Grants Product Summary Page	150	15.50	2,325
THPO Annual Report	150	23.00	3,450
Total	56,680		58,249

[1] Includes 294 hours for public engagement, 121 hours for data and resource analysis, 283 hours for plan design and writing, and 90 hours for publishing/posting.

Estimated Annual Nonhour Cost Burden: None.

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. 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.

IV. Authorities

The authorities for this action are the National Historic Preservation Act (NHPA) (54 U.S.C. 300101 *et seq.*) and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Tim Goddard,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2017–15644 Filed 7–25–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0039]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Federal Firearms Licensee Firearms Inventory Theft/Loss Report—ATF F 3310.11

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the [**Federal Register**, on May 25, 2017, allowing for a 60-day comment period].

DATES: Comments are encouraged and will be accepted for an additional 30 days until August 25, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any other additional information, please contact Larry Penninger, Jr., Chief, National Tracing Center Division, either by mail at 244 Needy Road, Martinsburg, WV 25405, or by email at *Larry.Penninger@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension, without change, of a currently approved collection.

(2) *The Title of the Form/Collection:* Federal Firearms Licensee Firearms Inventory Theft/Loss Report.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF F 3310.11.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: Business or other for-profit.

Abstract: This form requires that licensees report the theft or loss of

firearms to the Attorney General and the appropriate authorities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 4,000 respondents will utilize the form, and it will take each respondent 24 minutes to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 1,600 hours, which is equal to 4,000 (total # of respondents) × .4 (24 Minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: July 21, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–15658 Filed 7–25–17; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Cayman Chemical Company

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before September 25, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on May 9, 2017, Cayman Chemical Company, 1180 East Ellsworth Road, Ann Arbor, Michigan 48108 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
3-Fluoro-N-methylcathinone (3-FMC)	1233	I
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4-FMC)	1238	I
Pentedrone (α-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
4-Methyl-N-ethylcathinone (4-MEC)	1249	I
Naphyrone	1258	I
N-Ethylamphetamine	1475	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Mecloqualone	2572	I
JWH-250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
SR-18 (Also known as RCS-8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
ADB-FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7010	I
5-Flouro-UR-144 and XLR11 [1-(5-Fluoro-pentyl)1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone	7011	I
AB-FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
JWH-019 (1-Hexyl-3-(1-naphthoyl)indole)	7019	I
MDMB-FUBINACA (Methyl 2-(1-4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7020	I
AB-PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7023	I
THJ-2201 [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone	7024	I
AB-CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide	7031	I
MAB-CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
5F-AMB (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)	7033	I
5F-ADB;5F-MDMB-PINACA (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7034	I
ADB-PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
MDMB-CHMICA, MMB-CHMINACA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate).	7042	I
APINACA and AKB48 N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide	7048	I

Controlled substance	Drug code	Schedule
5F-APINACA, 5F-AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7049	I
JWH-081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
SR-19 (Also known as RCS-4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole	7104	I
JWH-018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I
UR-144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	7144	I
JWH-073 (1-Butyl-3-(1-naphthoyl)indole)	7173	I
JWH-200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
JWH-203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
PB-22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I
5F-PB-22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
Alpha-ethyltryptamine	7249	I
Ibogaine	7260	I
CP-47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP-47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol)	7298	I
Lysergic acid diethylamide	7315	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7)	7348	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Mescaline	7381	I
2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine (2C-T-2)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
JWH-398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
5-Methoxy-N-N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
N-Benzylpiperazine	7493	I
2-(2,5-Dimethoxy-4-methylphenyl) ethanamine (2C-D)	7508	I
2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine (2C-E)	7509	I
2-(2,5-Dimethoxyphenyl) ethanamine (2C-H)	7517	I
2-(4-iodo-2,5-dimethoxyphenyl) ethanamine (2C-I)	7518	I
2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine (2C-C)	7519	I
2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N)	7521	I
2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine (2C-P)	7524	I
2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine (2C-T-4)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25B-NBOMe)	7536	I
2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe)	7537	I
2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I-NBOMe)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
alpha-pyrrolidinopentiophenone (α-PVP)	7545	I
alpha-pyrrolidinobutiophenone (α-PBP)	7546	I
AM-694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole)	7694	I
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Desomorphine	9055	I
Etorphine (except HCl)	9056	I
Codeine methylbromide	9070	I
Dihydromorphine	9145	I
Heroin	9200	I
Morphine-N-oxide	9307	I
Normorphine	9313	I

Controlled substance	Drug code	Schedule
U-47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	I
Tilidine	9750	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9824	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
3-Methylthiofentanyl	9833	I
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Phencyclidine	7471	II
4-Anilino-N-phenethyl-4-piperidine (ANPP)	8333	II
Phenylacetone	8501	II
Cocaine	9041	II
Codeine	9050	II
Etorphine HCl	9059	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine intermediate-B	9233	II
Methadone	9250	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Thebaine	9333	II
Oxymorphone	9652	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to manufacture bulk controlled substances for use in product development of analytical reference standards for distribution to its customers.

Dated: July 19, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–15691 Filed 7–25–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: United States Pharmacopeial Convention

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before August 25, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before August 25, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on February 15, 2017, United States Pharmacopeial Convention, 12601 Twinbrook Parkway, Rockville, Maryland 20852 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Cathinone	1235	I
Methaqualone	2565	I
Lysergic acid diethylamide	7315	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
3,4-Methylenedioxyamphetamine	7400	I
4-Methoxyamphetamine	7411	I
Codeine-N-oxide	9053	I
Difenoxin	9168	I
Heroin	9200	I
Morphine-N-oxide	9307	I
Normethadone	9635	I
Methamphetamine	1105	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Phencyclidine	7471	II
4-Anilino-N-phenethyl-4-piperidine (ANPP)	8333	II
Phenylacetone	8501	II
Alphaprodine	9010	II
Anileridine	9020	II
Cocaine	9041	II
Dihydrocodeine	9120	II
Diphenoxylate	9170	II
Levomethorphan	9210	II
Levorphanol	9220	II
Meperidine	9230	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Thebaine	9333	II
Noroxymorphone	9668	II
Alfentanil	9737	II
Sufentanil	9740	II

The company plans to import the listed controlled substances in bulk powder form from foreign sources for the manufacture of analytical reference standards for sale to their customers.

The company plans to import analytical reference standards for distribution to its customers for research and analytical purposes. Placement of these drug codes onto the company's registration does not translate into automatic approval of subsequent permit applications to import controlled substances. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: July 20, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–15693 Filed 7–25–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: AMRI Rensselaer, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before September 25, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on March 30, 2017, AMRI Rensselaer, Inc., 33 Riverside Avenue, Rensselaer, New York 12144 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Amphetamine	1100	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Pentobarbital	2270	II
4-Anilino-N-phenethyl-4-piperidine (ANPP)	8333	II
Codeine	9050	II
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Meperidine	9230	II
Morphine	9300	II
Fentanyl	9801	II

The company plans to manufacture bulk controlled substances for use in product development and for distribution to its customers.

In reference to drug codes 7360 (marihuana) and 7370 (THC), the company plans to bulk manufacture these drugs as synthetics. No other activities for these drug codes are authorized for this registration.

Dated: July 19, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–15688 Filed 7–25–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: Registrants listed below have applied for and been granted registration by the Drug Enforcement Administration (DEA) as bulk manufacturers of various classes of controlled substances.

SUPPLEMENTARY INFORMATION: The companies listed below applied to be registered as manufacturers of various basic classes of controlled substances. Information on previously published notices is listed in the table below. No comments or objections were submitted for these notices.

Company	FR docket	Published
Cedarburg Pharmaceuticals	82 FR 19083	April 25, 2017.
Siegfried USA, LLC	82 FR 19084	April 25, 2017.
Sigma Aldrich Research Biochemicals, Inc	82 FR 19085	April 25, 2017.

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of these registrants to manufacture the applicable basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated each of the company's maintenance of effective controls against diversion by inspecting and testing each company's physical security systems, verifying each company's compliance with state and local laws, and reviewing each company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the DEA has granted a

registration as a bulk manufacturer to the above listed persons.

Dated: July 19, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–15692 Filed 7–25–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Organic Consultants, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before September 25, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on November 2, 2016, Organic Consultants, Inc., 90 North Polk Street, Suite 200, Eugene, Oregon 97402 applied to be registered as a bulk manufacturer for methadone intermediate (9254), a basic class of controlled substance listed in schedule II.

The company plans to manufacture analytical reference standards for distribution to its customers for research and analytical purposes.

Dated: July 19, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–15690 Filed 7–25–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: AMRI Rensselaer, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before August 25, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before August 25, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007).

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on June 27, 2016, AMRI Rensselaer, Inc., 33 Riverside Avenue, Rensselaer, New York 12144 applied to be registered as an importer of poppy straw concentrate (9670), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance to manufacture bulk controlled substance for distribution to its customers.

Dated: July 20, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–15689 Filed 7–25–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Information Advisory Council

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Renewal of the Workforce Information Advisory Council.

SUMMARY: The Department of Labor (Department) announces the renewal of the Workforce Information Advisory Council (WIAC) charter.

FOR FURTHER INFORMATION CONTACT: Steve Rietzke, Division of National Programs, Tools, and Technical Assistance, Office of Workforce Investment, Rm. C–4510, 200 Constitution Ave. NW., Washington, DC 20212–0001; (202) 693–3912; or use email address for the WIAC, *WIAC@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Section 15 of the Wagner-Peyser Act, 29 U.S.C. 49*l*–2, as amended by section 308 of the Workforce Innovation and Opportunity Act of 2014 (WIOA), Public Law 113–128 requires the Secretary of Labor (Secretary) to establish and maintain the WIAC.

The statute, as amended, requires the Secretary, acting through the Commissioner of Labor Statistics and the Assistant Secretary for Employment and Training, to formally consult at least twice annually with the WIAC to address: (1) Evaluation and improvement of the nationwide workforce and labor market information system established by the Wagner-

Peyser Act, and of the statewide systems that comprise the nationwide system, and (2) how the Department and the States will cooperate in the management of those systems. The Secretary, acting through the Bureau of Labor Statistics (BLS) and the Employment and Training Administration (ETA), and in consultation with the WIAC and appropriate Federal agencies, must also develop a 2-year plan for management of the system, with subsequent updates every two years thereafter. The statute generally prescribes how the plan is to be developed and implemented, outlines the contents of the plan, and requires the Secretary to submit the plan to designated authorizing committees in the House and Senate.

By law, the Secretary must ''solicit, review, and evaluate'' recommendations from the WIAC, and respond to the recommendations in writing to the WIAC. The WIAC must make written recommendations to the Secretary on the evaluation and improvement of the workforce and labor market information system, including recommendations for the 2-year plan. The 2-year plan, in turn, must describe WIAC recommendations and the extent to which the plan incorporates them.

The Department anticipates that the WIAC will accomplish its objectives by, for example: (1) Studying workforce and labor market information issues; (2) seeking and sharing information on innovative approaches, new technologies, and data to inform employment, skills training, and workforce and economic development decision making and policy; and (3) advising the Secretary on how the workforce and labor market information system can best support workforce development, planning, and program development.

II. Structure

The Wagner-Peyser Act at section 15(d)(2)(B), requires the WIAC to have 14 representative members, appointed by the Secretary, consisting of:

(i) Four members who are representatives of lead State agencies with responsibility for workforce investment activities, or State agencies described in Wagner-Peyser Act Section 4 (agency designated or authorized by Governor to cooperate with the Secretary), who have been nominated by such agencies or by a national organization that represents such agencies;

(ii) Four members who are representatives of the State workforce and labor market information directors affiliated with the State agencies responsible for the management and oversight of the workforce and labor market information system as described in Wagner-Peyser Act Section 15(e)(2), who have been nominated by the directors;

(iii) One member who is a representative of providers of training services under WIOA section 122 (Identification of Eligible Providers of Training Services);

(iv) One member who is a representative of economic development entities;

(v) One member who is a representative of businesses, who has been nominated by national business organizations or trade associations;

(vi) One member who is a representative of labor organizations, who has been nominated by a national labor federation;

(vii) One member who is a representative of local workforce development boards, who has been nominated by a national organization representing such boards; and

(viii) One member who is a representative of research entities that use workforce and labor market information.

The Secretary must ensure that the membership of the WIAC is geographically diverse, and that no two members appointed under clauses (i), (ii), and (vii), above, represent the same State. Each member will be appointed for a term of three years, except that the initial terms for members may be one, two, or three years in order to establish a rotation. The Secretary will not appoint a member for any more than two consecutive terms. Any member whom the Secretary appoints to fill a vacancy occurring before the expiration of the predecessor's term will be appointed only for the remainder of that term. Members of the WIAC will serve on a voluntary and generally uncompensated basis, but will be reimbursed for travel expenses to attend WIAC meetings, including per diem in lieu of subsistence, as authorized by the Federal travel regulations.

Authority: Pursuant to the Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 *et seq.;* Workforce Innovation and Opportunity Act, Pub. L. 113–128; Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Byron Zuidema,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 2017–15681 Filed 7–25–17; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Manlifts Standard

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Manlifts Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 25, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201704-1218-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064 (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064 (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Manlifts Standard information collection requirements codified in regulations 29 CFR 1910.68(e). More specifically the Standard requires an Occupational Safety and Health Act (OSH Act) covered employer subject to the Standard to create and maintain a certification record of each manlift inspection. The Standard also provides that the employer must inspect each manlift at least once every 30 days and to check limit switches weekly. OSH Act sections 2 and 8 authorize this information collection. *See* 29 U.S.C. 651, 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0226.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 14, 2017 (82 FR 10588).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0226. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- 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.

Agency: DOL–OSHA.

Title of Collection: Manlifts Standard.

OMB Control Number: 1218–0226.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 18,372.

Total Estimated Number of Responses: 36,000.

Total Estimated Annual Time Burden: 37,800 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: July 19, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–15675 Filed 7–25–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0127]

Proposed Extension of Information Collection; Certification and Qualification To Examine, Test, Operate Hoists and Perform Other Duties

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to assure 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 Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Certification and Qualification to Examine, Test, Operate Hoists and Perform Other Duties.

DATES: All comments must be received on or before September 25, 2017.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2017–0025.
- *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- *Hand Delivery:* USDOL-Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

Under section 103(a), authorized representatives of the Secretary or Secretary of Health and Human Services must make frequent inspections and investigations in coal or other mines each year for the purpose of, among other things, gathering information with respect to mandatory health or safety standards.

Under 30 CFR 75.159 and 77.106 coal mine operators are required to maintain a list of persons who are certified and/or qualified to perform duties under Parts 75 and 77, such as conduct examinations for hazardous conditions, conduct tests for methane and oxygen

deficiency, conduct tests of air flow, perform electrical work, repair energized surface high-voltage lines, and perform duties of hoisting engineer. The recorded information is necessary to ensure that only persons who are properly trained and have the required number of years of experience are permitted to perform these duties. MSHA does not specify a format for the recordkeeping; however, it normally consists of the names of the certified and qualified persons listed in two columns on a sheet of paper. One column is for certified persons and the other is for qualified persons.

Sections 75.100 and 77.100 pertain to the certification of certain persons to perform specific examinations and tests. Sections 75.155 and 77.105 outline the requirements necessary to be qualified as a hoisting engineer or hoistman. Also, under Sections 75.160, 75.161, 77.107 and 77.107–1, the mine operator must have an approved training plan developed to train and retrain the qualified and certified persons to effectively perform their tasks.

These standards recognize State certification and qualification programs. However, where State programs are not available, MSHA may certify and qualify persons.

Under this program MSHA will continue to qualify or certify individuals as long as these individuals meet the requirements for certification or qualification, fulfill any applicable retraining requirements, and remain employed at the same mine or by the same independent contractor.

Applications for Secretarial qualification or certification are submitted to the MSHA Qualification and Certification Unit in Denver, Colorado. MSHA Form 5000–41, Safety & Health Activity Certification or Hoisting Engineer Qualification Request provides the coal mining industry with a standardized reporting format that expedites the certification and qualification process while ensuring compliance with the regulations. MSHA uses the form's information to determine if applicants satisfy the requirements to obtain the certification or qualification sought. Persons must meet certain minimum experience requirements depending on the type of certification or qualification.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Certification and Qualification to Examine, Test, Operate Hoists and Perform Other Duties. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL-Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Certification and Qualification to Examine, Test, Operate Hoists and Perform Other Duties. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0127.

Affected Public: Business or other for-profit.

Number of Respondents: 957.

Frequency: On occasion.

Number of Responses: 4,590.

Annual Burden Hours: 465 hours.

Annual Respondent or Recordkeeper Cost: $77.

MSHA Forms: MSHA Form 5000–41, Safety and Health Activity Certification or Hoisting Engineers Qualification Request Form.

Comments submitted in response to this notice will be summarized and 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.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2017–15672 Filed 7–25–17; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before August 25, 2017.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov*

(Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2017–013–C.

Petitioner: Texas Westmoreland Coal Company, P.O. Box 915, Jewett, Texas 75846.

Mine: Jewett Mine, MSHA I.D. No. 41–03164, located in Leon County, Texas.

Regulation Affected: 30 CFR 77.803 (Fail safe ground check circuits on high-voltage resistance grounded systems).

Modification Request: The petitioner requests a modification of the existing standard for use of a special procedure when the dragline boom/mast is raised or lowered during necessary repairs/dismantling. The petitioner states that:

(1) Texas Westmoreland Coal Company realizes that some stages of assembly/disassembly of draglines require special consideration when the boom/mast is raised/lowered into position. The boom is raised/lowered utilizing the on board motor generator sets. This is critical because, during the process, power to the machine must not be interrupted. Power loss conditions may result in the boom becoming uncontrolled, falling, and resulting in possible injuries to workers. To address this condition, the following guidelines will be implemented to help prevent loss of power to the machine. This procedure only addresses raising/lowering the boom on draglines utilizing the machines electrical onboard motor generator sets. It does not replace other mechanical precautions or the requirements of 30 CFR 77.803 that are necessary to safely secure booms/masts during construction or maintenance procedures.

(2) The following is a procedure for ''boom raising'' or ''boom lowering'' at Texas Westmoreland Coal Company's Jewett Mine. During this period of construction/maintenance, the machine will not be performing mining operations. This procedure would also be applicable in instances of disassembly or maj9or maintenance which requires the boom to be raised/lowered. The following guidelines will be followed to minimize the potential for electrical power loss during this critical boom procedure.

(3) The procedure would most likely only be used during disassembly or major maintenance. Major maintenance requiring the raising/lowering of the boom/mast would only be performed on an as-needed basis, which could span long periods of time. Therefore, training and review of the procedure would only be conducted prior to this need. At such time, all persons involved in the procedure would be trained or retrained.

(a) Texas Westmoreland Coal Company employees, its contractors, and affected persons will be trained on the requirements of the procedure at the Jewett Mine.

(b) The procedure will be coordinated by Texas Westmoreland Coal Company's Production Superintendent and, if present, the contractor's representative will assist. Two (2) MSHA qualified electricians will be present at all times during the procedure.

(c) The procedure will limit the number of persons required on board the machine. An MSHA-qualified electrician, dragline operator, and the dragline oiler will be permitted on the machine. Texas Westmoreland Coal Company's production Superintendent and contractor's representative may either be on board or at a location on the ground to assist in the coordination.

(d) The affected area under the boom will be secured to prevent persons from entering and/or contacting the frame of the machine during the boom raising/lowering. The area will be secured and only those persons identified in paragraph 3 above will be permitted inside the secured area. At no time will anyone be permitted under the boom or close to the boom.

(e) Communication between the dragline operator, the MSHA-qualified electrician at the dragline, the MSHA-qualified electrician at the substation, Texas Westmoreland Coal Company's Production Superintendent, and the contractor's representative, if present, will be by a dedicated channel on the company's two-way radio.

(f) An MSHA-qualified electrician will complete an examination of all electrical components that will be energized. The examination will be done within two (2) hours prior to the boom raising/lowering process. A record of this examination will be made and available to interested parties. The machine will be de-energized to perform this examination.

(g) After the examination has been completed, the electrical components necessary to complete the boom raising/lowering process will be energized to ensure they are operating properly as determined by an MSHA-qualified electrician. When the above is completed, the machine will be de-energized and locked out.

(h) The ground fault and ground check circuits will be disabled provided:

1. The internal ground conductor of the trailing cable has been tested and is continuous from the frame of the dragline to the grounding resistor located at the substation. Utilizing the ground check circuit and disconnecting the pilot circuit at the machine frame and verifying the circuit breaker cannot be closed will be an acceptable test. Resistance measurements can also be used to test the ground conductor. The grounding resistor will be tested to assure it is properly connected, is not open, or is not shorted.

2. Normal short circuit protection will be provided at all times. The over current relay setting may be increased up to 100 percent above its normal setting.

(i) During the boom raising/lowering procedure, an MSHA-qualified electrician will be positioned at the substation to monitor the grounding circuit. The MSHA- qualified electrician at the substation will at all times maintain communications with an MSHA qualified electrician at the dragline. If a grounded phase condition or an open ground wire should occur during the process, the MSHA-qualified electrician at the substation will notify the MSHA-qualified electrician at the dragline. All persons on board the machine must be aware of the condition and must remain on board the machine. The boom must be lowered to the ground or controlled and the electrical circuit de-energized, locked and tagged out. The circuit must remain de-energized until the condition is corrected. The ground fault and ground check circuits will be reinstalled prior

to re-energizing and testing the machine. Once circuits have been tested and no adverse conditions are present, the boom raising/lowering procedure as outlined above will be resumed.

(j) During this construction/maintenance procedure, persons cannot get on/off the dragline while the ground fault ground check circuits are disabled unless the circuit to the dragline is de-energized, locked and tagged out as verified by the MSHA-qualified electrician at the substation.

(k) After the boom raising/lowering is completed, the MSHA-qualified electrician at the substation will restore all the protective devices to their normal state. When this has been completed, the MSHA-qualified electrician at the substation will notify the MSHA-qualified electrician at the dragline that all circuits are in their normal state. At this time, normal work procedures can begin.

The petitioner asserts that the proposed alternative method will always guarantee the miners affected no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2017–002–M.

Petitioner: Martin Marietta Materials, Midwest Division, 11252 Aurora Avenue, Des Moines, Iowa 50322.

Mine: Fort Calhoun Underground Mine, 5765 County Road P 30, Fort Calhoun, Nebraska 68023, MSHA I.D No. 25–01300, located in Washington County, Nebraska.

Regulation Affected: 30 CFR 57.11052(d) (Refuge areas).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit use of bottled water in refuge areas in lieu of waterlines. The petitioner states that:

(1) The Fort Calhoun Underground Mine will soon be developing two parallel decline tunnels to access an identified limestone reserve near Fort Calhoun, Nebraska. The decline tunnels will each be approximately 3,200 feet in length. The tunnels will be spaced roughly 155 feet horizontally between tunnel center lines. Two cross passages are planned to connect the two parallel tunnels during development. The Fort Calhoun Underground Mine will provide a portable prefabricated refuge chamber in each of the two decline tunnels for the purpose of barricading in the event of a mine emergency.

(2) The petitioner seeks modification of 30 CFR 57.11052(d) specifically with the standard's directive that refuge areas be provided with waterlines. The Fort Calhoun Underground Mine will provide waterlines to each of the two aforementioned refuge chambers; however, the installed waterlines will not support a potable water supply.

(3) In lieu of a plumbed potable water supply, potable water will be provided in each of the two refuge chambers in the form of commercially purchased bottled water in sealed bottles.

(4) The two planned portable refuge chambers to be used underground at the Fort Calhoun Underground Mine are each designed to sustain 20 miners for a period of 36 hours under battery backup power. These prefabricated refuge chambers will, at all times, be equipped with waterlines being directly fed from the surface. The waterline supplied to the refuge chamber will not be a source of potable water for miners taking refuge. The reliability of source water quality and volume being fed to the chambers is jeopardized considering water transmission line will be installed in a mining environment and inherently susceptible to mechanical damage or restriction in the event of a mine emergency. Sourcing of water from a surface reservoir to the refuge chambers is affected by climate conditions on the surface. Adversely cold surface temperatures could restrict or cut off the supply of water to the refuge chambers resulting in a diminution of safety. Add-in contaminants (industrial or bacteria) in piped-in water results in a diminution of safety for the miners.

(5) Potable water will be provided in each of the chambers in the form of commercially purchased bottled water in sealed bottles. Each of the two chambers will be provided with a minimum of 2.25 quarts of potable drinking water per person, per day. Considering that each of the chambers are designed to support 20 miners for a period of 36 hours, each chamber will be outfitted with a minimum of 67.5 quarts or 2160 ounces of commercially purchased potable drinking water in sealed bottles. Provisioned water will have a maximum shelf life of 2 years. The condition and quantity of stored water will be confirmed by monthly inspections. Written instructions for conservation of water will also be provided within the refuge chambers for reference.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2017–15673 Filed 7–25–17; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before August 25, 2017.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or

other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2017–010–C.

Petitioner: Peabody Gateway North Mining, LLC, 12968 Illinois State Route 13, Coulterville, IL 62237.

Mine: Gateway North Mine, MSHA I.D. No. 11–03235, located in Randolph County, Illinois.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of nonpermissible electronic testing equipment in the last open crosscut. The petitioner states that:

(1) Nonpermissible electronic testing and diagnostic equipment to be used includes: Laptop computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices, insulation testers (meggers), voltage, current resistance, power testers, and electronic tachometers. Other testing and diagnostic equipment may be used if approved in advance by the MSHA District Manager.

(2) All nonpermissible testing and diagnostic equipment used in or inby the last open crosscut will be examined by a qualified person as defined in 30 CFR 75.153, prior to use to ensure the equipment is being maintained in a safe operating condition. These examination results will be recorded in the weekly examination book and will be made available to MSHA and the miners at the mine.

(3) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment in or inby the last open crosscut.

(4) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above one percent. When one percent or more methane is detected while the nonpermissible electronic equipment is being used, the equipment will be de-energized immediately and will be withdrawn outby the last open crosscut.

(5) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(6) Except for time necessary to troubleshoot under actual mining conditions coal production in the section will cease. However, coal may remain in or on the equipment to test and diagnose the equipment under ''load''.

(7) All electronic testing and diagnostic equipment will be used in accordance with the safe use procedures recommended by the manufacturer.

(8) Qualified personnel who use electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with use of the equipment.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the standard.

Docket Number: M–2017–011–C.

Petitioner: Peabody Gateway North Mining, LLC, 12968 Illinois State Route 13, Coulterville, IL 62237.

Mine: Gateway North Mine, MSHA I.D. No. 11–03235, located in Randolph County, Illinois.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of nonpermissible electronic testing equipment in return air outby the last open crosscut. The petitioner states that:

(1) Nonpermissible electronic testing and diagnostic equipment to be used includes: Laptop computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices, insulation testers (meggers), voltage, current resistance, power testers, and electronic tachometers. Other testing and diagnostic equipment may be used if approved in advance by the MSHA District Manager.

(2) All nonpermissible testing and diagnostic equipment used in return air outby the last open crosscut will be examined by a qualified person as defined in 30 CFR 75.153, prior to use to ensure the equipment is being maintained in a safe operating condition. These examination results will be recorded in the weekly examination book and will be made available to MSHA and the miners at the mine.

(3) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment in return air outby the last open crosscut.

(4) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above one percent. When one percent or more methane is detected while the nonpermissible electronic equipment is being used, the equipment will be de-energized immediately and will be withdrawn from the return air outby the last open crosscut.

(5) All hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(7) All electronic testing and diagnostic equipment will be used in accordance with the safe use procedures recommended by the manufacturer.

(8) Qualified personnel who use electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with use of the equipment.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the standard.

Docket Number: M–2017–012–C.

Petitioner: The Marion County Coal Company, 151 Johnny Cake Road, Metz, West Virginia 26585.

Mine: Marion County Mine, MSHA I.D. No. 46–01433, located in Marion County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of that part of the existing standard that requires the operator to establish and maintain barriers around its surface directional drilled (SDD) wells. The petitioner asserts that the proposed alternative method has been successfully used to prepare coal bed methane (CBM) wells for safe intersection by using one or more of the following methods: (1) Cement Plug, (2) Polymer Gel, (3) Bentonite Gel, (4) Active Pressure Management and Water Infusion, and (5) Remedial Work. The proposed alternative method will prevent the CBM well methane from entering the

underground mine. The alternative method includes well plugging procedures, water infusion and ventilation method, and procedures for mining through a CBM well with horizontal laterals. The petitioner states that:

(1) A minimum working barrier of 300 feet in diameter will be maintained around all SDD wells until approval to proceed with mining has been obtained from the District Manager (DM). The barrier would extend around all vertical and horizontal branches drilled in the coal seam. The barrier would also extend around all vertical and horizontal branches within overlying coal seams subject to caving or subsidence from the coal seam being mined when methane leakage through the subsidence zone is possible.

(2) The DM may choose to approve each branch intersection, each well, or a group of wells as applicable to the conditions. The DM may require a certified review of the proposed methods to prepare the SDD wells for intersection by a professional engineer in order to assess the applicability of the proposed system(s) to the mine-specific conditions.

a. The petitioner proposes to use the following procedures for preparing, plugging, and replugging SDD wells using mandatory computations and administrative procedures prior to plugging or replugging:

(1) *Probable Error of Location*—Directional drilling systems rely on sophisticated angular measurement systems and computer models to calculate the estimated location of the well bore. This estimated hole location is subject to cumulative measurement errors so that the distance between actual and estimated location of the well bore increases with the depth of the hole. Modern directional drilling systems are typically accurate within one or two degrees depending on the specific equipment and techniques. The probable error of location is defined by a cone described by the average accuracy of angular measurement around the length of the hole. For example, a hole that is drilled 500 vertical feet and deviated into a coal seam at a depth of 700 feet would have a probable error of location at a point that is 4,000 feet from the hole collar (about 2,986 feet horizontally from the well collar) of 69.8 feet (4,000 feet × sine (1.0 degree)) if the average accuracy of angular measurement was on degree and 139.6 feet if the average accuracy of angular measurement was two degrees. In addition to the probable error of location, the true hole location is also affected by underground survey errors, surface survey errors, and random survey errors.

(2) *Minimum Working Barrier Around Well*—For purposes of this petition, the minimum working barrier around any CBM well or branches of a CBM well in the coal seam is 50 feet plus the probable error of location. For example, a hole that is drilled 500 vertical feet and deviated into a coal seam at a depth of 700 feet using drilling equipment that has an average accuracy of angular measurement of one degree, the probable error of location at a point that is 4,000 feet from the hole collar is 69.8 feet. Therefore, the minimum working barrier around this point of the well bore is 120 feet (69.8 feet plus 50 feet rounded up to the nearest foot). The 50 additional feet is a reasonable separation between the probable location of the well and mining operations. When mining is within the minimum working barrier distance from a CBM well or branch, the mine operator must comply with the provisions of this petition. CBM wells must be prepared in advance for safe intersection and specific procedures must be followed on the mining section in order to protect the miners when mining within this minimum working barrier around the well. The DM may require a greater minimum working barrier around CBM wells where geologic conditions, historical location errors, or other factors warrant a greater barrier.

(3) *Ventilation Plan Requirements*—The ventilation plans will contain a description of all SDD CBM wells drilled in the area to be mined. This description would include the well numbers, the date drilled, the diameter, the casing information, the coal seams developed, maximum depth of the wells, abandonment pressures, and any other information required by the DM. All or part of this information may be listed on the mine ventilation map as required in 30 CFR 75.372. As required in 30 CFR 75.371, the ventilation plan will include the techniques that the mine operator plans to use to prepare the SDD wells for safe intersection, the specifications and stops necessary to implement these techniques, and the operational precautions that are required when mining within the minimum working barrier. The ventilation plan will also contain any additional information or provisions related to the SDD wells required by the DM.

(4) *Ventilation Map*—The mine ventilation map specified in 30 CFR 75.372 will contain the following information:

(i) The surface location of all CBM wells in the active mining area and any projected mining area as specified in 30 CFR 75.372(b)(14);

(ii) Identifying information of CBM wells (*i.e.* API) hole number or equivalent;

(iii) The date that gas production began from the well;

(iv) The coal seam intersection of all CBM wells;

(v) The horizontal extents in the coal seam of all CBM wells and branches;

(vi) The outline of the probable error of location of all CBM wells; and

(vii) The date of mine intersection and the distance between estimated and actual locations for all intersections of the CBM well and branches.

b. The petitioner proposes the following mandatory procedures for plugging or replugging SDD Wells:

—The mine operator will include in the mine ventilation plan one or more of the methods listed below to prepare SDD wells for safe intersection. The methods approved in the mine ventilation plan must be completed on each SDD well before mining encroaches on the minimum working barrier around the well or branch of the well in the coal seam being mined. If methane leakage through subsidence cracks is a problem when retreat mining, the minimum working barrier must be maintained around wells and branches in overlying coal seams or the wells and branches must be prepared for safe intersection as specified in the mine ventilation plan.

(1) *Cement Plug*—Cement will be used to fill the entire SDD hole system. Squeeze cementing techniques are necessary for SDD plugging due to the lack of tubing in the hole. Cement would fill void spaces and eliminate methane leakage along the hole. Once the cement has cured, the SDD system may be intersected multiple times without further hole preparation. Gas cutting occurs if the placement pressure of the cement is less than the methane pressure in the coal seam. Under these conditions, gas will bubble out of the coal seam and into the unset cement creating a pressurized void or series of interconnected pressurized voids. Water cutting occurs when formation water and standing water in the hole invades or displaces the unset cement. Standing water has to be bailed out of the hole or driven into the formation with compressed gas to minimize water cutting. The cement pressure must be maintained higher than the formation pressure until the cement sets to minimize both gas and water cutting. The cementing program in the

ventilation plan must address both gas and water cutting.

Due to the large volume to be cemented and potential problems with cement setting prior to filling the entire SDD system, adequate sized pumping units with backup capacity must be used. Various additives such as retarders, lightweight extenders, viscosity modifiers, thixotropic modifiers, and fly ash may be used in the cement mix. The volume of cement pumped would exceed the estimated hole volume to ensure the complete filling of all voids.

The complete cementing program, including hold dewatering, cement, additives, pressures, pumping times and equipment must be specified in the mine ventilation plan. The material safety data sheets (MSDS) for all cements, additives and components and any personal protective equipment and techniques to protect workers from the potentially harmful effects of the cement and cement components would be included in the ventilation plan. Records of cement mixes, cement quantities, pump pressures, and flow rates and times would be retained for each hole plugged. SDD holes may be plugged with cement years in advance of mining. However, the DM will require suitable documentation of the cement plugging in order to approve mining within the minimum working barrier around CBM wells.

(2) *Polymer Gel*—Polymer gels start out as low viscosity, water-based mixtures of organic polymer that are crosslinked using time-delayed activators to form a water-insoluble, high-viscosity gel after being pumped into the SDD system. Although polymer gel systems never solidify, the activated gel should develop sufficient strength to resist gas flow. A gel that is suitable for treating SDD wells for mine intersection will reliably fill the SDD system and prevent gas-filled voids. Any gel chemistry used for plugging SDD wells should be resistant to bacterial and chemical degradation and remain stable for the duration of mining through a SDD system.

Water may dilute the gel mixture to the point where it will not set to the required strength. Water in the holes would be removed before injecting the gel mixture. Water removal can be accomplished by conventional bailing and then injecting compressed gas to squeeze the water that accumulated in low spots back into the formation. Gas pressurization would be continued until the hole is dry. Another potential problem with gels is that dissolved salts in the formation waters may interfere with the cross-linking reactions. Any proposed gel mixtures must be tested with actual formation waters.

Equipment to mix and pump gels would have adequate capacity to fill the hole before the gel sets. Backup units would be available in case something breaks while pumping. The volume of gel pumped would exceed the estimated hole volume to ensure the complete filling of all voids and allow for gel to infiltrate the joints in the coal seam surrounding the hole. Gel injection and setting pressures would be specified in the mine ventilation plan. To reduce the potential for an inundation of gel, the final level of gel would be close to the level of the coal seam and the remainder of the hole would remain open to the atmosphere until mining in the vicinity of the SDD system is completed. Packers may be used for isolate portions of the SDD system.

The complete polymer gel program, including advance testing of the gel with formation water, dewatering systems, gel specifications, gel quantities, gel placement, pressures, and pumping equipment must be specified in the mine ventilation plan. The MSDS for all gel components and any personal protective equipment and techniques to protect workers from potentially harmful effects of the gel and gel components would be included in the mine ventilation plan. A record of the calculated hold volume, gel quantities, gel formulation, pump pressures and flow rates and times would be retained for each hole that is treated with gel. Other gel chemistries other than organic polymers may be included in the mine ventilation plan with appropriate methods, parameters, and safety precautions.

(3) *Bentonite Gel*—High pressure injection of bentonite gel into the SDD system will infiltrate the cleat and butt joints of the coal seam near the well bore and effectively seal these conduits against the follow of methane. Bentonite gel is a thixotropic fluid that sets when it stops moving, and has a significantly lower setting viscosity than polymer gel. The polymer gel fills and seals the borehole, the lower strength bentonite gel must penetrate the fractures and jointing in the coal seam to be effective in reducing formation permeability around the hole. The use of bentonite gel is restricted to deleted CBM applications that have low abandonment pressures and limited recharge potential. In general, these applications will be mature CBM fields with long production histories.

A slug of water would be injected prior the bentonite gel in order to minimize moisture loss bridging near the well bore. The volume of gel pumped would exceed the estimated hole volume to ensure that the gel infiltrates the joints in the coal seam for several feet surrounding the hole. Due to the large gel volume and potential problems with premature thixotropic setting, adequately sized pumping units with back-up capacity are required. Additives to the gel may be required to modify viscosity, reduce filtrates, reduce surface tension, and promote sealing of the cracks and joints around the hole. To reduce the potential for an inundation of bentonite gel, the final level of gel would be approximately the elevation of the coal seam and the remainder of the hole would remain open to the atmosphere until mining in the vicinity of the SDD system is complete. If a water column is used to pressurize the gel, it must be bailed down to the coal seam elevation prior to intersection.

The complete bentonite gel program, including formation infiltration and permeability reduction data, hole pretreatment, gel specifications, and additives, gel quantities flow rates, injection pressures and infiltration times, must be specified in the ventilation plan. The ventilation plan should list the equipment used to prepare and pump the gel. The MSDS for all gel components and any personal protective equipment and techniques to protect workers from the potentially harmful effects of the gel and additives would be included in the ventilation plan. A record of the hole preparation, gel quantities, gel formulation, pump pressures, and flow rates and times would be retained for each hole that is treated with bentonite gel.

(4) *Active Pressure Management and Water Infusion*—Reducing the pressure in the hole to less than atmospheric pressure by operating a vacuum blower connected to the wellhead may facilitate safe intersection of the hole by a coal mine. The negative pressure in the hole will limit the quantity of methane released into the higher pressure mine atmosphere. If the mine intersection is near the end of a horizontal branch of the SDD system, air will flow from the mine into the upstream side of the hold and be exhausted through the blower on the surface. On the downstream side of the intersection, if the open hole length is short, the methane emitted from this side of the hole may be diluted to safe levels with ventilation air. Conversely, safely intersecting this system near the bottom of the vertical hole may not be possible because the methane emissions from the multiple downstream branches may be too great to dilute with ventilation air. The methane emission rate is directly proportional to the

length of the open hole. Successful application of vacuum systems may be limited by caving of the hole or water collected in dips in the SDD system. Another important factor in the success of vacuum systems is the methane liberation rate of the coal formation around the well. Older, more depleted wells that have lower methane emission rates are more amenable to this technique. The remaining methane content and the formation permeability should be addressed in the mine ventilation plan.

Packer may be used to reduce methane inflow into the coal mine after intersection. All packers on the downstream side of the hole must be equipped with a center pipe so that the inby methane pressure may be measured or so that water may be injected. Subsequent intersections would not take place if pressure in a packer-sealed hole is excessive. Alternatively, methane produced by the downstream hole may be piped to an in-mine degas system to safely transport the methane out of the mine or may be piped to the return air course for dilution. In-mine methane piping would be protected as stipulated in ''Piping Methane in Underground Coal Mines, MSHA IR 1094, (1978). Protected methane diffusion zones may be established in return air courses if needed.

Detailed sketches and safety precautions for methane collection, piping and diffusion systems must be included in the mine ventilation plan (30 CFR 75.371(ee)).

Water infusion prior to intersecting the well will temporarily limit methane flow. Water infusion may also help control coal dust levels during mining. High water infusion pressures may be obtained prior to the initial intersection by the hydraulic head resulting from the hole depth or by pumping. Water infusion pressures for subsequent intersections are limited by leakage around in-mine packers and limitations of the mine water distribution system. If water is infused prior to the initial intersection, the water level in the hole must be lowered to the coal seam elevation before the intersection.

The complete pressure management strategy including negative pressure application, wellhead equipment, and use of packers, in-mine piping, methane dilution, and water infusion must be specified in the mine ventilation plan. Procedures for controlling methane in the downstream hole must be specified in the mine ventilation plan. The remaining methane content and formation permeability would be addressed in the mine ventilation plan. The potential for the coal seam to cave into the well would be addressed in the mine ventilation plan. Dewatering methods would be included in the mine ventilation plan. A record of the negative pressures applied to the system, methane liberation, use of packers and any water infusion pressures and application time would be retained for each intersection.

(5) *Remedial Work*—If problems are encountered in preparing the holes for safe intersection, remedial measures must be taken to protect the miners. For example, if only one-half of the calculated hold volume of cement could be placed into a SDD well due to hole blockage, holes would be drilled near each branch that will be intersected and squeeze cemented using pressures sufficient to fracture into the potentially empty SDD holes. The DM will approve remedial work in the mine ventilation plan on a case-by-case basis.

c. The petitioner proposes to use the following mandatory procedures after approval has been granted by the DM to mine within the minimum working barrier around the well or branch of the well:

(1) The mine operator, the DM, a representative of the miners, or the appropriate State agency may request a conference prior to any intersection or after any intersection to discuss issues or concerns. Upon receipt of any request, the DM will schedule a conference. The party requesting the conference will notify all other parties listed above within a reasonable time prior to the conference to provide opportunity for participation.

(2) The mine operator must notify the DM, the State agency, and the representative of the miners at least 48 hours prior the intended intersection of any CBM well.

(3) The initial intersection of a well or branch of a well typically has higher risk than subsequent intersections. The initial intersection typically indicates if the well preparation is sufficient to prevent the inundation of methane. For the initial intersection of a well or branch the following procedures are mandatory:

(a) When mining advances within the minimum barrier distance of the well or branches of the well, the entries that will intersect the well or branches must be posted with a readily visible marking. For longwalls, both the head and tailgate entries must be so marked. Marks must be advanced to within 100 feet of the working face as mining progresses. Marks will be removed after well or branches are intersected in each entry or after mining has exited the minimum barrier distance of the well.

(b) Entries that will intersect vertical segments of a well will be marked with drivage sights in the last open crosscut when mining is within 100 feet of the well. When a vertical segment of a well will be intersected by a longwall, drivage sights will be installed on 10-foot centers starting 50 feet in advance of the anticipated intersection. Drivage sights will be installed in both the headgate and tailgate entries of the longwall.

(c) Firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area of the mine-through (when either the conventional or continuous mining method is used), will be available and operable during each well mine-through. A fire hose will be located in the last open crosscut of the entry or room. A water line to the belt conveyor tailpiece will be maintained along with a sufficient amount of fire hose to reach the farthest point of penetration on the section. When the longwall mining method is used, a hose to the longwall water supply is sufficient. All fire hoses will be connected and ready for use, but do not have to be charged with water during the cut-through.

(d) The operator will keep available at the working section a sufficient supply of roof support and ventilation materials. In addition, emergency plugs, packers, and setting tools to seal both sides of the well or branch will be available in the immediate area of the cut-through.

(e) When mining advances within the minimum working barrier distance from the well or branch of the well, the operator will service all equipment and check for permissibility at least once daily. Daily permissibility examinations must continue until the well or branch is intersected or until mining exits the minimum working barrier around the well or branch.

(f) When mining advances within the minimum working barrier distance from the well or branch of the well, the operator will calibrate the methane monitor(s) on the longwall, continuous mining machine and loading machine at least once daily. Daily methane monitor calibration must continue until the well or branch is intersected or until mining exits the minimum working barrier around the well or branch.

(g) When mining is in progress, the operator will perform tests for methane with a handheld methane detector at least every 10 minutes from the time mining with the continuous mining machine or longwall face is within the minimum working barrier around the well or branch. During the cutting

process, no individual will be allowed on the return side until the mine-through has been completed and the area has been examined and declared safe. The shearer must be idle when any miners are inby the tail drum.

(h) When using continuous or conventional mining methods, the working place will be free from accumulations of coal dust and coal spillages, and rock dust will be placed on the roof, rib, and floor to within 20 feet of the face when mining through the well or branch. On longwall sections, rock dust will be applied on the roof, rib, and floor up to both the headgate and tailgate pillared area.

(i) Immediately after the well or branch is intersected, the operator will de-energize all equipment, and the certified person will thoroughly examine and determine the working place safe before mining is resumed.

(j) After a well or well branch has been intersected and the working place determined safe, mining will continue inby the well a sufficient distance to permit adequate ventilation around the area of the well or branch.

(k) No open flame will be permitted in the area until adequate ventilation has been established around the wellbore or branch. Any casing, tubing or stuck tools will be removed using the methods approved in the mine ventilation plan.

(l) No person will be permitted in the working place of the mine-through operation during active mining except those persons actually engaged in the mining operation, including mine management, representatives of miners, personnel from MSHA, and personnel from the appropriate State agency.

(m) The mine operator will warn all personnel in the mine of the planned intersection of the well or branch prior to their going underground if the planned intersection is to occur during their shift. This warning will be repeated for all shifts until the well or branch has been intersected.

(n) A certified official will directly supervise the mine-through operation and only the certified official in charge will issue instructions concerning the mine-through operation.

(o) All miners will be in known locations and will stay in communication with the responsible person, in accordance with the site specific approved emergency response plan when active mining occurs within the minimum working barrier of the well or branch.

(p) The responsible person required in 30 CFR 75.1501 is responsible for well intersection emergencies. The well intersection procedures must be reviewed by the responsible person prior to any planned intersection.

(q) A copy of the approved petition will be maintained at the mine and be available to the miners.

(r) The provisions of the approved petition do not impair the authority of representative of MSHA to interrupt or halt the mine-through operation and to issue a withdrawal order when its deemed necessary for the safety of the miners. MSHA may order an interruption or cessation of the mine-through operation and/or withdrawal of personnel by issuing either a verbal or a written order to that effect to a representative of the operator, and will include the basis for the order. Operations in the affected area of the mine may not resume until a representative of MSHA permits resumption of mine-through operations. The miner operator and miners will comply with verbal or written MSHA orders immediately. All verbal orders will be committed to in writing within a reasonable time as conditions permit.

(s) For subsequent intersections of branches of a well, appropriate procedures to protect the miners will be specified in the mine ventilation plan.

d. The petitioner proposes to use the following mandatory procedures after SDD intersections:

(1) All intersections with SDD wells and branches that are in intake air courses will be examined as part of the pre-shift examinations required in 30 CFR 75.360.

(2) All other intersections with SDD wells and branches will be examined as part of the weekly examinations required in 30 CFR 75.364.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved Part 48 training plan to the DM. These proposed revisions will include initial and refresher training regarding compliance with the terms and conditions stated in the petition. The mine operator will provide all miners involved in the mine-through of a well or branch with training regarding the requirements of this petition prior to mining within the minimum working barrier of the next well or branch intended to be mined through.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved mine emergency evacuation and firefighting program of instruction required in 30 CFR 75.1502. The mine operator will revise the program to include the hazards and evacuation procedures to be used for well intersections. All underground miners will be trained in the revised program within 30 days of the approval of the revised mine emergency evacuation and firefighting program of instruction.

The petitioner asserts that the proposed alternative method will always guarantee the miners no less than the same measure of protection afforded by the standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2017–15674 Filed 7–25–17; 8:45 am]

BILLING CODE 4520–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 17–053]

Notice of Intent To Hold International Space Station Stakeholder Workshop

AGENCY: National Aeronautics and Space Administration.

ACTION: Stakeholder workshop.

SUMMARY: The International Space Station (ISS) Stakeholder Workshop is intended to engage ISS stakeholders in gathering information that may be used in the development of NASA's future ISS planning activities. Specifically, the workshop targets the commercial space sector, researchers, technology developers, transportation and habitation providers, other government agencies, and other interested parties, providing a forum for dialogue with NASA on topics relevant to ISS future planning. Topics for discussion include the low Earth orbit (LEO) commercial, research, and development market; access to space; the value of permanent human habitation in LEO; and structure and planning for public/private partnerships in LEO.

DATES: Wednesday, August 9, 2017, 8:30am–6:00pm, Local Time.

ADDRESSES: Marriott Marquis Washington DC, 901 Massachusetts Ave NW., Washington, DC 20001. Please see the workshop Web site at: *https://www.nasa.gov/content/international-space-station-stakeholder-workshop.*

FOR FURTHER INFORMATION CONTACT: Jacob Keaton, 202–358–1507, *hq-iss-leo@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Attendees are requested to register at: *https://www.nasa.gov/content/international-space-station-stakeholder-workshop.* The agenda will consist of a plenary session in the morning followed by topic-specific breakouts in the afternoon.

Tentative ISS Stakeholder Workshop Agenda

8:30–12:00 Open Session. Welcome, Objectives, Presentations.
12:00–1:00 Lunch (on your own)
1:00–3:00 Breakout Sessions Round #1
3:00–5:00 Breakout Sessions Round #2
5:00–6:00 Outbriefs and Summary

Jacob Keaton,

International Space Station, NASA Headquarters.

[FR Doc. 2017–15651 Filed 7–25–17; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0001]

Sunshine Act Meeting Notice

DATE: Weeks of July 24, 31, August 7, 14, 21, 28, 2017.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of July 24, 2017

There are no meetings scheduled for the week of July 24, 2017.

Week of July 31, 2017—Tentative

There are no meetings scheduled for the week of July 31, 2017.

Week of August 7, 2017—Tentative

There are no meetings scheduled for the week of August 7, 2017.

Week of August 14, 2017—Tentative

There are no meetings scheduled for the week of August 14, 2017.

Week of August 21, 2017—Tentative

There are no meetings scheduled for the week of August 21, 2017.

Week of August 28, 2017—Tentative

There are no meetings scheduled for the week of August 28, 2017.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: July 21, 2017.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2017–15776 Filed 7–24–17; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–7580; EA–17–102; NRC–2017–0165]

License Modification Order: Fansteel, Inc. and FMRI (a Subsidiary of Reorganized Fansteel)

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an Immediately Effective Order to Fansteel, Inc. and FMRI (a subsidiary of Reorganized Fansteel). The Order modifies License No. SMB–911 to include ''Fansteel, Inc.'' as a co-Licensee with ''FMRI (a subsidiary of Fansteel)'' for the complex decommissioning site in Muskogee, Oklahoma. The Order also requires amendment of the Decommissioning Plan to reflect ''Fansteel'' as a co-licensee and requires Fansteel and FMRI to take any and all actions necessary at the Muskogee site to ensure adequate protection of public health and safety. The NRC issued the Order in response to the imminent risk that FMRI will abandon the Muskogee site.

DATES: The Order was issued on July 14, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0165 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0165. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For questions about this Order, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Greg Chapman, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8718; email: *Gregory.Chapman@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this July 17, 2017.

For the Nuclear Regulatory Commission.

John R. Tappert,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs Office of Nuclear Material Safety and Safeguards.

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of FMRI (a subsidiary of Reorganized Fansteel) and Fansteel, Inc.

Muskogee, Oklahoma

Docket No. 040–7580

License No. SMB–911

EA–17–102

ORDER MODIFYING LICENSE

(IMMEDIATELY EFFECTIVE)

I

FMRI, a subsidiary of Reorganized Fansteel, Inc. (''Fansteel'') (''Licensee'') is the current holder of Byproduct/Source/Special Nuclear Material License No. SMB–911 (''License'') issued by the Nuclear Regulatory Commission (''NRC'') pursuant to 10 CFR part 40, ''Domestic Licensing of Source Material.'' The License authorizes possession of source material consisting of up to 400 tons of natural uranium and thorium in any form at the Muskogee, Oklahoma site, where Fansteel operated a rare metal extraction facility until December 1989. The License further authorizes activities related to decommissioning and characterization of contaminated facilities, equipment, and land, and maintenance of control over licensed materials in accordance with statements, representations, and conditions contained in the application submitted by letter dated January 14, 2003 (ML030280438), and supplemented by letters dated May 8, 2003 (ML031340606), July 24, 2003 (ML032100533, re: Decommissioning Plan), July 24, 2003 (ML032100585, re: license transfer); and by letter dated July 6, 2006 (ML061930111), and supplemented by letters dated August 31, 2006 (ML070740112) and May 24, 2007 (ML071560249). The License, originally issued in 1967, expired on September 30, 2002 although it has continued, in effect, in accordance with 10 CFR 40.42(c).

II

The Muskogee site currently contains contaminated material in the form of uranium, thorium, and their decay-chain progeny. This contamination is located in process equipment and buildings, soil, sludge, and groundwater. As the holder of License No. SMB–911, FMRI is responsible for decontaminating the Muskogee site by conducting characterization, remediation, and other decommissioning activities in accordance with both the NRC-approved 2003 Decommissioning Plan (''Decommissioning Plan'') and supplemental correspondence with the NRC staff relating to the Decommissioning Plan. Fansteel is the current record owner of approximately 80 acres of the Muskogee site, including the contaminated portion of the site. Currently, the only Director and the President, Secretary, and Treasurer of FMRI is Mr. Robert Compernolle, the Vice President and Corporate Controller of Fansteel.

In a letter dated July 6, 2017 from Mr. Robert Compernolle (FMRI) to the NRC (''Compernolle Letter'') (ML17193A341), FMRI stated that it has not received compliance funding [1] from Fansteel in three months. The letter states that ''FMRI has no money to pay for the continued monthly health and safety costs for the site . . .'' FMRI also stated that in the near future ''ground water and surface water will no longer be collected and treated in accordance with the NRC License . . .'' FMRI further indicated that ''surface water will likely overflow from the ponds and untreated ground water will contaminate the Arkansas River.'' The Compernolle Letter states that there will be no site security ''which may result in . . . potential exposure to radiation in excess of acceptable standards.'' The abandonment of the Muskogee site creates an exigency that would likely include unacceptable health and safety risks to the public and therefore requires immediate regulatory action by the NRC.

Reasonable assurance of adequate protection of the public health and safety and common defense and security are the NRC's fundamental regulatory mandates under the Atomic Energy Act of 1954, as amended. Compliance with NRC requirements plays a critical role in giving the NRC confidence that licensees are maintaining an adequate level of public health and safety and common defense and security. In situations where licensees cannot demonstrate adequate compliance with NRC regulations, the Commission may act in accordance with its statutory authority under Section 161 of the Atomic Energy Act of 1954, as amended, to require licensees to take action in order to protect health and safety and common defense and security. In addition, the Commission may institute a proceeding to modify, suspend, or revoke a license or to take such action as may be proper by serving on the licensee or other person subject to the jurisdiction of the Commission an immediately effective order pursuant to 10 CFR 2.202(a).

FMRI's sampling data indicates that the Muskogee site has groundwater contamination that exceeds the effluent concentration limits in Appendix B of 10 CFR part 20, ''Standards for Protection Against Radiation.'' The 2016 sampling data showed concentrations in some wells being almost double the Appendix B limits, which are based on a 50 mrem/y estimated dose. This contamination is currently collected, treated, and monitored by a water treatment system operated by FMRI staff. The water is then released to the Arkansas River in accordance with Oklahoma Pollutant Discharge Elimination System (OPDES) Permit No. OK0001643. As indicated by the Compernolle Letter, if the site is abandoned, any contaminated groundwater, or surface water runoff, will flow unimpeded, untreated, and unmonitored into the Arkansas River, which is immediately adjacent to the site. The nearest surface water intake from the river is approximately 15 miles downstream of the site.

The site also contains several process impoundments (ponds), which contain treated water and radiologically contaminated calcium fluoride (CaF_2) material. These ponds need to be maintained because potential liner tears or other occurrences may lead to impoundment failures resulting in a release of radiologically contaminated materials to the environment. Further, the site has radiological contamination in open excavations, equipment, and buildings for which access control is needed to ensure that the public does not inadvertently receive exposures in excess of regulatory limits for the public due to being in close proximity or contact with the materials. Continued staffing at the Muskogee site is needed by personnel who can operate and maintain the water treatment system, maintain the surface impoundments, and otherwise provide site monitoring, maintenance, and security as needed to meet statutory, regulatory, and license requirements.

III

Fansteel was the original holder of the License. In January 2002, Fansteel filed a petition for bankruptcy in the U.S. Bankruptcy Court for the District of Delaware pursuant to Chapter 11 of the

[1] Previously Fansteel was providing compliance funding (funding necessary to comply with applicable regulatory requirements) pursuant to certain financial instruments. When Fansteel experienced financial challenges in 2013, it entered into a series of agreements with the NRC for reduced compliance funding while still maintaining the health and safety of the site. Fansteel is no longer providing compliance funding.

U.S. Bankruptcy Code (ML020290385). By application to the NRC (ML032100585), Fansteel requested a transfer of the License for the Muskogee site to a subsidiary, FMRI. As part of its Reorganization Plan under Chapter 11, Fansteel proposed to create FMRI to assume the License and complete decommissioning. In its application, Fansteel committed to provide compliance funding mechanisms for FMRI to ensure that FMRI would be qualified to hold the License and be capable of complying with all NRC requirements. The NRC conducted a safety evaluation of Fansteel's application. The NRC verified that Fansteel had established all necessary compliance funding mechanisms and established FMRI as a separate entity capable of fulfilling the license requirements. The NRC concluded that, based on Fansteel's commitments, FMRI ''is qualified to be the license holder'' and that ''transfer of the license to FMRI is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the Commission'' (ML033080188). Based on this finding, as well as confirmation of Fansteel's Reorganization Plan, the NRC consented to the license transfer and modified the License to replace Fansteel with FMRI (a subsidiary of Reorganized Fansteel) as the licensee on December 4, 2003 (ML033240133). Pursuant to the Reorganization Plan confirmed by the Bankruptcy Court on December 23, 2003, Fansteel reorganized and created FMRI to fulfill all obligations of the License and the Decommissioning Plan for the Muskogee site.

Subsequent to the NRC's approval of the license transfer and the effective date of the Reorganization Plan, Fansteel has exercised *de facto* control over radiological substances and thus is subject to the requirements of the Atomic Energy Act. Fansteel has maintained—and currently maintains—*de facto* control over the day-to-day business of FMRI. As noted above, Fansteel is the current record owner of the contaminated portion of the Muskogee site. Additionally, FMRI had no Board of Directors from 2009 to 2014, and currently Mr. Robert Compernolle, the Vice President and Corporate Controller of Fansteel, is the only director and the President, Secretary, and Treasurer of FMRI. Mr. Compernolle receives compensation from Fansteel, not FMRI. Mr. Compernolle and his predecessor, Mr. E. Jonathan Jackson, have directly controlled and been involved with environmental and regulatory matters with the NRC at the Muskogee site. Further, Fansteel has failed to deposit all insurance proceeds for use in decommissioning as required by the Reorganization Plan. Specifically, in 2010 Fansteel failed to deposit into the Decommissioning Trust an approximately $1.25 million insurance settlement related to the Muskogee site. Instead, Fansteel used this insurance settlement to fund its independent operations. In addition, Fansteel siphoned compliance funding from FMRI as numerous payments made by Fansteel to FMRI were rapidly returned by FMRI to Fansteel instead of being used for site remediation activities. In numerous reports submitted to the NRC, FMRI reported that Fansteel had made compliance funding to it when, in fact, Fansteel had not. For all these reasons, Fansteel's actions following confirmation of the Reorganization Plan (''post confirmation actions'') have created obligations for Fansteel under the Atomic Energy Act.

Fansteel has also failed to fulfill the commitments it made in support of the license transfer. As previously noted, Fansteel failed to deposit all insurance proceeds into the Decommissioning Trust, failed to provide minimum required compliance funding to FMRI, and siphoned compliance funding from FMRI. In 2006 and again in 2007, FMRI applied for withdrawal of funds from the Decommissioning Trust and certified that all funds due to FMRI from Fansteel had been paid when in fact they had not. FMRI was required to replenish the Decommissioning Trust within 30 days of making such withdrawals, yet FMRI did not replenish the Decommissioning Trust. In 2011, 2012, and 2013, Fansteel failed to provide minimum required compliance funding to FMRI, yet in annual reports submitted to the NRC in 2012, 2013, and 2014, FMRI inaccurately stated that such funding had been provided.

Fansteel's post-confirmation conduct has rendered FMRI incapable of compliance with NRC requirements, made FMRI unqualified to be sole Licensee, has put the Muskogee site at imminent risk of abandonment, and requires modification of the License. NRC staff has determined that the protection of public health and safety requires the issuance of this Order adding Fansteel as a co-Licensee of the License. Accordingly, the NRC hereby modifies SMB–911 via this Order to add Fansteel as a co-Licensee for SMB–911. In addition, pursuant to 10 CFR 2.202, ''Orders,'' the NRC finds that—in light of the likelihood of imminent site abandonment and the associated risks of further radiological contamination—the public health, safety, and interest require that this Order be made immediately effective subject to the conditions provided below.

IV

Fansteel again filed for bankruptcy pursuant to Chapter 11 of the U.S. Bankruptcy Code in September 2016, this time in the U.S. Bankruptcy Court for the Southern District of Iowa. In re Fansteel, Inc., No. 16–01823–ALS (Bankr. S.D. Iowa) (''Second Bankruptcy''). Nothing in this Order should be construed to seek collection of any claim or debt or monetary judgment. Rather, the actions required by the NRC under this Order are solely to enforce the NRC's police or regulatory power as permitted by the police or regulatory exception to the automatic stay, 11 U.S.C. 362(b)(4), and are designed to provide reasonable assurance of adequate protection of public health and safety.

The United States on behalf of the NRC has filed a motion in the Second Bankruptcy that is pending and which seeks continued compliance funding by Fansteel of FMRI. If granted and complied with, such compliance funding would allow Fansteel and FMRI to address the most immediate health and safety exigencies at the Muskogee site. This would likely alter the situation reported to the NRC in the Compernolle Letter as described above. However, according to the Compernolle Letter, FMRI's compliance activities will expire imminently. Therefore, the NRC has lost reasonable assurance of adequate protection of public health and safety with respect to the Muskogee site and finds issuance of this Order necessary.

The NRC recognizes that an order of the Second Bankruptcy Court, either on the United States' pending motion or another motion, may be necessary for Fansteel to use cash collateral to comply with this Order. The NRC further recognizes that additional modifications of this Order may be appropriate in light of any future orders of the Court.

V

Accordingly, pursuant to Sections 61, 62, 161, 184, 186, and 187 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 40, IT IS HEREBY ORDERED, EFFECTIVE UPON ISSUANCE, AS FOLLOWS:

A. License No. SMB–911 is modified to add Fansteel, Inc. as a co-Licensee.

B. All relevant references to ''FMRI'' in License No. SMB–911 shall be changed to ''Fansteel and FMRI.''

C. Fansteel and FMRI shall:

1. Take any and all actions necessary at the Muskogee site to: (1) Prevent the unauthorized release of radiological contamination into the Arkansas River; (2) collect and treat groundwater and surface water in accordance with all regulatory requirements; (3) secure the Muskogee site to prevent any unintended public exposure to radiation in excess of NRC regulatory requirements; and (4) take any additional actions to ensure the public health and safety. Fansteel's obligation under this subparagraph during the pendency of the Second Bankruptcy will not become effective if the Second Bankruptcy Court grants the United States' outstanding motion to comply with environmental health and safety laws and regulations on or before July 18, 2017. In such circumstance, during the pendency of the Second Bankruptcy, Fansteel's obligations will be governed by the Court's order.

2. Within 5 days of the issuance of this Order, submit a written report to the NRC describing all steps taken by Fansteel and FMRI to comply with this Order and how they have protected public health and safety.

3. Within 45 days of the issuance of this Order, submit to the NRC an amended Decommissioning Plan that reflects Fansteel as co-Licensee.

The Director, Office of Nuclear Material Safety and Safeguards may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensees of good cause.

VI

In accordance with 10 CFR 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this Order within 30 days of issuance. In addition, the licensee and any other person adversely affected by this Order may request a hearing on this Order within 30 days of issuance. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–001, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter ''petition''), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC's Web site at *http://www.nrc.gov/site-help/esubmittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's Public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's Public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's Public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call to 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the documents on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is available to the public at *https://adams.nrc.gov/ehd/,* unless excluded pursuant to an Order of the Commission

or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''Cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which their interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f). If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), the licensee or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date this Order is issued without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

Dated this July 14, 2017.

Marc L. Dapas,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017–15367 Filed 7–25–17; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2016–134; CP2016–275; MC2017–159 and CP2017–223]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 28, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*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 3007.40.

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 3010, and 39 CFR part 3020, 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 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2016–134; *Filing Title:* Notice of United States Postal Service of Amendment to Priority Mail Express & Priority Mail Contract 28, with Portions Filed Under Seal; *Filing Acceptance Date:* July 20, 2017; *Filing Authority:* 39 U.S.C. 3633 and 39 CFR 3015.5; *Public Representative:* Katalin K. Clendenin; *Comments Due:* July 28, 2017.

2. *Docket No(s).:* CP2016–275; *Filing Title:* Notice of United States Postal Service of Amendment to Priority Mail Contract 237, with Portions Filed Under Seal; *Filing Acceptance Date:* July 20, 2017; *Filing Authority:* 39 U.S.C. 3633 and 39 CFR 3015.5; *Public Representative:* Jennaca D. Upperman; *Comments Due:* July 28, 2017.

3. *Docket No(s).:* MC2017–159 and CP2017–223; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 20 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* July 20, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Jennaca D. Upperman; *Comments Due:* July 28, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–15725 Filed 7–25–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, & First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* July 26, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 20, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 20 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–159, CP2017–223.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–15620 Filed 7–25–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Revision to Mailing Standards for Lithium Batteries

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service is revising Publication 52, *Hazardous, Restricted, and Perishable Mail,* in various sections to provide new mailing standards for lithium batteries. Publication 52 was developed to provide expanded requirements for the mailing of hazardous, restricted, and perishable materials.

DATES: *Anticipated date of publication in the Postal Bulletin:* August 17, 2017.

FOR FURTHER INFORMATION CONTACT: Michelle Lassiter 202–268–2914, or Kevin Gunther (202) 268–7208.

SUPPLEMENTARY INFORMATION:

Overview

Pursuant to the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) 601.8.2, Publication 52 provides mailing standards specific to hazardous, restricted and perishable items and materials, including lithium batteries. Publication 52 is provided in its entirety on the Postal Explorer® Web site at *http://pe.usps.com/text/pub52/welcome.htm.*

Background

The International Civil Aviation Organization (ICAO) published Addendum No. 3 to its Technical Instructions (TI) on January 15, 2016, and Addendum No. 4 on February 23, 2016 (*http://www.icao.int/safety/DangerousGoods/Pages/default.aspx*). In these addenda, ICAO announced new regulations for lithium batteries in international air transportation. The ICAO revisions, with an effective date of April 1, 2016, detailed a number of new provisions including:

- The prohibition of lithium-ion (and lithium-ion polymer) batteries, shipped separately from the equipment they are intended to operate (categorized as identification number UN3480), on passenger aircraft.
- The restriction of UN3480 batteries and cells shipped via cargo aircraft to a maximum state of charge (SOC) of no more than 30 percent.
- The limitation of section II, UN3480 batteries and cells to a single package, when sent as a part of a consignment or overpack via cargo aircraft.
- The required use of an approved Cargo Aircraft Only (CAO) label on all packages of UN3480 batteries and cells transported via cargo aircraft.

On September 7, 2016 (81 FR 61742), the Department of Transportation (DOT), Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a notice of proposed rulemaking [Docket Number 2015–0273 (HM–215N)] titled *Hazardous Materials: Harmonization with International Standards (RRR)* with the intention to maintain consistency with international regulations and standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements.

On February 22, 2017 (82 FR 11372), the Postal Service published a **Federal Register** notice, including invitation to comment, titled *Revision to Mailing Standards for the Transport of Lithium Batteries.* In this notice, the Postal Service announced its intent to revise Publication 52 to align with the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI) with regard to the transportation of lithium batteries by air. Specifically, the Postal Service conveyed its intent to:

- Prohibit UN3480 lithium-ion and lithium polymer batteries in Postal Service air-eligible products.
- Revise its quantity limitations for UN3480 lithium-ion and lithium polymer batteries in surface transportation to align with those for lithium metal batteries, changing from the previous 8 cells or 2 batteries to an aggregate mailpiece limit of 5 pounds (while retaining its previous battery capacity limitations of 20 Wh/cell and 100 Wh/battery).

The Postal Service also expresses its intent to revise Publication 52 to align with lithium battery regulations described in PHMSA's proposed rule of September 7, 2016. At that time, the Postal Service proceeded with its **Federal Register** notice, expecting the publication of PHMSA's final rule to occur shortly thereafter with few significant changes to its proposed regulations for lithium batteries. With respect to PHMSA's expected revisions to its lithium battery regulations, the Postal Service announced its intent to make the following changes to its mailing standards:

- Eliminate the current text marking option for mailpieces required to bear, or optionally permitted to bear, lithium battery markings, and to limit markings to DOT-approved lithium battery handling labels only. Mailpieces restricted to surface transportation only, including those containing UN3090, *lithium metal batteries* shipped separately, will continue to be required to bear the current text marking in addition to a DOT-approved lithium battery handling label.
- Eliminate the requirement for accompanying documentation with mailings of lithium batteries.
- Add the new DOT class 9 hazard warning label for lithium batteries to Publication 52, Exhibit 325.1, *DOT Hazardous Materials Warning Labels: PROHIBITED IN THE MAIL.* Packages containing lithium batteries that are required to bear this label are prohibited in Postal Service networks.
- Align with PHMSA regarding the requirement for outer packaging used to

contain small lithium batteries to be rigid and of adequate size so the handling mark can be affixed on one side without the mark being folded.

• Provide a limited exception to permit the use of padded or poly bags when cells or batteries are afforded equivalent protection by the equipment in which they are contained, but to limit this exception only to batteries meeting the Postal Service definition of a button cell battery in section 349.11d of Publication 52.

• Take no action with regard to the requirement for lithium battery markings to appear on packages containing lithium cells or batteries, or lithium cells or batteries packed with, or contained in, equipment when there are more than two packages in the consignment, and continue to define a consignment in postal terms as a single parcel.

On March 30, 2017 (82 FR 15796), PHMSA published a final rule titled *Hazardous Materials: Harmonization with International Standards (RRR),* following on its proposed rule of September 7, 2016. It was noted that few significant changes were made to the proposals relating to lithium batteries, from those published on September 7, 2016.

Comments and Postal Service Responses

The Postal Service received four responses to its notice of February 22, 2017, with all commenters addressing multiple issues. Commenters included two pilot associations, one hazardous materials transportation trade association, and the Congressional Delegation from the state of Alaska.

The pilot associations generally supported the Postal Service-proposed restrictions, and requested the Postal Service to implement additional controls on lithium batteries not contemplated in its proposed rulemaking. The trade association voiced concern with the Postal Service's intent to take no action towards alignment with PHMSA's revised definition and restrictions relating to consignments of more than a single package containing lithium batteries, and with the Postal Service-proposed implementation date. The Alaska Congressional Delegation expressed concern with regard to the impact of the proposed restrictions on those living in remote areas not serviced by cargo aircraft or ground transportation. The specific comments and Postal Service responses are as follows:

Commenter 1

One pilot association related its support for the proposed revisions as written and suggests the following additional steps be taken by the Postal Service:

• The Postal Service should require compliance and harmonization with ICAO TI with regard to ''postal pouches and containers'' being required to bear markings and be accompanied by written notification—consistent with ICAO overpack requirements.

• The Postal Service should require compliance and harmonization with Universal Postal Union (UPU) Technical Standards for both international and domestic transportation.

• The Postal Service should require all lithium batteries to be shipped in non-flammable packaging.

• The Postal Service should permit airlines and other freight handlers to inspect postal packages to ensure the package can be safely shipped.

• This commenter states that when a carrier is concerned with risk mitigation, the Postal Service should not be exempt from regulations applying to commercial carriers. The commenter states that lithium battery shipments from USPS might be presented (grouped) in opaque containers that the carrier is prevented from opening. The commenter opines that such a limitation results in the carrier not being able to determine which shipments contain lithium batteries, limiting the carrier's ability to mitigate that risk. The commenter also notes that this limitation prevents the carrier from inspecting packages for potential damage to the package contents, possibly enhancing the carrier's risk.

Postal Service Response to Commenter 1

The Postal Service is currently investigating options to require the preparation of sacks in accordance with the overpack requirements applicable to commercial shippers; this study is ongoing, however, and the Postal Service defers action on this matter at this time. The Postal Service intends to investigate the feasibility of modifying its operational processes to allow for the alignment with DOT overpack marking regulations, and to reexamine this issue at a later date. The Postal Service expects any such solution to include an enhanced process for the identification and segregation of mailpieces bearing lithium battery marks in Postal Service networks. As a result, the Postal Service is including an additional requirement for lithium battery handling marks to be placed on the address side of any and all mailpieces bearing these marks.

In response to the second suggestion regarding harmonization with UPU Technical Standards for both international and domestic (air) transportation, the Postal Service does not believe that the implementation of such restrictions would be a reasonable action at this time. Were the Postal Service to adopt UPU lithium battery restrictions, this would result in the elimination of all lithium batteries packaged ''with equipment'' in domestic air transportation, and would reduce the number of cells installed in equipment, from the current eight cells to the UPU limitation of four cells. In addition, this would eliminate the current exception for very small batteries installed in or packaged with equipment. The adoption of these limitations would result in the Postal Service being much more restrictive than commercial transportation providers and could create an undue hardship on mailers with few or no other options.

With regard to the suggested use of nonflammable packaging for lithium battery shipments, including a new requirement of this nature would fall outside the scope of this rulemaking. The Postal Service, however, is open to exploring the use of nonflammable packaging for lithium batteries at a future date. Factors to consider include whether such packaging is effective, affordable, and commercially available.

In response to the final two suggestions regarding airlines and other freight handlers inspecting postal packages and risk mitigation when postal packages are enclosed in sacks, the Postal Service believes any such measure is best addressed by its suppliers in their relations with supply management personnel. It must be kept in mind, however, that most packages are currently classified as sealed against inspection, and as such, any effort to conduct inspections of the contents of packages sealed as such would need to account for all applicable legal limitations. Moreover, it should be stressed that the Postal Service, unlike most commercial carriers, limits lithium batteries in its networks to only those meeting the conditions of the exception for smaller cells and batteries under 49 CFR 173.185(c).

Commenter 2

Another pilot association related its support for the proposed prohibition of UN3480 batteries in Postal Service air transportation, stating that the Postal Service's proposed action is consistent with international standards and responsive to the expanding safety hazards posed by lithium batteries. In support of the prohibition, the

commenter maintains that UN3480 batteries can still be shipped in cargo aircraft through commercial carriers. In addition, the commenter:

- Expresses its wish that the Postal Service eventually implement packaging standards capable of containing any thermal event within the package itself, and capable of protecting lithium batteries from external fire threats.
- States that the shipment of lithium-ion batteries in air transportation should continue with specified additional requirements to ensure their safe carriage, including:
- Active fire detection and suppression systems should be required on all commercial aircraft carrying lithium batteries.
- The elimination of packaging materials, such as polypropylene, that can fuel onboard fires. The Postal Service currently uses polypropylene mail totes (assumed to refer to flats and letter trays), which should not be used in air transportation.
- States that its concern with polypropylene in commercial air transportation is shared by the National Transportation Safety Board (NTSB) and the Federal Aviation Administration (FAA); and
- States that all operators engaged in the transport of lithium batteries should be required to carry such batteries within an aircraft compartment or container with an active fire suppression system capable of mitigating the risk of a lithium battery thermal event.

Postal Service Response to

Commenter 2

The Postal Service appreciates the commenter's support for the prohibition of UN3480 batteries in Postal Service air networks. With regard to the other issues raised by this commenter, some fall outside the scope of this rulemaking.

With regard to the first suggestion, regarding the eventual implementation of mailing standards requiring packaging capable of containing a thermal event within the package itself or providing protection from external fire, the Postal Service repeats that it is open to exploring the use of nonflammable packaging for lithium batteries at a future date. Factors to consider include whether such packaging is effective, affordable, and commercially available.

In reference to the suggestion regarding fire detection and suppression systems on aircraft carrying lithium batteries, this comment is outside the scope of this rulemaking. The Postal Service has no immediate plans to require its contracted air carriers to use these systems as a condition for carrying mail. Of course, all carriers have the option to install these systems on their own at any time.

With regard to the remaining suggestions concerning the use of polypropylene mail handling units in air transportation, the Postal Service believes these recommendations to be outside the scope of its rulemaking, but will nonetheless weigh the merits of this option separately.

Commenter 3

One commenter, a trade association, expresses its gratitude to the Postal Service for its continuing efforts to align Publication 52 with the DOT's Hazardous Materials Regulations (HMR). The commenter states that significant differences between the HMR and mailing standards create confusion with shippers who use the services of commercial transportation providers in addition to the mail. The commenter also states that alignment with the HMR is especially critical in the current environment where the Postal Service may cover only the first or last mile and a commercial carrier (regulated by the HMR) completes the remaining component of the transportation. In addition, the commenter expresses concern with the Postal Service proposal to define a *consignment* as a single package, noting that there may be situations where multiple packages are tendered to the Postal Service or one of its commercial carriers, and requests that the Postal Service consider requiring the lithium battery mark in these situations. The commenter advises that some air carriers have implemented prohibitions of lithium batteries prepared under the exception for smaller cells or batteries, and states that without the requirement for the marking of batteries included in a single consignment, some package shippers could utilize this exception to tender large quantities of lithium batteries to the Postal Service that could ultimately be transported by commercial air carriers. The commenter requests that the Postal Service consider revising Publication 52 to require a mailer tendering two or more packages, containing no more than two batteries or four cells, to mark each of those packages with a lithium battery handling mark, or (until December 31, 2018) a lithium battery handling label. The commenter further recommends that the Postal Service adopt the same 2-year transitional period offered by the HMR and the international entities with regard to the use of lithium battery marks. The commenter recommends that the Postal Service permit use of the new mark immediately, but allow for use of existing marks and labels until January 1, 2019.

Postal Service Response to

Commenter 3

With regard to defining and restricting lithium battery consignments, the Postal Service has reconsidered its earlier proposal and has decided to add language to Publication 52 to define a lithium battery consignment within the context of shipments transported through the mail, and to add new restrictions for packages prepared within a single consignment. The details of these new mailing standards will be described later in this notice.

With regard to the transitional period for the use of marks and labels, the Postal Service intends to align its transitional period with that permitted in the HMR. As the Postal Service has done in the past, it will add language to Publication 52 that requires the use of a DOT-approved lithium battery handling mark. This will allow mailers to use previously approved marks and labels through the duration of the DOT transition period. At present, the Postal Service expects to allow mailers to continue to use previously approved lithium battery marks until December 31, 2018, the date announced by PHMSA in its final rule of March 30, 2017.

Commenter 4

The Alaska Congressional Delegation requests the Postal Service to include a provision to authorize the continued transport of lithium batteries needed to support urgent patient needs on passenger aircraft to remote locations and ''at a state of charge greater than 30%.'' The Alaska Congressional Delegation also requests that consideration be given to the following points:

- First, the Alaska Congressional Delegation questions whether the Postal Service has assessed the impact of the proposed restriction of UN3480 batteries on rural communities not regularly serviced by cargo aircraft.
- Second, the Alaska Congressional Delegation asks whether the Postal Service will provide appropriate provisions for the shipment of UN3480 batteries used to power medical devices, as well as other lithium battery powered equipment (emergency beacons, generators and back-up power), to these remote locations in the ''interim final rule'' to avoid significant public health and safety impacts.

Postal Service Response to Commenter 4

The Postal Service would be willing to entertain requests for exceptions from medical equipment suppliers specific to the mailing of UN3480 batteries in Postal Service products transported through the air, when these batteries are needed for the emergency support of critical medical devices, fall within the established capacity limits for lithium-ion batteries in Postal Service networks, and no other reasonable alternative exists. In response to any such request, supported by adequate justification, the Postal Service would provide written authorization to the medical equipment supplier to mail UN3480 batteries via USPS air-eligible products. To minimize the risk of conflicting with DOT provisions, the Postal Service plans to consult with the DOT prior to the approval of specific authorizations relating to UN3480 batteries in USPS air transportation.

With regard to other lithium battery-powered devices, such as emergency beacons, the Postal Service will provide an option for the mailing of UN3480 in air transportation. This option will be restricted to UN3480 batteries meeting the current USPS capacity limitation of 20 Wh/cell and 100 Wh/battery, and the current quantity limitations of eight cells or two batteries. Batteries mailed under this option must meet the conditions described in 349.222 of Publication 52, and 49 CFR 173.185(c), and will be restricted to intra-Alaska shipments (both mailed from, and delivered in Alaska).

Revisions to Publication 52

Within the next several weeks, the Postal Service will revise Publication 52 to reflect the new mailing standards. With regard to lithium batteries, the Postal Service will:

- Generally prohibit UN3480 lithium-ion and lithium polymer batteries in USPS air-eligible products.
- Revise its quantity limitations for UN3480 lithium-ion and lithium polymer batteries in surface transportation to align with those for lithium metal batteries, changing from the previous eight cells or two batteries to an aggregate mailpiece limit of 5 pounds.
- Accept and evaluate requests for exceptions to mail UN3480 batteries, used to support critical medical devices, via domestic air-eligible products. The batteries must be within current Postal Service capacity and quantity limitations, needed for the emergency support of critical medical devices, and no other reasonable alternative exists to affect their delivery within an acceptable time period. The Postal Service expects to defer revision to Publication 52 relating to these authorizations until it has determined the level of interest, and need for these exceptions. Prior to granting any authorizations, the Postal Service plans to consult with PHMSA to assure alignment with their approval processes for commercial carriers. Interested mailers may direct requests to the Manager, Product Classification (see Publication 52, section 214 for the complete address).
- Provide that UN3480 batteries, meeting the current Postal Service capacity limitations and quantity restrictions, may be mailed via air-eligible products, provided these mailings are both mailed and delivered within the state of Alaska.
- Eliminate the current text marking option for mailpieces required to bear, or optionally permitted to bear, lithium battery markings, and limit markings to DOT-approved lithium battery handling marks only.
- Require a separate text marking in addition to a DOT-approved lithium battery handling mark for mailpieces containing UN3480 and UN3090 batteries, restricted to surface transportation only.
- Permit the optional use of previously authorized lithium battery marks during PHMSA's transitional period for these marks.
- Eliminate the requirement for accompanying documentation with mailings of lithium batteries.
- Add the new DOT class 9 hazard warning label for lithium batteries to Publication 52, Exhibit 325.1, *DOT Hazardous Materials Warning Labels: PROHIBITED IN THE MAIL.*
- Require the outer packaging of mailpieces containing small lithium batteries to be rigid and of adequate size so the handling mark can be affixed to the address side without the mark being folded.
- Require lithium battery handling marks to be placed on the address side of all mailpieces bearing these marks.
- Permit the use of padded and poly bags as outer packaging for mailpieces containing button cell batteries properly installed in the equipment they are intended to operate, provided the batteries are afforded adequate protection by the equipment and the batteries meet the USPS definition of a button cell battery in 349.11d of Publication 52.
- Define a *lithium battery consignment* as one or more mailpieces containing lithium batteries, entered into USPS networks by one mailer or mail service provider within a single mailing or retail transaction, or included in the same manifest or shipping services file, and intended for delivery to a single consignee at a single destination address.
- Require DOT-approved lithium battery markings on all mailpieces containing lithium cells or batteries contained in equipment when there are more than two mailpieces in a single consignment in domestic mail.
- Limit a single consignment to two mailpieces containing lithium batteries for international and APO/FPO/DPO mail.

These revisions will be published in the *Postal Bulletin* on August 17, 2017, but the Postal Service will provide for a transitional period until January 1, 2018. During the transitional period, mailers are urged to comply with the new mailing standards, but compliance will not be mandatory until January 1, 2018. Mailers and other interested parties can view details of these revisions in edition 22471 of the *Postal Bulletin,* to be published on August 17, 2017. The *Postal Bulletin* is available at *https://about.usps.com/postal-bulletin/pb2017.htm.*

The Postal Service will incorporate these revisions into the next online update of the Publication 52, which is available via Postal Explorer® at *http://pe.usps.com.*

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–15624 Filed 7–25–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81178; File No. SR–MRX–2017–08]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 912

July 20, 2017.

On June 9, 2017, Nasdaq MRX, Inc. (''MRX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Rule 912 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

comment in the **Federal Register** on June 23, 2017.[3] The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates September 21, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–MRX–2017–08).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–15633 Filed 7–25–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81179; File No. SR–BX–2017–029]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 6896 and Chapter IX, Section 9

July 20, 2017.

On June 9, 2017, NASDAQ BX, Inc. (''BX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Rule 6896 and Chapter IX, Section 9 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the **Federal Register** on June 23, 2017.[3] The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates September 21, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–BX–2017–029).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–15634 Filed 7–25–17; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 80968 (June 19, 2017), 82 FR 28705 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[3] Securities Exchange Act Release No. 80966 (June 19, 2017), 82 FR 28702 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81177; File No. SR–NYSEArca–2016–177]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 3, Relating to the Listing and Trading of Shares of the USCF Canadian Crude Oil Index Fund Under NYSE Arca Equities Rule 8.200

July 20, 2017.

On December 30, 2016, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the USCF Canadian Crude Oil Index Fund under NYSE Arca Equities Rule 8.200. The proposed rule change was published for comment in the **Federal Register** on January 23, 2017.[3] On March 8, 2017, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On April 19, 2017, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[6] On May 8, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[7] On June 30, 2017, the Exchange filed Amendment No. 2 to the proposed rule change.[8] On July 13, 2017, the Exchange filed Amendment No. 3 to the proposed rule change.[9] The Commission has received

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79793 (January 13, 2017), 82 FR 7885.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 80180, 82 FR 13702 (March 14, 2017).

[6] *See* Securities Exchange Act Release No. 80486, 82 FR 19115 (April 25, 2017).

[7] Amendment No. 1, which amended and replaced the proposed rule change in its entirety, is available at: *https://www.sec.gov/comments/sr-nysearca-2016-177/nysearca2016177-1742591-151260.pdf.*

[8] Amendment No. 2, which amended and replaced the proposed rule change, as modified by Amendment No. 1, in its entirety, is available at: *https://www.sec.gov/comments/sr-nysearca-2016-177/nysearca2016177-1856704-156210.pdf.*

[9] Amendment No. 3, which amended and replaced the proposed rule change, as modified by Amendment No. 2, in its entirety, is available at: *https://www.sec.gov/comments/sr-nysearca-2016-177/nysearca2016177-1852899-155351.pdf.*

no comments on the proposed rule change.

Section 19(b)(2) of the Act [10] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on January 23, 2017. July 22, 2017 is 180 days from that date, and September 20, 2017 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[11] designates September 20, 2017 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–NYSEArca–2016–177), as modified by Amendment No. 3.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–15632 Filed 7–25–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81175; File No. SR–CBOE–2017–044]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change Relating to Disaster Recovery

July 20, 2017.

I. Introduction

On May 24, 2017, the Chicago Board Options Exchange, Incorporated (''CBOE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE Rule 6.18 relating to disaster recovery. The proposed rule change was published for comment in the **Federal Register** on June 9, 2017.[3] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

CBOE Rule 6.18 contains the Exchange's rules relating to disaster recovery, including provisions intended to comply with Regulation Systems Compliance and Integrity (''Regulation SCI'') concerning business continuity and disaster recovery plans.[4] The Exchange has proposed to amend Rule 6.18 to provide the Exchange authority to take additional steps that it deems necessary to preserve the Exchange's ability to conduct business and maintain fair and orderly markets in the event of a significant systems failure, disaster, or other unusual circumstances. Specifically, the Exchange has proposed to amend Rule 6.18 to allow the Exchange to: (1) Establish specified additional temporary requirements for Designated BCP/DR Participants [5] during use of the back-up data center; (2) temporarily allow trading in its exclusively-licensed and/or proprietary products, on a class-by-class basis, in an exclusively floor-based environment via open outcry if the Exchange's primary and back-up data centers both are inoperable or otherwise unavailable; (3) temporarily deactivate certain systems or systems functionalities that are not essential to conducting business on the Exchange if there is a systems disruption or malfunction, security intrusion, systems compliance issue, or other unusual circumstances; and (4) temporarily restrict a Trade Permit Holder's or associated person's access to the Exchange's electronic trading systems if the President of the Exchange determines that, because of a systems issue, such access threatens the Exchange's ability to operate systems essential to maintenance of a fair and orderly market.

First, the Exchange has proposed to adopt new Rule 6.18(b)(iv)(B), which would provide that, during the use of the back-up data center, if necessary for the maintenance of fair and orderly markets, the Exchange may: (1) Establish heightened quoting obligations for Designated BCP/DR Participants in a class in which the Designated BCP/DR Participant is already an appointed Market-Maker [6] or Lead Market-Maker [7] up to the standards specified for Designated Primary Market-Makers [8] in Rule 8.85(a); [9] and/or (2) disallow BCP/DR Participants the ability to deselect an appointment intraday in a class in which the BCP/DR Participant is already an appointed Market-Maker. The Exchange would be required to notify market participants of any of these additional temporary requirements prior to implementing them.[10]

Next, the Exchange has proposed to adopt new Rule 6.18(c), which would provide that, if the Exchange's primary and back-up data centers become inoperable or otherwise unavailable for use due to a significant systems failure, disaster, or other unusual circumstances, in the interests of maintaining fair and orderly markets or for the protection of investors, the Exchange would be able to operate in an exclusively floor-based environment on a limited basis for certain classes. Specifically, the Exchange could

[10] 15 U.S.C. 78s(b)(2).

[11] *Id.*

[12] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80857 (June 5, 2017), 82 FR 26825 (''Notice'').

[4] *See* Notice, *supra* note 3, at 26826; *see also* 17 CFR 242.1000–07.

[5] ''Designated BCP/DR Participants'' are Trading Permit Holders that the Exchange has determined are, as a whole, necessary for the maintenance of fair and orderly markets in the event of the activation of the Exchange's business continuity and disaster recovery plans. *See* Rule 6.18(b)(iv)(A). ''Trading Permit Holder'' has the meaning set forth in Section 1.1(f) of CBOE's Bylaws. Designated BCP/DR Participants include, at a minimum, all Market-Makers in option classes exclusively listed on the Exchange that stream quotes in such classes and all Designated Primary Market-Makers (''DPMs'') in multiply listed option classes. *See* Rule 6.18(b)(iv)(A)(2).

[6] A Market-Maker is an individual Trading Permit Holder or TPH organization that is registered with the Exchange for the purpose of making transactions as a dealer-specialist on the Exchange in accordance with the provisions of Chapter VIII of the Rules. *See* Rule 8.1. A ''TPH organization'' is an organization that meets the requirements set forth in Rule 3.3.

[7] The Exchange may appoint one or more Market-Makers in a class to serve as Lead Market-Makers (''LMMs''). *See* Rule 8.15(a).

[8] A DPM is a TPH organization that is approved by the Exchange to function in allocated securities as a Market-Maker and is subject to the obligations under Rule 8.85. *See* Rule 8.80.

[9] With respect to their allocated series, DPMs must, among other things, provide continuous electronic quotes in the lesser of 99 percent of the non-adjusted option series or 100 percent of the non-adjusted option series minus one call-put pair, with the term ''call-put pair'' referring to one call and one put the cover the same underlying instrument and have the same expiration date and exercise price, and assure that its disseminated market quotations are accurate. *See* Rule 8.85(a)(i).

[10] *See* proposed Rule 6.18(b)(iv)(B). The proposal would also renumber existing subparagraphs (B) and (C) of Rule 6.18(b)(iv) as subparagraphs (C) and (D), respectively. *See* proposed Rule 6.18(b)(iv)(C) and (D).

determine, on a class-by-class basis, to temporarily allow trading in its exclusively-licensed and/or proprietary products [11] in an exclusively floor-based environment via open outcry to preserve the Exchange's ability to conduct business in those option classes.[12]

The Exchange has also proposed to adopt new Rule 6.18(e), which would provide that, if there is a systems disruption or malfunction, security intrusion, systems compliance issue, or other unusual circumstances, the Exchange could temporarily deactivate certain systems or systems functionalities that are not essential to conducting business on the Exchange in accordance with the Rules or, if necessary, to maintain fair and orderly markets or to protect investors.[13] The Exchange would notify market participants of any such deactivation and subsequent reactivation promptly and in a reasonable manner determined by the Exchange.[14]

Finally, the Exchange has proposed to adopt new Rule 6.18(f), which would allow the Exchange to temporarily restrict a Trading Permit Holder's or associated person's access to the Hybrid Trading System or other electronic trading systems if the President (or senior-level designee) [15] of the Exchange determines that, because of a systems issue, such access threatens the Exchange's ability to operate systems essential to the maintenance of fair and orderly markets.[16] The Exchange would continue to restrict such access until: (1) The end of the trading session; or (2) an earlier time if the President (or senior-level designee) of the Exchange, in consultation with the affected Trading Permit Holder, determines that lifting the restriction no longer poses a threat to the Exchange's ability to operate systems essential to conducting business or continuing to maintain a fair and orderly market on the Exchange or poses a threat to investors.[17] In the Notice, the Exchange also represented that it would make efforts to contact the affected Trading Permit Holder immediately before or contemporaneously with the restriction of access to the extent possible while protecting the Exchange's ability to operate systems essential to the maintenance of fair and orderly markets.[18]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[19] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[20] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Commission also finds that the proposed rule change is consistent with Section 6(b)(7) of the Act,[21] which requires, among other things, that the rules of a national securities exchange provide a fair procedure for the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange or a member thereof.

The Commission believes that the proposed rule change will provide the Exchange with additional tools to help ensure continuous operation of the Exchange and its core systems in the event of a significant systems failure or other unusual circumstances that threaten the Exchange's ability to operate its systems, maintain fair and orderly markets, and protect investors. The Commission notes that the authority provided by the proposed provisions is limited to circumstances where the Exchange is experiencing a disruption to its primary, or primary and back-up, electronic systems, or where the Exchange believes it is in imminent danger of experiencing such disruption. Further, the Commission notes that, according to the Exchange, in accordance with Rule 1001(a)(2)(v) of Regulation SCI, the Exchange maintains written policies and procedures reasonably designed to ensure that its trading systems, including its primary and back-up data centers, have levels of capacity, integrity, resiliency, availability, and security adequate to maintain the Exchange's operational capability and promote the maintenance of fair and orderly markets, including, but not limited to, business continuity and disaster recovery plans that are reasonably designed to achieve next two-hour resumption of its critical SCI systems, as defined in Rule 1000 of Regulation SCI.[22] Further, the Exchange represents that its business continuity and disaster recovery standards are reasonably designed to achieve two-hour resumption of all trading systems that are essential to conducting business on the Exchange, and that the Exchange believes that its standards are reasonably designed to support resumption in a significantly shorter amount of time.[23] As such, the Commission expects that the Exchange would invoke the disaster recovery provisions in this proposed rule change only in rare and unusual circumstances and only for very limited periods of time.

The Commission believes that the Exchange's ability, during use of the back-up system, to invoke pre-determined heighted quoting obligations for Designated BCP/DR Participants that are Market-Makers (or Lead Market-Makers) in their appointed classes, or prevent them from dropping their appointments intraday, may help to ensure that such Designated BCP/DR Participants contribute to, and continue to help ensure, the maintenance of fair and orderly markets in the event of a disaster or other serious circumstances causing the Exchange to operate out of

[11] According to the Exchange, its current proprietary and exclusively-licensed products include options on CBOE Volatility Index (VIX) futures, the S&P 500 (SPX and XSP) Index, S&P Dow Jones Indexes (OEX, XEO and DJX), Russell 2000 (RUT) Index, FTSE Emerging Index (FTEM/EMS), MSCI Emerging Markets Index (MXEF), and the MSCI EAFE Index (MXEA). The Exchange will maintain a current list of all proprietary and exclusively-licensed options products on its Web site. *See* Notice, *supra* note 3, at 26826 n. 8. The Exchange explained that options exclusively-listed on the Exchange may include options also listed on other CBOE Holdings Inc. affiliated exchanges, including C2 Options Exchange, Incorporated (''C2''), and that currently RUT is listed on CBOE and C2. *See* Notice, *supra* note 3, at 26826 n. 9.

[12] *See* proposed Rule 6.18(c). The proposal also would renumber existing subparagraph (c) of Rule 6.18 as subparagraph (d). *See* proposed Rule 6.18(d).

[13] *See* proposed Rule 6.18(e). The Exchange stated that such systems and systems functionalities that are non-essential to conducting business on the Exchange include, but are not limited to, Public Automated Routing (''PAR'') workstations, the Automated Improvement Mechanism (''AIM''), and the Solicitation Auction Mechanism (''SAM''). *See Notice, supra* note 3, at 26827–28.

[14] *See* proposed Rule 6.18(e).

[15] According to the Exchange, a designee would make determinations under this subsection only in the President of the Exchange's absence and the designee would be a senior executive (*i.e.,* Vice President or above) of the Exchange. *See* Notice, *supra* note 3, at 26828 n. 23.

[16] *See* proposed Rule 6.18(f).

[17] *See id.*

[18] *See* Notice, *supra* note 3, at 26828 n. 22.

[19] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78f(b)(7).

[22] *See* Notice, *supra* note 3, at 26827 n. 12.

[23] *See id.*

its back-up data center. Moreover, the Commission notes that such additional requirements will be imposed only on Designated BCP/DR Participants, which are market participants that the Exchange has determined that, taken as a whole, are necessary for the maintenance of fair and orderly markets in the event of the activation of the Exchange's business continuity and disaster recovery plans pursuant to Regulation SCI.[24] The Commission believes that, through the adoption of this rule, Designated BCP/DR Participants will be on notice that they might be called upon to meet heightened quoting obligations up to the levels currently required for Designated Primary Market-Makers in CBOE Rule 8.85(a)[25] during unusual circumstances when the back-up data center is in use and notes that the Exchange would provide specific notice prior to invoking this new authority. The Commission further notes that, as described above, Regulation SCI requires the Exchange to have business continuity and disaster recovery plans reasonably designed to achieve two-hour resumption of critical SCI systems and next business day resumption of trading,[26] and the Exchange represented that its procedures are reasonably designed to achieve two-hour resumption of all trading systems that are essential to conducting business on the exchange and that they are designed to support resumption in a significantly shorter amount of time.[27] As such, the additional requirements imposed by this provision should be in effect for relatively short periods of time if they are ever invoked. In addition, to the extent the Exchange invokes this authority when necessary to support fair and orderly markets when its systems are in back-up mode, then the additional requirements may help support quote activity during a disruption and thereby may help protect investors and the public interest.

The Commission believes that the Exchange's ability to temporarily operate in an exclusively floor-based environment via open outcry in certain proprietary and exclusively-licensed products if the Exchange's primary and back-up data centers become inoperable or otherwise unavailable could help ensure that the market for these securities would continue to be available and functioning, which should protect investors by providing the ability to continue to trade these products until such time as the Exchange can resume normal trading. The Commission notes that this provision would be invoked only if the Exchange's primary and back-up data centers were both inoperable or otherwise unavailable due to a significant systems failure, disaster, or other unusual circumstances, and will only apply to the Exchange's exclusively-licensed and proprietary products, which only trade on CBOE and, in some instances, its affiliated exchanges. The Commission notes that the period of operation for this exclusively floor-based environment should be minimal based on Regulation SCI's requirements and the Exchange's two-hour resumption standard for its trading systems.[28]

The Commission believes that the Exchange's ability to temporarily deactivate certain non-core systems or systems functionalities in the event of a systems disruption or malfunction, security intrusion, systems compliance issue, or other unusual circumstances could help prevent systems issues from spreading and potentially causing harm to investors or impeding the Exchange's ability to maintain fair and orderly markets. The Commission notes that this authority will only extend to those systems not essential to conducting business on the Exchange. The Commission further notes that the new rule provides that the Exchange will notify market participants of any such deactivation and any subsequent reactivation promptly.

The Commission believes that the Exchange's ability to temporarily restrict a Trading Permit Holder's or associated person's access to the Hybrid Trading System or other electronic trading system as provided in the rule is designed to allow the Exchange to prevent a Trading Permit Holder's systems issues from spreading across the Exchange's systems and potentially causing a more widespread problem implicating the Exchange's ability to maintain fair and orderly markets and thus potentially impacting other market participants. The Commission believes that this connectivity restriction is consistent with Section 6(b)(7) of the Act,[29] as the proposed limitation on access is exceptionally limited in duration and the rule provides a fair procedure for imposing such restrictions. Specifically, the Commission notes that the Exchange's authority under this provision is limited to when, due to a systems issue, a Trading Permit Holder's activity poses a present threat to the Exchange's ability to operate systems essential to maintaining a fair and orderly market. The Commission also notes that the decision to restrict access would be made by the highest levels of Exchange management, namely the President (or his or her senior-level designee), and this restriction would be temporary, lasting only until the end of the trading session or such earlier time that it is determined by the President, in consultation with the affected Trading Permit Holder, that the access no longer poses a threat. Consistent with the Exchange's representations, the Commission expects that the Exchange would make reasonable efforts to contact the affected Trading Permit Holder immediately before, or, if that is not possible, contemporaneously with, any restriction of access.[30]

Accordingly, for the reasons discussed above, the Commission believes that the Exchange's proposal is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[31] that the proposed rule change (SR–CBOE–2017–044) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Eduardo A. Aleman,

Assistant Secretary.

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[24] *See* Notice, *supra* note 3, at 26826 n. 7.

[25] These heighted quoting obligations could include providing continuous electronic quotes in up to the lesser of 99 percent of the non-adjusted option series or 100 percent of the non-adjusted option series minus one call-put pair in classes in which the Designated BCP/DR Participant is already an appointed LMM or Market-Maker. *See supra* note 9.

[26] 17 CFR 242.1001(a)(v).

[27] *See supra* notes 22–23 and accompanying text.

[28] *See supra* notes 26 and 27 and accompanying text.

[29] 15 U.S.C. 78f(b)(7).

[30] *See supra* note 18 and accompanying text.

[31] 15 U.S.C. 78s(b)(2).

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32738; 812–14763]

Point Bridge Capital, LLC, et al.

July 21, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and

rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds.

APPLICANTS: Point Bridge Capital, LLC (the ''Initial Adviser''), a Delaware limited liability company that will be registered as an investment adviser under the Investment Advisers Act of 1940 and ETF Series Solutions (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series.

FILING DATE: The application was filed on April 13, 2017, and amended on June 21, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 14, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: The Initial Adviser, 300 Throckmorton Street, Suite 1550, Fort Worth, Texas 76102; and the Trust, 615 East Michigan Street, 4th Floor, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551–6817, or Nadya B. Roytblat, Assistant Director, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant'', which will have signed a participant agreement with a broker-dealer that will be registered under the Securities Exchange Act of 1934 (''Exchange Act'') (the ''Distributor''). Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond closely to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such

[1] Applicants request that the order apply to the new series of the Trust and any additional series of the Trust, and any other open-end management investment company or series thereof (each, included in the term ''Fund''), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity or any successor thereto, an ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of the requested order, a ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Each Self-Indexing Fund will post on its Web site the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–15712 Filed 7–25–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81182; File No. SR–NASDAQ–2017–070]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Qualification Criteria Under the Qualified Market Maker Program at Rule 7014

July 20, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 10, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend qualification criteria under the Qualified Market Maker Program at Rule 7014. While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on July 1, 2017.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's fees at Rule 7014 to raise the combined Consolidated Volume (adding and removing liquidity) criteria from the current requirement that a QMM have at least 3.5% to now require at least 3.7%, which a QMM must have to be eligible for a $0.0029 per share executed charge for orders in securities listed on exchanges other than Nasdaq priced at $1 or more per share that access liquidity on the Nasdaq Market Center.

A QMM is a member that makes a significant contribution to market quality by providing liquidity at the national best bid and offer (''NBBO'') in a large number of stocks for a significant portion of the day.[4] In addition, the

[3] The Exchange initially filed the proposed pricing changes on June 28, 2017 (SR–NASDAQ–2017–066). On July 10, 2017, the Exchange withdrew that filing and submitted this filing. This filing corrects a marking error to the Exhibit 5 and clarifies the statutory basis discussion.

[4] *See* Rule 7014(d).

member must avoid imposing the burdens on Nasdaq and its market participants that may be associated with excessive rates of entry of orders away from the inside and/or order cancellation.[5] The designation reflects the QMM's commitment to provide meaningful and consistent support to market quality and price discovery by extensive quoting at the NBBO in a large number of securities. In return for its contributions, certain financial benefits are provided to a QMM with respect to its order activity, as described under Rule 7014(e). These benefits include a lower rate charged for executions of orders in securities priced at $1 or more per share that access liquidity on the Nasdaq Market Center.[6]

Under Rule 7014(e), the Exchange charges a QMM $0.0030 per share executed for removing liquidity in Nasdaq-listed securities priced at $1 or more, and $0.00295 per share executed for removing liquidity in securities priced at $1 or more per share listed on exchanges other than Nasdaq, if the QMM's volume of liquidity added through one or more of its Nasdaq Market Center MPIDs during the month (as a percentage of Consolidated Volume) is not less than 0.80%. The Exchange assesses a charge of $0.0029 per share executed for removing liquidity in securities priced at $1 or more per share listed on exchanges other than Nasdaq if the QMM has a combined Consolidated Volume (adding and removing liquidity) of at least 3.5%, and the QMM also meets the QMM Tier 2 qualification criteria. The QMM Tier 2 qualification criteria requires a QMM to execute shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.90% of Consolidated Volume during the month.

The Exchange is proposing to increase the combined Consolidated Volume (adding and removing liquidity) requirement to at least 3.7%. This increase is reflective of the Exchange's desire to provide incentives to attract order flow to the Exchange in securities listed on exchanges other than Nasdaq in return for significant market-improving behavior. The modest increase in the qualification criteria will help ensure that QMMs are providing significant market-improving behavior.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the $0.0029 per share executed charge for removing liquidity in securities priced at $1 or more per share listed on exchanges other than Nasdaq will continue to be reasonable because the fee will remain unchanged. When the Exchange adopted the fee,[9] it believed that assessing the fee was reasonable because it was set at a level that is lower than the standard removal fee of $0.0030 per share executed, thereby providing an incentive to market participants, and it was also based on the Exchange's analysis of the cost to the Exchange of offering a lower fee, thereby decreasing the revenue derived from transactions by members that qualify for the fee, and the desired benefit to the market provided by the members that meet the fee's qualification criteria. The Exchange noted that the fee's qualification criteria provided an incentive to members to increase their participation in the market as measured by Consolidated Volume, which benefits all market participants. The Exchange also noted that members may qualify for a $0.00295 per share executed fee for removing liquidity in Tape A or B securities priced at $1 or more if the member's volume of liquidity added through one or more of its Nasdaq Market Center MPIDs during the month (as a percentage of Consolidated Volume) is not less than 0.80%. The Exchange explained that the proposed fee would continue to require a member to both qualify under the Tier 2 criteria that requires the member to execute shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.90% of Consolidated Volume during the month, and also provide an increased combined Consolidated Volume (adding and removing liquidity) requirement (which the Exchange is proposing to increase from at least 3.5% to 3.7%). Consequently, the Exchange noted that to qualify for a lower transaction fee for removing liquidity in Tape A or B securities under the QMM Program, the member must both provide greater Consolidated Volume through adding liquidity during the month (*i.e.,* 0.90% versus 0.80%) and provide a certain level of combined Consolidated Volume, which accounts for both adding liquidity and removing liquidity. As noted above, the Exchange is not proposing to change the fee and the analysis described above remains valid. Accordingly, the Exchange believes that the fee remains reasonable.

The Exchange believes that the increase to the combined Consolidated Volume qualification criteria is an equitable allocation and is not unfairly discriminatory because it is reflective of the success that the lower charge tier has had in promoting beneficial market participation, as measured by combined Consolidated Volume (adding and removing liquidity). The Exchange believes that the level of combined Consolidated Volume may be increased without resulting in a significant reduction in the number of QMMs that will likely qualify for the lower transaction fee. Consequently, the beneficial market participation should remain the same, and possibly increase. Moreover, the Exchange is not limiting which QMMs may qualify for the reduced charge. As noted, the QMM Program is intended to encourage members to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day in a large number of securities, thereby benefitting Nasdaq and other investors by committing capital to support the execution of orders. To receive the $0.0029 per share executed charge, a member must meet the Tier 2 criteria, which requires the QMM to execute shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.90% of Consolidated Volume during the month. In addition, the QMM must provide a certain level of combined Consolidated Volume, which accounts for both adding liquidity and removing liquidity. The Exchange is proposing to increase the required combined Consolidated Volume requirement to make the qualification criteria required to receive the incentive more meaningful to QMMs in terms of the beneficial market activity required to receive the reduced charge, which is reflective of the Exchange's belief that QMMs may continue to qualify for the reduced charge while also providing more beneficial market participation. The Exchange uses Consolidated Volume as a measure of the QMM's activity in comparison to that of the market as a whole. Thus, the

[5] *Id.*

[6] *See* Rule 7014(e).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] *See* Securities Exchange Act Release No. 78977 (September 29, 2016), 81 FR 69140 (October 5, 2016) (SR–NASDAQ–2016–032).

modestly increased combined Consolidated Volume criteria required to qualify for the fee does not discriminate unfairly and is equitably allocated, as eligibility for the fee is tied to the QMM's performance in comparison to other participants in aggregate.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, although the change to the QMM program may limit the benefits of the program in non-Nasdaq-listed securities to the extent QMMs that currently qualify for the $0.0029 per share executed charge are unable to meet the more stringent combined Consolidated Volume requirement, the incentive in question will remain in place and is itself reflective of the need for exchanges to offer significant financial incentives to attract order flow in return for meaningful market-improving behavior. The Exchange believes that the proposed qualification criteria will not negatively impact who will qualify for the $0.0029 per share executed charge but will rather have a positive impact on overall market quality as QMMs increase their participation in the market to qualify for the lower charge. If, however, the Exchange is incorrect and the changes proposed herein are unattractive to QMMs, it is likely that Nasdaq will lose market share as a result. Accordingly, Nasdaq does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[10]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2017–070 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–070. 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 Web site (*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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2017–070, and should be submitted on or before August 16, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–15637 Filed 7–25–17; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81174; File No. SR–GEMX–2017–32]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Market Maker Quotations

July 20, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 6, 2017, Nasdaq GEMX, LLC (''GEMX'' 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 804, entitled ''Market Maker Quotations.''

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend GEMX Rule 804, entitled ''Market Maker Quotations'' to amend the current rule text at GEMX Rule 804(g)(1) and (2) to adopt a revised description of the manner in which GEMX removes market maker quotes when certain risk parameters have been triggered. The Exchange believes that the proposed new rule text will provide more detailed information to participants concerning the manner in which these risk features will remove quotes from the Order Book.

Today, GEMX Rule 804(g)(1) provides that a market maker must provide parameters by which the Exchange will automatically remove a market maker's quotations in all series of an options class. If a market maker does not provide parameters then the Exchange will apply default parameters announced to members. The Exchange will automatically remove a market maker's quotation when, during a time period established by the market maker, the market maker exceeds: (i) The specified number of total contracts in the class, (ii) the specified percentage of the total size of the market maker's quotes in the class, (iii) the specified absolute value of the net between contracts bought and contracts sold in the class, or (iv) the specified absolute value of the net between (a) calls purchased plus puts sold in the class, and (b) calls sold plus puts purchased in the class.

The Exchange proposes to adopt new rule text, which continues to require a market maker to provide parameters by which the Exchange will automatically remove a market maker's quotations in all series of an options class. If a market maker does not provide parameters then the Exchange will apply default parameters announced to members. This is not being amended, rather it is being expanded.

The proposed rule text in 804(g)(1) makes clear that market makers are required to utilize the Percentage, Volume, Delta and Vega Thresholds, each a Threshold, described in subsections (A)–(D) in the new rule text. These are the same risk parameters that are offered today by GEMX. The Exchange is seeking to identify each risk parameter specifically and describe the function of each parameter in Rule 804(g)(1)(A)–(D). For each feature, the Exchange's system (''System'') will continue to automatically remove quotes in all series of an options class when a certain threshold for any of the parameters has been exceeded.

The Exchange elaborates in the proposed rule that a market maker is required to specify a period of time not to exceed 30 seconds (''Specified Time Period'') during which the system will automatically remove a Market Maker's quotes in all series of an options class. The limitation of not to exceed 30 seconds is new for GEMX Members. In order to establish a reasonable limit to the allowable Specified Time Period, an GEMX Member will be limited to the setting their Specified Time period to no more than 30 seconds for these Thresholds. A Specified Time Period will commence for an options class every time an execution occurs in any series in such options class and will continue until the System removes quotes as described in proposed GEMX Rule 804(g)(2) or (3) or the Specified Time Period expires. This is the case today, and is not changing. The Specified Time Periods will be the same value described in subsections (A)–(D). Also, as is the case today, a Specified Time Period operates on a rolling basis among all series in an options class in that there may be Specified Time Periods occurring simultaneously for each Threshold and such Specified Time Periods may overlap. If a Market Maker does not provide parameters, the Exchange will apply default parameters, which default settings have been announced to Members.[3]

Proposed Rule 804(g)(1)(A) describes in greater detail the operation of the Percentage Threshold. As is the case today, a Market Maker must provide a specified percentage of quote size (''Percentage Threshold''), of not less than 1%, by which the System will automatically remove a Market Maker's quotes in all series of an options class. The Exchange is adding more detail about the manner in which the System will calculate percentages and amending the current rule to change its operations. For each series in an options class, the System will determine (i) during a Specified Time Period and for each side in a given series, a percentage calculated by dividing the size of a Market Maker's quote size executed in a particular series (the numerator) by the Marker Maker's quote size available at the time of execution plus the total number of the Market Marker's quote size previously executed during the unexpired Specified Time Period (the denominator) (''Series Percentage''); and (ii) the sum of the Series Percentages in the options class (''Issue Percentage'') during a Specified Time Period. The System will track and calculate the net impact of positions in the same options issue; long call percentages are offset by short call percentages, and long put percentages are offset by short put percentages in the Issue Percentage. The Exchange also notes that in calculating the Percentage the System compares the number of contracts executed in that series relative to the size of the quote at the time of the execution plus the number of executed contracts that have occurred in the current time period. The legacy GEMX system calculated the Percentage risk parameter by comparing the number of contracts executed in that series relative to the size of the original quote only at the time of the execution. This difference is captured within the proposed rule text. The Exchange notes that with the migration from the GEMX legacy system to the INET system the manner in which the System offsets is not the same. The legacy GEMX system did not offset, in that long call percentages are not offset by short call percentages, and long put percentages are not offset by short put percentages. The migration to INET did however cause the System to track and calculate the net impact.[4] The Exchange notes this difference in the calculation and seeks to memorialize the change in the

[3] *http://business.nasdaq.com/media/GEMXSystemSettings_tcm5044-41351.pdf* [sic].

[4] The net impact of positions takes into account the offsets noted herein.

process. The proposed rule provides participants with greater clarity as to the operation of the Percentage risk feature. The proposed text indicates that if the Issue Percentage exceeds the Percentage Threshold the System will automatically remove a market maker's quotes in all series of the options class.

Proposed Rule 804(g)(1)(B) describes in greater detail the operation of the Volume Threshold. As is the case today, a market maker must provide a Volume Threshold by which the System will automatically remove a market maker's quotes in all series of an underlying security when the market maker executes a number of contracts which exceeds the designated number of contracts in all options series in an options class.

Proposed Rule 804(g)(1)(C) describes in greater detail the operation of the Delta Threshold. As is the case today, a market maker must provide a Delta Threshold by which the System will automatically remove a market maker's quotes in all series of an underlying security. For each class of options, the System will maintain a Delta counter, which tracks the absolute value of the difference between (i) purchased call contracts plus sold put contracts and (ii) sold call contracts plus purchased put contracts. If the Delta counter exceeds the Delta Threshold established by the Member, the System will automatically remove a market maker's quotes in all series of the options class.

Proposed Rule 804(g)(1)(D) describes in greater detail the operation of the Vega Threshold. As is the case today, a market maker must provide a Vega Threshold by which the System will automatically remove a Market Maker's quotes in all series of an options class. For each series of an options class, the System will maintain a Vega counter, which tracks the absolute value of purchased contracts minus sold contracts. If the Vega counter exceeds the Vega Threshold established by the Member, the System will automatically remove a Market Maker's quotes in all series of the options class.

Proposed Rule 804(g)(2) provides more detail about the System's current operation with respect to quote removal. The System will automatically remove quotes in all options in an underlying security when the Percentage Threshold, Volume Threshold, Delta Threshold or Vega Threshold has been exceeded. The System will send a Purge Notification Message to the Market Maker for all affected series when any of the above thresholds have been exceeded. The Percentage Threshold, Volume Threshold, Delta Threshold and Vega Threshold are considered independently of each other. Quotes will be automatically executed up to the Market Maker's size regardless of whether the execution of such quotes would cause the Market Maker to exceed the Percentage Threshold, Volume Threshold, Delta Threshold or Vega Threshold.

Proposed Rule 804(g)(3) provides more detail about the manner in which the System resets the counting of the various risk parameters. Notwithstanding the automatic removal of quotes described in the rule, if a market maker requests the System to remove quotes in all options series in an options class, the System will automatically reset all Thresholds.

Proposed Rule 804(g)(4) provides more detail about the process to re-initiate quoting. When the System removes quotes because the Percentage Threshold, Volume Threshold, Delta Threshold or Vega Threshold were exceeded, the market maker must send a re-entry indicator to re-enter the System.

Proposed Rule 804(g)(5) provides more detail about default parameters as mentioned above. If a market maker does not provide a parameter for each of the automated quotation removal Thresholds described in Rule 804(g)(1)(A–D) above, the Exchange will apply default parameters, which are announced to Members. This language exists today in the current text and is being memorialized herein.

Finally, proposed Rule 804(g)(6) describes the interaction between the four Thresholds and the market wide parameter. In addition to the Thresholds described in Rule 804(g)(1)(A)–(D) above, a market maker must provide a market wide parameter by which the Exchange will automatically remove a Market Maker's quotes in all classes when, during a time period established by the Market Maker, the total number of quote removal events specified in Rule 804(g)(1)(A)–(D) exceeds the market wide parameter provided to the Exchange by the market maker. As is the case today, Market Makers may request the Exchange to set the market wide parameter to apply to just GEMX or across GEMX and Nasdaq ISE.

Below are some illustrative examples of the Percentage and Volume risk parameters.

Example #1: Describes the Percentage risk parameter. Presume the following Order Book:

Series of underlying XYZ	Size on bid x offer for MM1
100 Strike Call	300x300
100 Strike Put	50x50
110 Strike Call	200x200
110 Strike Put	150x150

In this example, assume the Specified Time Period designated by the Market Maker #1 is 10 seconds and the Percentage Threshold is set to 100%. Assume at 12:00:00, Market Maker #1 executes 100 contracts of his offer size, 200 contracts, in the 110 Strike Calls. This represents an execution equaling 50% (100 contracts of the 200 contract quote size) of the 100% Percentage Threshold. Assume at 12:00:01, Market Maker #1 executes 50 additional contracts in the same 110 Strike Calls. This execution equates to an additional 25% ((50 contracts/(100 remaining quote size +100 contracts already executed within the Specified Time Period)) for a net 75% Series Percentage count toward the 100% Percentage Threshold. If at 12:00:03, Market Maker #1 executes the full size of his bid (50 contracts) in the 100 Strike Put, the System will automatically remove all of Market Maker #1's quotes in Underlying XYZ since the execution caused his 100% Percentage Threshold to be exceeded; the execution in the 100 Strike Put added 100% Series Percentage to his previously calculated Series Percentage of 75% totaling 175% Issue Percentage. No further quotes for Market Maker #1 in Underlying XYZ will be available until re-entry. The Specified Time Period will be reset for Market Maker #1 in options class XYZ and Market Maker #1 will need to send a re-entry indicator in order to re-enter quotes in options series for options class XYZ into the System.

Example #2 is another example of the Percentage Threshold. Presume the following Order Book:

In this example, assume Market Maker #1 has Percentage Threshold set at 100% with a Specified Time Period over 5 seconds. Assume at 12:00:00, Market Maker #1 is quoting the XYZ 20 strike calls at 1.00 (10)–1.20 (10). An incoming Order to buy 5 contracts for 1.20 trades against Market Maker #1's quote. Based on this trade, the Series Percentage Threshold calculation is 5/[(10)+(0)] = 5/10 = 50%. Since this is the only execution during the Time Period, 50% also represents the Issue Percentage, therefore Market Maker #1's quote is now 1.00 (10)–1.20 (5).

Next, assume at 12:00:01 an Incoming Order to buy 2 contracts for 1.20 trades against Market Maker #1's quote. Based on this trade, the Series Percentage Threshold calculation is 2/[(5)+(5)] = 2/10 = 20%. The Issue Percentage

calculation is the sum of Series Percentages during the time period, or 50% + 20% = 70%.

Finally, presume Market Maker #1's quote is now 1.00 (10)–1.20 (3). At 12:00:02, Market Maker #1 updates his quote in the XYZ 20 strike calls to increase his offer size back to 10 contracts, 1.00 (10)–1.20 (10). An incoming Order to buy 6 contracts for 1.20 trades against Market Maker #1's quote. Based on this trade, the Series Percentage Threshold calculation: 6/[(10)+(7)] = 6/17 = 35.29%. The Issue Percentage calculation is the sum of Series Percentages during the time period, or 50% + 20% + 35.29% = 105.29%. In this scenario, Market Maler[sic] #1's quotes are removed in all series of XYZ since his setting of 100% over 5 seconds has been exceeded.

Example #3 describes the Volume Threshold. Presume the following Order Book:

Series of underlying XYZ	Size on bid x offer for MM1
100 Strike Call	300x300
100 Strike Put	50x50
110 Strike Call	200x200
110 Strike Put	150x150

In this example, assume the Specified Time Period designated by the Market Maker #1 is 10 seconds and the designated number of contracts permitted for the Volume-Based Threshold is 250 contracts. Assume at 12:00:00, the Market Maker #1 executes all of his offer size, 200 contracts, in the 110 Strike Calls. The System will initiate the Specified Time Period and for 10 seconds the System will count all volume executed in series of options class XYZ. If at any point during that 10 second period, the Market Maker #1 executes additional contracts in any series of the options class XYZ, those contracts will be added to the initial execution of 200 contracts. To illustrate, assume at 12:00:05 the Market Maker # 1 executes 60 contracts of his offer in the 100 Strike Calls. The total volume executed is now 260 contracts. Since that volume exceeds the Market Maker #1's designated number of contracts for the Volume Threshold (250 contracts), all of his quotes in all series of the options class XYZ over the Specialized Quote Feed [5] will be removed from the System; no further quotes will be executed until re-entry. The Volume Specified Time Period will be reset for Market Maker #1 in options class XYZ and Market Maker #1 will need to send a re-entry indicator in order to re-enter quotes in options series for options class XYZ into the System.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [6] in general, and furthers the objectives of Section 6(b)(5) of the Act [7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by memorializing, with greater detail, the risk protections available to market makers. The described Thresholds serve to decrease risk and increase stability. Additionally, because the Exchange offers these risk tools to market makers, in order to encourage them to provide as much liquidity as possible and encourage market making generally, the proposal removes impediments to and perfects the mechanism of a free and open market and a national market system and protects investors and the public interest. The Exchange believes that amending Rule 804(g) to add more clarifying text, which explains in greater detail the manner in which the four Thresholds operate, will bring more transparency to the rule which serves to protect investors and the public interest, because market makers will be more informed about the manner in which the functionality operates.

In addition, the Exchange's proposal to amend the current Percentage Threshold to: (i) Calculate offsets; and (ii) calculate the Percentage Threshold during a Specified Time Period and for each side in a given series, a percentage, by dividing the size of a Market Maker's quote size executed in a particular series (the numerator) by the Marker Maker's quote size available at the time of execution plus the total number of the Market Marker's quote size previously executed during the unexpired Specified Time Period, will provide Market Makers with greater precision in calculating quoting risks. The Exchange believes that providing Market Makers with tools to calculate risk serves to perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest because Market Makers are better able to manage risks with this risk tool.

The Exchange further represents that its proposal will continue to operate consistently with the firm quote obligations of a broker-dealer pursuant to Rule 602 of Regulation NMS and that the functionality is mandatory. Specifically, any interest that is executable against a market maker's quotes that are received [8] by the Exchange prior to the time any of these functionalities are engaged will be automatically executed at the price up to the market maker's size, regardless of whether such execution results in executions in excess of the market maker's pre-set parameters.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the proposal will not impose a burden on intra-market or inter-market competition, rather it provides market makers with the continued opportunity to avail themselves of risk tools. The proposal does not impose a burden on inter-market competition, because participants may choose to become market makers on a number of other options exchanges, which may have similar but not identical features.[9] The proposed rule change is meant to continue to protect market makers from inadvertent exposure to excessive risk. Accordingly, the proposed rule change will have no impact on competition.

The Exchange's proposal to amend the current Percentage Based risk feature to: (i) Calculate offsets; and (ii) calculate the Percentage Threshold during a Specified Time Period and for each side in a given series, a percentage, by dividing the size of a Market Maker's quote size executed in a particular series (the numerator) by the Marker Maker's quote size available at the time of execution plus the total number of the Market Marker's quote size previously executed during the unexpired Specified Time Period, does not impose an undue burden on competition and is non-controversial because the Exchange offers a Percentage Threshold today. The proposed changes to the Percentage

[5] The Specialized Quote Feed interface that allows market makers to connect and send quotes, sweeps and auction responses into GEMX. Data includes the following: (1) Options Auction Notifications (*e.g.,* opening imbalance, Flash, PIM, Solicitation and Facilitation or other information); (2) Options Symbol Directory Messages; (3) System Event Messages (*e.g.,* start of messages, start of system hours, start of quoting, start of opening); (4) Option Trading Action Messages (*e.g.,* halts, resumes); (5) Execution Messages; and (6) Quote Messages (quote/sweep messages, risk protection triggers or purge notifications).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] The time of receipt is the time such message is processed by the Order Book.

[9] *See* BATS Rule 21.16, BOX Rules 8100 and 8110, C2 Rule 8.12, CBOE Rule 8.18, MIAX Rule 612, NYSE MKT Rule 928NY and NYSE Arca Rule 6.40.

risk tool simply add more precision to the existing calculation to permit Marker Makers to better control their risk with respect to quoting.

Further, the Exchange is memorializing more detail concerning the function of the Thresholds with this rule proposal and making clear the method in which the Percentage risk tool is calculated. The risk tools will continue to reduce risk for market makers in the event of a systems issue or due to the occurrence of unusual or unexpected market activity.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

In its filing, GEMX requests that the Commission waive the 30-day operative delay in order to enable the Exchange to accurately reflect in its rules the operation of its risk parameters since the migration to the INET platform. Although the Exchange proposes certain technical changes to how the risk parameters will operate (*e.g.,* limiting the Specified Time Period to 30 seconds), the proposed changes are largely intended to provide more detail about the operation of the existing risk parameters. Accordingly, the Commission believes that granting a waiver of the operative delay is consistent with the protection of investors and the public interest and therefore designates the proposed rule change to be operative upon filing.[12]

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2017–32 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–GEMX–2017–32. 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 Web site (*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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2017–32, and should be submitted on or before August 16, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–15629 Filed 7–25–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81181; File No. SR–ISE–2017–52]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 912

July 20, 2017.

On June 9, 2017, Nasdaq ISE, LLC (''ISE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Rule 912 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the **Federal Register** on June 23, 2017.[3] The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 80971 (June 19, 2017), 82 FR 28698 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates September 21, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–ISE–2017–52).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–15636 Filed 7–25–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81180; File No. SR–GEMX–2017–24]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 912

July 20, 2017.

On June 9, 2017, Nasdaq GEMX, LLC (''GEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Rule 912 (Consolidated Audit Trail—Fee Dispute Resolution). The proposed rule change was published for comment in the **Federal Register** on June 23, 2017.[3] The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates September 21, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–GEMX–2017–24).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–15635 Filed 7–25–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81176; File No. SR–NYSE–2017–33]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Eliminate Non-Regular Way Trading on the Exchange

July 20, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b-4 thereunder,[3] notice is hereby given that on July 10, 2017, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 eliminate non-regular way trading on the Exchange. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to eliminate non-regular way trading on the Exchange. To effect this change, the Exchange proposes to amend or delete the following rules:

- Rule 12 (''Business Day'');
- Rule 14 (Non-Regular Way Settlement Instructions for Orders);
- Rule 14T (Non-Regular Way Settlement Instructions for Orders);
- Dealings and Settlements (Rules 45—299C);
- Rule 64 (Bonds, Rights and 100-Share-Unit Stocks);
- Rule 64T (Bonds, Rights and 100-Share-Unit Stocks);
- Rule 66 (U.S. Government Securities);
- Rule 73 (Seller's Option);
- Rule 123 (Record of Orders);
- Rule 130 (Overnight Comparison of Exchange Transactions);
- Rule 132 (Comparison and Settlement of Transactions Through A Fully-Interfaced or Qualified Clearing Agency);
- Rule 137 (Written Contracts);
- Rule 137A (Samples of Written Contracts);
- Rule 177 (Delivery Time—''Cash'' Contracts);
- Rule 179 (''Seller's Option'');
- Rule 189 (Unit of Delivery);
- Rule 235 (Ex-Dividend, Ex-Rights);
- Rule 235T (Ex-Dividend, Ex-Rights);
- Rule 236 (Ex-Warrants);
- Rule 236T (Ex-Warrants);
- Rule 241 (Interest—Added to Contract Price);
- Rule 257 (Deliveries After ''Ex'' Date);
- Rule 257T (Deliveries After ''Ex'' Date); and

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 80970 (June 19, 2017), 82 FR 28708 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

• Rule 282 (Buy-in Procedures).

Background and Proposed Rule Change

The current standard trade settlement cycle for most securities transactions is three business days after trade date (''T+3'').[4] The standard settlement cycle is referred to as ''regular way'' settlement. Settlement cycles that are longer or shorter than the standard cycle are referred to as ''non-regular way'' settlement instructions. Rule 14(a)(i) defines non-regular way settlement instructions as instructions allowing for settlement other than regular way. Non-regular way settlement instructions are (1) cash; (2) next day; and (3) seller's option.[5] Currently, the Exchange only offers non-regular way settlement instructions for orders manually represented by Floor brokers.[6]

Because non-regular way settlement instructions are infrequently used by market participants,[7] the Exchange proposes to eliminate non-regular way settlement instructions.

To effect this change, the Exchange proposes to amend or delete the following Rules:

• Rule 12 defines the term ''Business Day'' and provides that on any business day that the banks, transfer agencies and depositories for securities in New York State are closed, except for orders containing non-regular way settlement instructions pursuant to Rule 14, deliveries or payments ordinarily due on such a day shall be due on the following business day. As discussed below, Rule 14 is being amended to delete non-regular way settlement. The Exchange accordingly proposes to delete the clause ''Except for orders containing non-regular way settlement instructions pursuant to Rule 14,'' in Rule 12(1). The Exchange also proposes to delete the clause ''other than ''cash'' contracts made on such a day'' in Rule 12(3).

• As noted, Rule 14 provides for non-regular way settlement instructions. The Exchange proposes to amend Rule 14 to provide that all bids and offers will be deemed regular way. To effect this change, the Exchange proposes to delete (i) the heading of current Rule 14 and replace it with ''Bid or Offer Deemed Regular Way,'' and (ii) the preamble to current Rule 14, the text of subsections (a) through (e), and the subsection heading ''(f).'' The Exchange further proposes to replace the rule text with the following text: ''Bids and offers will be considered to be 'regular way.''' This proposed rule is based on NYSE Arca Equities, Inc. Rule 7.8.

• Rule 14T was adopted in 2016 to reflect the upcoming transition to T+2 to reflect two day settlement.[8] In light of the proposed changes to Rule 14, the Exchange proposes to delete Rule 14T in its entirety as moot.

• Current Dealings and Settlements (Rules 45—299C) sets forth delivery dates for cash, regular way, seller's option and when issued and when distributed contracts for the sale of securities (Rule 64, 65). The Exchange proposes to delete all references to the cash and seller's options. The Exchange proposes the same changes to Current Dealings and Settlements (Rules 45—299C). In the chart addressing contracts for sale of U.S. government bonds (Rule 66), the Exchange similarly proposes to delete all references to the cash and seller's options.

• Rule 64 governs settlement instructions for bonds, rights and 100-share-unit stocks. The Exchange proposes to delete the preamble and all references to non-regular way settlement instructions from this Rule. Specifically, the Exchange would delete ''(a) (i) Except as provided in (ii) below, b'' and capitalize the ''b'' in bids in the first sentence. The Exchange proposes to insert a period after ''regular way'' and delete the clause ''*i.e.,* for delivery on the third business day following the day of the contract.'' The Exchange further proposes to delete the last sentence of current subsection (a)(i) referring to non-regular way settlement instructions along with the parentheses. Subsections (a)(ii) and (b) through (c) would also be deleted.

• In light of the changes to Rule 64, the Exchange proposes to delete Rule 64T in its entirety as moot.

• Rule 66 governs settlement instructions for U.S. Government securities. The Exchange proposes to insert a period following ''regular way'' and delete the clause ''for that security *i.e.,* for delivery on the business day following the day of the trade.'' The Exchange also proposes to delete the final sentence of the rule referring to non-regular way settlement instructions along with the parentheses.

• Rule 73 governs seller's option. The heading and rule text would be deleted in their entirety. ''Reserved'' would replace ''Seller's Option'' in the heading.

• Rule 123 sets forth certain record keeping requirements for orders. Subsection (f) governs order execution reports and specifies the data elements for such reports. The Exchange proposes to delete data element 14, which relates to non-regular way settlement instructions, and re-number the remaining elements.

• Rule 130 governs overnight comparison of Exchange transactions. The Exchange proposes to delete the phrase ''contracts for 'regular way', 'next day' and 'seller's option' settlement, as prescribed in Rule 14, in stocks, rights, warrants,'' in subsection (c).

• Rule 132 governs comparison and settlement of transactions through a fully-interfaced or qualified clearing agency (as defined therein). Supplementary Material .30 of the Rule sets forth the necessary trade data elements that clearing member organizations must submit to a fully-interfaced or qualified clearing agency for the comparison and/or settlement of a round-lot regular way contract. The last paragraph of Supplementary Material .30 provides that clearing member organizations that are a party to

[4] *See* SEC Rule 15c6–1(a), 17 CFR 240.15c6–1(a). SEC Rule 15c6–1(a) has been amended to shorten the settlement cycle to two business days (''T+2''), which will be operative on September 5, 2017 (the ''T+2 regular way settlement initiative''). *See* Securities Exchange Act Release No. 80295, 82 FR 15564 (May 30, 2017) (File No. S7–22–16). The Exchange has also amended its rules to reflect the T+2 regular way settlement initiative. *See* Securities Exchange Act Release No. 80021 (February 10, 2017), 82 FR 10931 (February 16, 2017) (SR–NYSE–2016–87) (''Release No. 80021'').

[5] *See* Rule 14(b). Orders indicating cash settlement instructions require delivery of the securities on the same day as the trade date. Next day settlement instructions require delivery of the securities on the first business day following the trade date. Orders that have settlement instructions of seller's option afford the seller the right to deliver the security at any time within a specified period, ranging from not less than two business days to not more than sixty days for securities and not less than two business days and no more than sixty days for U.S. government securities.

[6] In March 2009, the Exchange amended its rules to require that all orders submitted to Exchange be submitted for regular way settlement. *See* Securities and Exchange Act Release No. 59446 (February 25, 2009), 74 FR 9323 (March 3, 2009)(SR–NYSE–2009–17) (''Release No. 58446''). In July 2009, in response to certain customer needs, the Exchange adopted Rule 14 to allow orders containing non-regular way settlement instructions to be transmitted directly to a Floor broker for manual order handling. *See* Securities and Exchange Act Release No. 60216 (July 1, 2009), 74 FR 33283 (July 10, 2009)(SR–NYSE–2009–59).

[7] For example, in 2016, the Exchange and its affiliate NYSE MKT LLC combined received a total of 5 orders with non-regular way instructions, 2 of which were later reversed. All 5 orders were received in the last two trading months of the year. No orders with non-regular way instructions have been received on either market to date in 2017. In contrast, at the time the Exchange eliminated non-regular way settlement instructions in 2009, the Exchange was receiving, on average, 28 cash orders, 48 next day orders, and 2 seller's option orders each day. *See* Release No. 58446, *supra* note 5, 74 FR at 9324 (based on a review of orders received during one week in May 2008). During the last five trading days of 2007, when the most cash, next day and seller's options orders were received, the average daily submissions were 123 for cash, 199 for next day, and 10 for seller's option. *See id.*

[8] In 2016, the Exchange also adopted, among other rules, Current Dealings and Settlements (Rules 45—299C), Rule 64T, Rule 235T, Rule 236T, and Rule 257T, and added preambles to the current version of each amended rule and to the rules designated with a T. *See* Release No. 80021, *supra* note 3, 82 FR at 10932.

a round lot non-regular way contract shall submit the same trade data elements. The Exchange proposes to delete the last paragraph.

• Rule 137 addresses various aspect of written contracts for, among other things, seller's option in stocks and bonds for more than seven days, that are not submitted to the Exchange or to a qualified clearing agency for comparison. The Exchange proposes to delete the clause '''seller's option' transactions in stocks, on 'seller's option' transactions in bonds for more than seven days, as prescribed in Rule 14 and on'' in the first paragraph of the Rule.

• Rule 137A sets forth examples of written contracts. Supplementary Material .20 of the Rule provides a model for a seller's option contract for stock. The Exchange proposes to delete Supplementary Material .20 in its entirety and that current Supplementary Material .30 become Supplementary Material .20.

• Rule 177 specifies the time for delivery of transactions made for cash. The Exchange proposes to delete the rule text in its entirety and mark it ''Reserved.''

• Rule 179 specifies the delivery and notice requirements for securities sold seller's option. The Exchange proposes to delete the rule text in its entirety and mark it ''Reserved.''

• Rule 189 provides that buyers shall accept any portion of a lot of securities contracted for if tendered in lots of one trading unit or multiples thereof, and may buy in the undelivered portion as provided in Rule 284, except for sale made seller's option. The Exchange proposes to delete the last clause of the rule addressing the seller's option exception.

• Current Rule 235 provides that transactions in stocks, except those made for cash as prescribed in Rule 14, shall be ex-dividend or ex-rights on the second business day preceding the record date fixed by the corporation or the date of the closing of transfer books. The Exchange proposes to delete the references to transactions made for cash. The same changes are proposed for Rule 235T.

• Current Rule 236 provides that transactions in securities that have subscription warrants attached, except those made for cash as prescribed in Rule 14, will begin on the second business day preceding the date of expiration of the warrants, except that when expiration occurs on a non-business day, in which case it will begin on the third business day preceding date of expiration. The Rule further provides that transactions in securities made for ''cash'' shall be ex-warrants on the business day following the date of expiration of the warrants. The Exchange proposes to delete the references to transactions made for cash. The same changes are proposed for Rule 236T.

• Rule 241 governs computation of interest on the principal amount in bonds, except that in the case of contracts made seller's option such interest shall be computed only up to but not including the day when delivery would have been due if the contract had been made regular way. The Exchange proposes to delete the last clause in the rule containing the exception for contracts made seller's option.

• Rule 257 governs deliveries after a security is sold before it is ex-dividend or ex-rights. The Exchange proposes to delete the clause referring to securities sold thereafter to and including the record date for cash. The same change is proposed for Rule 257T.

• Rule 282A sets forth the procedures for a buyer to close out a contract in securities, except one where its close-out is governed by the rules of a Qualified Clearing Agency, which has not been completed by the seller in accordance with its terms. Subsection (d) provides that where the buyer is a customer (*i.e.,* other than another member organization), upon failure of a defaulting member organization to effect delivery in accordance with a ''buy-in'' notice, among the ways the contract may be closed-out is by purchasing for cash as prescribed in Rule 14 in the best available market. The Exchange proposes to eliminate this clause in Rule 282A(d). Further, the Exchange proposes to delete references to contracts made for cash in Supplemental Material .70.

* * * * *

The Exchange will announce the operative date of the elimination of non-regular way settlement instructions by Trader Update, which the Exchange anticipates will be before the September 5, 2017 implementation of the T+2 regular way settlement initiative.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that eliminating non-regular way trading on the Exchange removes impediments to and perfects a national market system by eliminating little-used order instructions that involve manual handling by Floor traders, thereby furthering the immediate and automatic execution of orders on the Exchange in the most efficient manner. The Exchange believes that eliminating these order instructions would be consistent with the public interest and the protection of investors because investors will not be harmed by the removal of little-used order instructions that are remnants of a time when the Exchange functioned as a manual auction market.[11] The Exchange further believes that deleting corresponding references to delete non-regular way order instructions also removes impediments to and perfects the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and reduce potential confusion that may result from having such references in the Exchange's rulebook. Removing such obsolete cross references would also further the goal of transparency and add clarity to the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather would remove little used, anachronistic order instructions, thereby reducing confusion and making the Exchange's rules easier to understand and navigate.

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.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* Release No. 59446, *supra* note 8, 74 FR at 9323.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13] 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)(iii) of the Act [14] and subparagraph (f)(6) Rule 19b–4 thereunder.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [16] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2017–33 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2017–33. 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 Web site (*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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2017–33 and should be submitted on or before August 16, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–15631 Filed 7–25–17; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15151 and #15152]

MISSOURI Disaster Number MO–00081

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of MISSOURI (FEMA–4317–DR) dated 06/02/2017.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 04/28/2017 through 05/11/2017.

DATES: Issued on 07/17/2017.

Physical Loan Application Deadline Date: 08/14/2017.

EIDL Loan Application Deadline Date: 03/02/2018.

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 the State of MISSOURI, dated 06/02/2017 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 08/14/2017.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–15612 Filed 7–25–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15177 and #15178]

ARKANSAS Disaster Number AR–00096

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 ARKANSAS (FEMA–4318–DR), dated 06/15/2017.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 04/26/2017 through 05/19/2017.

DATES: Issued on 07/19/2017.

Physical Loan Application Deadline Date: 08/14/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 03/15/2018.

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 ARKANSAS, dated 06/15/2017, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Fulton, Searcy.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–15611 Filed 7–25–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15187 and #15188 Tennessee Disaster Number TN–00105]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Tennessee

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 Tennessee (FEMA–4320–DR), dated 06/23/2017.

Incident: Severe Storms, Straight-line Winds, and Flooding.

Incident Period: 05/27/2017 through 05/28/2017.

DATES: Issued on 07/19/2017.

Physical Loan Application Deadline Date: 08/22/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 03/23/2018.

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 Tennessee, dated 06/23/2017, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Jackson, Jefferson.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–15613 Filed 7–25–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10068]

In the Matter of the Amendment of the Designation of Yarmouk Martyrs Brigade (and Other Aliases) as a Specially Designated Global Terrorist

Based upon a review of the administrative record assembled in this matter, and in consultation with the Attorney General and the Secretary of the Treasury, I have concluded that there is a sufficient factual basis to find that Yarmouk Martyrs Brigade (and other aliases), uses the alias Khalid bin Al-Walid Army, also known as Khalid ibn al-Walid Army, also known as Khalid Bin-al-Walid Army, also known as Khalid Bin Al-Waleed army, also known as Jaysh Khalid Bin-al-Walid, also known as Jaish Khaled Bin Alwaleed, also known as Jaysh Khaled bin Al Walid, also known as Army of Khaled Bin Alwaleed, as its primary name.

Therefore, pursuant to Section 1(b) of Executive Order 13224, I hereby amend the designation of Yarmouk Martyrs Brigade as a Specially Designated Global Terrorist to include the following new aliases: Khalid bin Al-Walid Army, also known as Khalid ibn al-Walid Army, also known as Khalid Bin-al-Walid Army, also known as Khalid Bin Al-Waleed army, also known as Jaysh Khalid Bin-al-Walid, also known as Jaish Khaled Bin Alwaleed, also known as Jaysh Khaled bin Al Walid, also known as Army of Khaled Bin Alwaleed.

This determination shall be published in the **Federal Register**.

Dated: July 13, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–15724 Filed 7–25–17; 8:45 am]

BILLING CODE 4710–AD–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36135]

Union Pacific Railroad Company—Temporary Trackage Rights Exemption—The Kansas City Southern Railway Company

Union Pacific Railroad Company (UP), a Class I rail carrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(8) for its acquisition of temporary overhead trackage rights over a line of railroad of Kansas City Southern Railway Company (KCS) between milepost 681.0 near Pineville, La., and milepost 561.7 near Bossier City, La., a distance of approximately 119.3 miles.

UP states that, pursuant to a written trackage rights agreement (Agreement) dated July 12, 2017,[1] KCS has agreed to grant the specified temporary overhead trackage rights to UP. UP states that it intends to consummate the transaction upon the effective date of the notice.[2] The sole purpose of the trackage rights is to allow UP to operate its own trains that are rerouted over the KCS line while UP repairs a damaged bridge on its DeQuincy Subdivision. The temporary trackage rights will expire on August 31, 2017.

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to

[1] A redacted copy of the Agreement between UP and KCS was filed with the notice. An unredacted copy was filed under seal along with a motion for protective order pursuant to 49 CFR 1194.14(a). That motion will be addressed in a separate decision.

[2] On July 18, 2017, UP filed a petition requesting that the Board allow this trackage rights transaction to become effective immediately rather than on August 17, 2017. The Board is addressing this request in another decision.

revoke will not automatically stay the effectiveness of the exemption.

An original and 10 copies of all pleadings, referring to Docket No. FD 36135, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on applicant's representative, Jeremy M. Berman, Union Pacific Railroad Company, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

According to UP, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and historic reporting under 49 CFR 1105.8(b)(3).

Board decisions and notices are available on our Web site at *WWW.STB.GOV.*

Decided: July 21, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Marline Simeon,

Clearance Clerk.

[FR Doc. 2017–15704 Filed 7–25–17; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1254X; Docket No. AB 1255X]

Winamac Southern Railway Company—Abandonment Exemption—in Kokomo, Howard County, Ind.; US Rail Holdings, LLC—Abandonment Exemption—in Kokomo, Howard County, Ind.

Winamac Southern Railway Company (WSRY) and US Rail Holdings, LLC (USRH) (collectively, Applicants), have jointly filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments* for WSRY and USRH to abandon 2.38 miles of rail line, known as the Russiaville Line, between milepost 181.26, at the west right-of-way (ROW) line of Webster Street, and the end of the line at milepost 183.64, at the south ROW line of Defenbaugh Street, in Kokomo, Howard County, Ind. (the Line).[1] The Line traverses United States Postal Service Zip Code 46901.

Applicants have certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on August 25, 2017, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 4, 2017. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 15, 2017, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to Applicants' representative: Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1666, Chicago, IL 60604.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by July 31, 2017. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Applicants shall file a notice of consummation with the Board, either jointly or individually, to signify that each has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by Applicants' filing of a notice of consummation by July 26, 2018, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *WWW.STB.GOV.*

Decided: July 21, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2017–15677 Filed 7–25–17; 8:45 am]

BILLING CODE 4915–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: June 1–30, 2017.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

[1] In 2009, Applicants were authorized to jointly acquire the Line in addition to another line, pursuant to an agreement with Central Railroad Company of Indianapolis, through the offer of financial assistance (OFA) process. *See Cent. R.R. Co. of Ind.—Abandonment Exemption—in Howard Cty., Ind.,* AB 511 (Sub-No. 4X) (STB served June 11, 2009). Applicants state that the other rail line acquired through the OFA process remains under the joint ownership of Applicants and is not part of this proceeding.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemptions' effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,700. *See* 49 CFR 1002.2(f)(25).

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, 717–238–0423, ext. 1312, *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and 806.22 (f) for the time period specified above:

Approvals by Rule Issued Under 18 CFR 806.22(f)

1. Cabot Oil & Gas Corporation, Pad ID: HaynesW P1, ABR–201706001, Harford Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: June 1, 2017.

2. Chesapeake Appalachia, LLC, Pad ID: Kupetsky, ABR–201211010.R1, Nicholson Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 2, 2017.

3. Chesapeake Appalachia, LLC, Pad ID: Amcor, ABR–201211018.R1, Meshoppen Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 2, 2017.

4. Pennsylvania General Energy Company, LLC, Pad ID: COP Tract 726 Pad B, ABR–201706002, Plunketts Creek Township, Lycoming County, Pa.; Consumptive Use of Up to 3.5000 mgd; Approval Date: June 7, 2017.

5. Alliance Petroleum Corporation, Pad ID: Sterling Run Club 4, ABR–201706003, Burnside Township, Centre County, Pa.; Consumptive Use of Up to 1.0000 mgd; Approval Date: June 15, 2017.

6. Alliance Petroleum Corporation, Pad ID: Sterling Run Club 5, ABR–201706004, Burnside Township, Centre County, Pa.; Consumptive Use of Up to 1.0000 mgd; Approval Date: June 15, 2017.

7. ARD Operating, LLC, Pad ID: Elbow F&G Pad B, ABR–201206007.R1, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: June 19, 2017.

8. SWEPI LP, Pad ID: Harer 713, ABR–201206004.R1, Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: June 19, 2017.

9. SWEPI LP, Pad ID: Lovell 707, ABR–201206005.R1, Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: June 19, 2017.

10. SWEPI LP, Pad ID: Guillaume 714, ABR–201206009.R1, Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: June 19, 2017.

11. Chief Oil & Gas LLC, Pad ID: Harvey Drilling Pad, ABR–201212015.R1, Lemon Township, Wyoming County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: June 30, 2017.

12. Chief Oil & Gas LLC, Pad ID: Cochran Drilling Pad, ABR–201301003.R1, West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: June 30, 2017.

13. Chief Oil & Gas LLC, Pad ID: SGL 12 HARDY DRILLING PAD, ABR–201706005, Overton Township, Bradford County, Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: June 30, 2017.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: July 20, 2017.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2017–15610 Filed 7–25–17; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Rescinded for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the approved by rule projects rescinded by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: June 1–30, 2017.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, being rescinded for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and § 806.22(f) for the time period specified above:

Rescinded Approvals by Rule Issued

1. WPX Energy Appalachia, LLC, Pad ID: M. Martin 1V, ABR–201007081.R1, Sugarloaf Township, Columbia County, Pa.; Rescind Date: June 22, 2017.

2. EOG Resources, Inc., Pad ID: PHC 10V, ABR–20090719.R1, Lawrence Township, Clearfield County, Pa.; Rescind Date: June 27, 2017.

3. EOG Resources, Inc., Pad ID: PHC Pad CC, ABR–201103027.R1, Lawrence Township, Clearfield County, Pa.; Rescind Date: June 27, 2017.

4. EOG Resources, Inc., Pad ID: PHC Pad DD, ABR–201103025.R1, Lawrence Township, Clearfield County, Pa.; Rescind Date: June 27, 2017.

5. Repsol Oil & Gas USA, LLC, Pad ID: DCNR 594 02 201, ABR–201008037.R1, Liberty Township, Tioga County, Pa.; Rescind Date: June 29, 2017.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: July 20, 2017.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2017–15609 Filed 7–25–17; 8:45 am]

BILLING CODE 7040–01–P

TENNESSEE VALLEY AUTHORITY

Charter Renewal of the Regional Energy Resource Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), the TVA Board of Directors has renewed the Regional Energy Resource Council (Council) charter for an additional two-year period beginning on August 1, 2017.

FOR FURTHER INFORMATION CONTACT: Barbie Perdue, 865–632–6113, *baperdue@tva.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to FACA and its implementing regulations, and following consultation with the Committee Management Secretariat, General Services Administration (GSA) in accordance with 41 CFR 102–3.60(a), notice is hereby given that the Council has been renewed for a two-year period beginning August 1, 2017. The Council will provide advice to TVA on its energy-related resource activities and the priorities among competing objectives and values.

The Council was originally established in 2013 to advise TVA on its energy-related resource activities, which include the construction and operation of various supply-side resources, including fossil-fueled power plants, nuclear plants, hydroelectric dams, and renewable resources; the development and management of demand-side resources, including energy efficiency; the design, construction and operation

of power delivery systems; and the integration of all of these energy resources into plans for meeting future demands for electricity in the TVA region.

It has been determined that the Council continues to be needed to provide an additional mechanism for public input regarding energy-related issues.

Dated: July 20, 2017.

Joseph J. Hoagland,

Vice President, Enterprise Relations and Innovation, Tennessee Valley Authority.

[FR Doc. 2017–15670 Filed 7–25–17; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Forty Eighth RTCA SC–206 Aeronautical Information and Meteorological Data Link Services Plenary

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

ACTION: Forty Eighth RTCA SC–206 Plenary Aeronautical Information and Meteorological Data Link Services.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Forty Eighth RTCA SC–206 Aeronautical Information and Meteorological Data Link Services Plenary. SC–206 is a subcommittee to RTCA.

DATES: The meeting will be held September 11–15, 2017 8:30 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Karan Hofmann at *khofmann@rtca.org* or 202–330–0680, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Forty Eighth RTCA SC206 Plenary. The agenda will include the following:

September 11, 2017 8:30 a.m.–1:00 p.m.

Opening Plenary

(1) Opening Remarks: DFO, RTCA, And Chairman

(2) Attendees' Introduction

(3) Review and Approval Of Meeting Agenda

(4) Approval of Previous Meeting Minutes (Washington, DC)

(5) Action Item Review

(6) Sub–Groups Reports

A. SG1: CSC JC and Other SC Coordination (ISRAs)

B. SG4: EDR Guideline

C. SG5: FIS–B MOPS

(7) Discuss Rejoining With WG–76

(8) Industry Presentations

September 11, 2017, 1:00 p.m.–5:00 p.m.

Sub–Groups Meetings

September 12, 2017, 8:30 a.m.–5:00 p.m.

Sub–Groups Meetings

September 13, 2017, 8:30 a.m.–5:00 p.m.

Plenary: SG4 Frac Resolution

Sub–Group Meetings Will Resume if Frac Resolution Ends Early

September 14, 2017, 8:30 a.m.–5:00 p.m.

Sub–Groups Meetings

September 15, 2017, 8:30 a.m.–11:00 a.m.

Closing Plenary

(1) Sub–Groups Reports

(2) Decision to Approve SG4 EDR Guidance Document for PMC Review

(3) Future Meetings Plans and Dates

(4) Industry Coordination

(5) Action Item Review

(6) Other Business

(7) Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 20, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–15600 Filed 7–25–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fifty First RTCA SC–224 Standards for Airport Security Access Control Systems Plenary

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

ACTION: Fifty First RTCA SC–224 Standards for Airport Security Access Control Systems Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Fifty First RTCA SC–224 Standards for Airport Security Access Control Systems Plenary

DATES: The meeting will be held September 28, 2017, 10:00 a.m.–1:00 p.m.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Karan Hofmann at *khofmann@rtca.org* or 202–330–0680, or The RTCA Secretariat, 1150 18th Street, NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Fifty First RTCA SC–224 Standards for Airport Security Access Control Systems Plenary. The agenda will include the following:

September 28, 2017, 10:00 a.m.–1:00 p.m.

1. Welcome/Introductions/ Administrative Remarks
2. Review/Approve Previous Meeting Summary
3. Report on TSA Participation
4. Report on Document Distribution Mechanisms
5. Report on the New Guidelines and Other Safe Skies Reports
6. Review/Resolution of DO–230H FRAC Comments
7. Approve DO–230H for Presentation to PMC
8. TOR Changes
9. Action Items for Next Meeting
10. Time and Place of Next Meeting
11. Any Other Business
12. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral

statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 20, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–15603 Filed 7–25–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirty Fourth RTCA SC–213 Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS) Plenary Joint With EUROCAE WG–79

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

ACTION: Thirty Fourth RTCA SC–213 Enhanced Flight Vision Systems/ Synthetic Vision Systems (EFVS/SVS) Plenary Joint with EUROCAE WG–79.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Thirty Fourth RTCA SC–213 Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS) Plenary Joint with EUROCAE WG–79.

DATES: The meeting will be held August 17, 2017, 11:00 a.m.–1:00 p.m.

ADDRESSES: The meeting will be held virtually and at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Rebecca Morrison at *rmorrison@rtca.org* or 202–330–0654, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Thirty Fourth RTCA SC–213 Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS) Plenary Joint with EUROCAE WG–79. The agenda will include the following:

August 17, 2017 11:00 a.m.–1:00 p.m.

1. Welcome/Administrative Duties
2. IPR/Membership Call-Out and Introductions
3. Acceptance of Meeting Minutes From the 32nd Joint Plenary of SC–213/ WG–72
4. Review Final Review and Comment Resolutions for the AVA SVS MASPS
5. New Business
6. Review Action Items
7. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 20, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–15601 Filed 7–25–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirtieth First RTCA SC–225 Rechargeable Lithium Batteries and Battery Systems Plenary

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

ACTION: Thirtieth First RTCA SC–225 Rechargeable Lithium Batteries and Battery Systems Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Thirtieth First RTCA SC–225 Rechargeable Lithium Batteries and Battery Systems Plenary.

DATES: The meeting will be held August 31, 2017, 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at: Virtual, *https://rtca.webex.com/rtca/j.php?MTID=m71004010d843f811903796fa89d6557c,* Join by phone, 1–877–668–4493 Call-in toll-free number (US/Canada), 1–650–479–3208 Call-in toll number (US/Canada), Access code: 632 109 737, Meeting Password: ZhqGJQd3.

FOR FURTHER INFORMATION CONTACT: Karan Hofmann at *khofmann@rtca.org* or 202–330–0680, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Thirtieth First RTCA SC–225 Rechargeable Lithium Batteries and Battery Systems Plenary. The agenda will include the following:

August 31, 2017, 9:00 a.m.–5:00 p.m.

(1) Welcome and Administrative Remarks (Including DFO & RTCA Statement)
(2) Introductions
(3) Agenda Review
(4) Meeting-Minutes Review
(5) Final Review and Comment (FRAC) Resolution Review
(6) Approval of DO–311A for Submission to RTCA PMC
(7) Action Item Review
(8) Any Other Business
(9) Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 20, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–15604 Filed 7–25–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2017–43]

Petition for Exemption; Summary of Petition Received; Mychal Will

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the

inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before August 15, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0160 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Brenda Robeson (202) 267–9677, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on July 14, 2017.

Dale Bouffiou,

Deputy Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2017–0160.
Petitioner: Mr. Mychal Will.
Section(s) of 14 CFR Affected: § 61.159.
Description of Relief Sought: Mr. Mychal Will is a flight navigator in the U.S. military and seeks relief from the 1,500 hour total time as a pilot eligibility requirement for an airline transport pilot (ATP) certificate. Based on some military flight training and civil air patrol (CAP) flying experience, Mr. Will seeks eligibility to take the practical test with 750 hours of total time.

[FR Doc. 2017–15703 Filed 7–25–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation; Notice of Availability of the Final Environmental Assessment and Finding of No Significant Impact for Issuing a License to Virgin Orbit (LauncherOne), LLC for LauncherOne Launches at the Mojave Air and Space Port, Kern County, California

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT), lead Federal agency. National Aeronautics and Space Administration, cooperating agency.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), Council on Environmental Quality NEPA implementing regulations, and FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures,* the FAA is announcing the availability of the *Final Environmental Assessment and Finding of No Significant Impact for Issuing a License to Virgin Orbit (LauncherOne), LLC for LauncherOne Launches at the Mojave Air and Spaceport, Kern County, California* (Final Environmental Assessment [EA]).

FOR FURTHER INFORMATION CONTACT: Daniel Czelusniak, Environmental Specialist, Federal Aviation Administration, 800 Independence Avenue SW., Suite 325, Washington, DC 20591; email *Daniel.Czelusniak@faa.gov;* or phone (202) 267–5924.

SUPPLEMENTARY INFORMATION: The Final EA addresses the potential environmental impacts of Virgin Orbit (LauncherOne) LLC's (L1's) proposal to launch the LauncherOne at the Mojave Air and Space Port in Kern County, California, for purposes of transporting small satellites into a variety of Low Earth Orbits. The launch system consists of the rocket (LauncherOne) and a carrier aircraft (Boeing 747). To operate LauncherOne at the Mojave Air and Space Port, L1 must obtain a launch license from the FAA. Issuing a launch license is considered a major Federal action subject to environmental review under NEPA. Under the Proposed Action, the FAA would issue a launch license to L1 that would allow L1 to operate LauncherOne from the Mojave Air and Space Port. L1 is proposing a maximum of 115 launches over the course of the 5-year launch license (expected 2017–2021). The maximum number of annual launches during this time period would be 40.

The Final EA evaluated the environmental impacts of the Proposed Action and the No Action Alternative. Under the No Action Alternative, the FAA would not issue a launch license for the operation of LauncherOne from the Mojave Air and Space Port. Also, the FAA would not modify Mojave Air and Space Port's launch site operator license to include ''orbital'' reusable launch vehicle missions. The Mojave Air and Space Port would continue its existing operations.

The FAA has posted the Final EA and FONSI on the FAA Office of Commercial Space Transportation Web site: *http://www.faa.gov/about/office_org/headquarters_offices/ast/environmental/nepa_docs/review/launch/.*

Issued in Washington, DC, on July 11, 2017.

Daniel Murray,

Manager, Space Transportation Development Division.

[FR Doc. 2017–15702 Filed 7–25–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Twenty Third RTCA SC–223 IPS and AeroMACS Plenary

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

ACTION: Twenty Third RTCA SC–223 IPS and AeroMACS Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Twenty Third RTCA SC–223 IPS and AeroMACS Plenary.

DATES: The meeting will be held August 21–24, 2017, 9:00 a.m.–5:00 p.m. and August 25, 9:00 a.m.–12:00 p.m.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Rebecca Morrison at *rmorrison@rtca.org* or 202–330–0654, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Twenty Third RTCA SC–223 IPS and AeroMACS Plenary. The agenda will include the following:

August 21, 2017, 9:00 a.m.–5:00 p.m.

(1) Welcome, Introductions, Administrative Remarks
(2) Review of Previous Meeting Notes and Action Items
(3) Review of Current State of Industry Standards
  A. ICAO WG–I
  B. AEEC IPS Sub Committee
(4) Current State of Industry Activities
  A. SESAR Programs
  B. ESA IRIS Precursor
  C. Any Other Activities
(5) IPS Technical Discussions
  A. Review of IPS High Level Profile
  B. Review of IPS RFC Detail Profiles
  C. Prioritization of Additional IETF RFCs for Profiling
(6) Any Other Topics of Interest
  A. SC–228 ISRA Discussions
  B. Other Topics
(7) Plans for Next Meetings
(8) Review of Action Items and Meeting Summary

August 22, 2017, 9:00 a.m.–5:00 p.m.

(1) Continue With Agenda

August 23, 2017, 9:00 a.m.–5:00 p.m.

(1) Continue With Agenda

August 24, 2017, 9:00 a.m.–5:00 p.m.

(1) Continue With Agenda

August 25, 2017, 9:00 a.m.–12:00 p.m.

(1) Continue With Agenda
(2) Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 20, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–15602 Filed 7–25–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Twentieth RTCA SC–227 Standards of Navigation Performance Plenary

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

ACTION: Twentieth RTCA SC–227 Standards of Navigation Performance Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Twentieth RTCA SC–227 Standards of Navigation Performance Plenary. SC–227 is a subcommittee to RTCA.

DATES: The meeting will be held September 20, 2017, 1:00 p.m.–3:00 p.m.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Claudia Chaudhari at *cchaudhari@rtca.org* or 202–330–0662, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Twentieth RTCA SC–227 Standards of Navigation Performance Plenary. The agenda will include the following:

Wednesday, September 20, 2017, 1:00 p.m.–3:00 p.m.

1 Welcome and Administrative Remarks
2 Introduction
3 Review of Minutes From Meeting 19
4 Agenda Overview
  A. Schedule
  B. New Business
5 Approve Release of Final Draft DO–257A for FRAC

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 20, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–15605 Filed 7–25–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Eleventh RTCA SC–233 Addressing Human Factors/Pilot Interface Issues for Avionics Plenary

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

ACTION: Eleventh RTCA SC–233 Addressing Human Factors/Pilot Interface Issues for Avionics Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Eleventh RTCA SC–233 Addressing Human Factors/Pilot Interface Issues for Avionics Plenary.

DATES: The meeting will be held September 25–28, 2017.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Rebecca Morrison at *rmorrison@rtca.org* or 202–330–0654, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Eleventh RTCA SC–233 Addressing Human Factors/Pilot Interface Issues for Avionics Plenary. The agenda will include the following:

Monday, September 25, 2017, 8:30 a.m.–4:30 p.m.

(1) Introduction, Upcoming PMC Dates and Deliverable
(2) Review of TOR
(3) Review Previous Meeting Summaries
(4) Roadmap for Remaining Items To Be Completed; Notional Schedule of Activities Remaining

(5) Address Comments Received From the Final Review and Comment Period

Tuesday, September 26, 2017, 8:30 a.m.–4:30 p.m.

(1) Address Comments Received From the Final Review and Comment Period

Wednesday, September 26, 2017, 8:30 a.m.–4:30 p.m.

(1) Address Comments Received From the Final Review and Comment Period

Thursday, September 27, 2017, 8:30 a.m.–4:30 p.m.

(1) Address Comments Received From the Final Review and Comment Period
(2) Entertain the Motion To Submit the Document to the Program Management Committee for Approval
(3) Other Business
(4) Action Items
(5) Review of Key Dates
(6) Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 20, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–15606 Filed 7–25–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventieth RTCA SC–135 Environmental Testing Plenary

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

ACTION: Seventieth RTCA SC–135 Environmental Testing Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Seventieth RTCA SC–135 Environmental Testing Plenary.

DATES: The meeting will be held August 11, 2017, 10:00 a.m.–12:00 p.m.

ADDRESSES: The meeting will be held as a virtual meeting hosted at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Rebecca Morrison at *rmorrison@rtca.org* or 202–330–0654, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Seventieth RTCA SC–135 Environmental Testing Plenary. The agenda will include the following:

August 11, 2017, 10:00 a.m.–12:00 p.m.

(1) Chairmen's Opening Remarks, Introductions
(2) Approval of Summary of the Sixty-Ninetieth Meeting
(3) Review and Approve Proposed ISRA With SC–228
(4) Review and Approve Changes to the Terms of Reference for SC–135 to Support ISRA
(5) New/Unfinished Business
(6) Review Date for Next SC–135 Meeting
(7) Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 20, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–15598 Filed 7–25–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Eighty Fifth RTCA Meeting of Special Committee 147 (Joint Plenary Session With EUROCAE WG–75)

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

ACTION: Eighty Fifth RTCA Meeting of Special Committee 147 (Joint Plenary Session with EUROCAE WG–75).

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Eighty Fifth RTCA Meeting of Special Committee 147 (Joint Plenary Session with EUROCAE WG–75). SC–147 is a subcommittee to RTCA.

DATES: The meeting will be held September 21, 2017, 9:00 a.m.–4:30 p.m.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Al Secen at *asecen@rtca.org* or 202–330–0647, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Eighty Fifth RTCA Meeting of Special Committee 147 (Joint Plenary Session with EUROCAE WG–75). The agenda will include the following:

September 21, 2017, 9:00 a.m.–4:30 p.m.

1. Opening Plenary Session—Co-Chairs
   A. Chairmen's Opening Remarks/ Introductions
   B. RTCA Federal Advisory Act and Proprietary Material Policies Review
   C. Approval of Minutes From 84th Meeting of SC–147
   D. Approval of Minutes From June 2017 Joint Working Group Meeting
   E. Approval of Agenda
   F. Future Meeting Scheduling
2. Report From WG–75
3. SESAR Updates
4. Working Group Reports
   A. Report From Coordination Subgroup
   B. Report From Threat Resolution Working Group
   C. Report From Surveillance Working Group
   D. Report From ACAS Xu Subgroup
5. CAS Interoperability MASPS: Status, Schedule, and SC–147 TORS
6. Status Of Mitigations for Transponder Failures
7. ACAS XA/XO MOPS Schedule Review
8. Other Business
9. New Business
10. Closing Session
    A. Scheduling of Future Meetings
    B. Review of Actions/Decisions
    C. Closing Remarks
    D. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 20, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–15599 Filed 7–25–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0069]

Notice of Intent To Prepare an Environmental Impact Statement for Model Year 2022–2025 Corporate Average Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of intent to prepare an environmental impact statement; request for scoping comments.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), NHTSA intends to prepare an environmental impact statement (EIS) to analyze the potential environmental impacts of new Corporate Average Fuel Economy (CAFE) standards for model year (MY) 2022–2025 passenger automobiles (referred to herein as ''passenger cars'') and non-passenger automobiles (referred to herein as ''light trucks'') that NHTSA will be proposing pursuant to the Energy Policy and Conservation Act of 1975 (EPCA), as amended by the Energy Independence and Security Act of 2007 (EISA). This notice initiates the process for determining the scope of considerations to be addressed in the EIS and for identifying any significant environmental matters related to the proposed action. NHTSA invites public comments from Federal, State, and local agencies, Indian tribes, stakeholders, and the public in this scoping process to help identify and focus any matters of environmental significance and reasonable alternatives to be examined in the EIS.

DATES: The scoping process will culminate in the preparation and issuance of a Draft EIS, which will be made available for public comment concurrently with the issuance of a Notice of Proposed Rulemaking (NPRM). To ensure that NHTSA has an opportunity to fully consider scoping comments, scoping comments should be received on or before August 25, 2017. NHTSA will consider comments received after that date to the extent the rulemaking schedule allows.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

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

Regardless of how you submit your comments, you must include the docket number identified in the heading of this notice. Note that all comments received, including any personal information provided, will be posted without change to *http://www.regulations.gov.* Please see the ''Privacy Act'' heading below.

You may call the Docket Management Facility at 202–366–9324.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. We will continue to file relevant information in the Docket as it becomes available.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

FOR FURTHER INFORMATION CONTACT: For technical issues, contact Ken Katz, Fuel Economy Division, Office of International Policy, Fuel Economy, and Consumer Programs, telephone: 202–366–4936, email: *Ken.Katz@dot.gov;* for legal issues, contact Russell Krupen, Legislation & General Law Division, Office of the Chief Counsel, telephone: 202–366–1834, email: *Russell.Krupen@dot.gov,* at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: In a forthcoming NPRM, NHTSA intends to propose CAFE standards for MY 2022–2025 passenger cars and light trucks pursuant to EPCA (Pub. L. 94–163, 89 Stat. 871 (Dec. 22, 1975)), as amended by EISA (Pub. L. 110–140, 121 Stat. 1492 (Dec. 19, 2007)).[1] In connection with this action, NHTSA will prepare an EIS to analyze the potential environmental impacts of the proposed CAFE standards and reasonable alternative standards pursuant to NEPA (42 U.S.C. 4321–4347) and implementing regulations (40 CFR parts 1500–1508) issued by the Council on Environmental Quality (CEQ), DOT Order No. 5610.1C (*Procedures for Considering Environmental Impacts* (1979) (revised 1985), *available at https://www.transportation.gov/office-policy/transportation-policy/procedures-considering-environmental-impacts-dot-order-56101c*), and NHTSA regulations (49 CFR part 520). NEPA instructs Federal agencies to consider the potential environmental impacts of their proposed actions and those of possible alternative actions. 42 U.S.C. 4332(2)(C). To inform decisionmakers and the public, the EIS will analyze the potential environmental impacts of NHTSA's preferred alternative, which will correspond to the proposed rule, and a spectrum of reasonable alternatives, including a ''no action'' alternative. 40 CFR 1502.1, 1502.14. The EIS will consider direct, indirect, and cumulative impacts of the proposed action and alternatives and will discuss impacts in proportion to their significance. *Id.* §§ 1502.2(b), 1508.25(b)–(c).

Background. EPCA requires that the Secretary of Transportation [2] establish and implement a regulatory program for motor vehicle fuel economy as part of a comprehensive approach to Federal energy policy. As codified in Chapter 329 of Title 49 of the U.S. Code, and as

[1] NHTSA's fuel economy authorities are codified at 49 U.S.C. 32901 *et seq.*

[2] The Secretary has delegated responsibility for implementing fuel economy requirements under EPCA and EISA to NHTSA. 49 CFR 1.95(a) and (j).

amended by EISA, EPCA set forth specific requirements concerning the establishment of CAFE standards for passenger cars and light trucks.

The Secretary must prescribe average fuel economy standards by regulation at least 18 months before the beginning of each model year and to set them at ''the maximum feasible average fuel economy level that . . . the manufacturers can achieve in that model year.'' 49 U.S.C. 32902(a). The standards apply to each manufacturer's fleet average, not to the manufacturer's individual vehicles. The Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency (EPA), must establish average fuel economy standards separately for passenger cars and for light trucks manufactured in each model year. *Id.* § 32902(b)(1)–(2). In doing so, for the model years to be addressed in the NPRM, the Secretary of Transportation must set each passenger car and light truck standard at the ''maximum feasible'' average fuel economy standard for each model year. *Id.* § 32902(b)(2)(B), (f). When setting ''maximum feasible'' average fuel economy standards, the Secretary must ''consider technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy.'' *Id.* § 32902(f). NHTSA construes the aforementioned statutory factors as including environmental and safety considerations.[3]

The standards for passenger cars and light trucks must be ''based on 1 or more vehicle attributes related to fuel economy'' and expressed ''in the form of a mathematical function,'' and they may be established for not more than five model years at a time. 49 U.S.C. 32902(b)(3)(A)–(B). In addition, each manufacturer must meet the minimum standard for domestically manufactured passenger cars, which is 92 percent of the projected average fuel economy for the combined domestic and non-domestic passenger car fleet for each model year, calculated at the time the final rule establishing the passenger car standards for those model years is promulgated. *Id.* § 32902(b)(4).

Regulatory History. NHTSA set the first fuel economy standards in 1977, applying to passenger cars beginning in MY 1978 and light trucks beginning in MY 1979. The stringency of the standards increased through MY 1985, and then changed little until MY 2005 for light trucks, when NHTSA reformed the light truck fuel economy program by introducing attribute-based standards, and MY 2011 for passenger cars, when NHTSA introduced attribute-based standards for passenger cars using new authority provided by EISA. CAFE standards have increased progressively for light trucks since MY 2005 and for passenger cars since MY 2011.

More recently, NHTSA has conducted its fuel economy rulemaking jointly with EPA's rulemaking to establish greenhouse gas (GHG) emission standards. In April 2010, NHTSA and EPA issued a joint final rule establishing fuel economy standards and GHG emissions standards[4] for MY 2012–2016 passenger cars and light trucks. *Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule,* 75 FR 25323 (May 7, 2010). The CAFE standards were estimated to require a combined average fleet-wide fuel economy of 34.1 miles per gallon (mpg) by MY 2016.[5] Subsequently, on August 28, 2012, NHTSA and EPA issued a final rule setting CAFE and GHG emissions standards for passenger cars and light trucks for model years 2017 and beyond. *2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards,* 77 FR 62623 (Oct. 15, 2012). Consistent with its statutory authority, NHTSA developed two phases of passenger car and light truck standards. The first phase, covering MYs 2017–2021, included final standards that were projected to require, on an average industry fleet wide basis, a range from 40.3–41.0 mpg in MY 2021. The second phase of the CAFE program, covering MYs 2022–2025, included standards that were not final, due to the statutory requirement that NHTSA set average fuel economy standards not more than five model years at a time. Rather, NHTSA wrote that those standards were ''augural,'' meaning that they represented its best estimate, based on the information available at that time, of what levels of stringency might be maximum feasible in those model years. NHTSA projected that those standards could require, on an average industry fleet wide basis, a range from 48.7–49.7 mpg in model year 2025.

As part of the final rulemaking, EPA committed to conducting a Mid-Term Evaluation of its GHG standards established for MYs 2022–2025. As NHTSA did not issue final CAFE standards for MYs 2022–2025 in its 2012 final rule, it does not have any standards for those MYs to be evaluated. Instead, NHTSA is obligated to conduct a *de novo* rulemaking, with fresh inputs and a fresh consideration and balancing of all relevant factors, to establish final CAFE standards for those MYs. Meanwhile, EPA's regulations require it to determine whether the GHG standards for MYs 2022–2025 are appropriate under section 202(a) of the Clean Air Act, in light of the record then before the Administrator. 40 CFR 86.1818–12(h).

In July 2016, NHTSA, EPA, and the California Air Resources Board released for public comment a jointly prepared Draft Technical Assessment Report (TAR), which examined a range of matters relevant to CAFE and GHG emissions standards for MYs 2022–2025. *Notice of Availability of Midterm Evaluation Draft Technical Assessment Report for Model Year 2022–2025 Light Duty Vehicle GHG Emissions and CAFE Standards,* 81 FR 49217 (July 27, 2016). In November 2016, EPA issued a proposed determination for the Mid-Term Evaluation. *Proposed Determination on the Appropriateness of the Model Year 2022–2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards Under the Midterm Evaluation,* 81 FR 87927 (Dec. 6, 2016). On January 12, 2017, the EPA Administrator signed the Final Determination of the Mid-Term Evaluation of light-duty GHG emissions standards for MYs 2022–2025. Subsequently, EPA Administrator Scott Pruitt and Transportation Secretary Elaine L. Chao issued a joint notice announcing EPA's conclusion that it would reconsider its Final Determination in order to allow additional consultation and coordination with NHTSA in support of a national harmonized program. *Notice of Intention to Reconsider the Final Determination of the Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022–2025 Light Duty Vehicles,* 82 FR 14671 (Mar. 22, 2017). As a result, EPA

[3] For environmental considerations, *see Center for Auto Safety* v. *NHTSA,* 793 F.2d 1322, 1325 n. 12 (D.C. Cir. 1986); *Public Citizen* v. *NHTSA,* 848 F.2d 256, 262–3 n. 27 (D.C. Cir. 1988) (noting that ''NHTSA itself has interpreted the factors it must consider in setting CAFE standards as including environmental effects''); *Center for Biological Diversity* v. *NHTSA,* 538 F.3d 1172, 1196 (9th Cir. 2008); 40 CFR 1500.6. For safety considerations, *see, e.g., Competitive Enterprise Inst.* v. *NHTSA,* 956 F.2d 321, 322 (D.C. Cir. 1992) (*citing Competitive Enterprise Inst.* v. *NHTSA,* 901 F.2d 107, 120 n.11 (D.C. Cir. 1990)).

[4] EPA issued GHG emissions standards pursuant to the Clean Air Act. *See* 42 U.S.C. 7521(a).

[5] The EPA GHG standards were estimated to require a combined average fleet-wide level of 250 grams/mile CO_2-equivalent for MY 2016, which is equivalent to 35.5 mpg if all of the technologies used to reduce GHG emissions were tailpipe CO_2 reducing technologies. The 250 g/mi CO_2 equivalent level assumed the use of credits for air conditioning improvements worth 15 g/mi in MY 2016.

intends to make a new Final Determination regarding the appropriateness of the MY 2022–2025 GHG standards no later than April 1, 2018. NHTSA is statutorily required to issue a final rule for MY 2022 CAFE standards no later than April 1, 2020. *See* 49 U.S.C. 32902(a).

Analysis of Alternatives. Pursuant to NEPA, NHTSA will prepare an EIS to evaluate the potential environmental impacts of its proposed action. Although NHTSA evaluated the impacts of the augural standards in its EIS accompanying the MY 2017–2025 rulemaking (NHTSA, *Final Environmental Impact Statement, Corporate Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2017–2025,* Docket No. NHTSA–2011–0056 (July 2012)), NHTSA will prepare a new Draft EIS and Final EIS as part of this *de novo* rulemaking in order to provide for fresh consideration of all available information.

In an upcoming NPRM, NHTSA intends to propose separate attribute-based standards for passenger cars and light trucks for each of MYs 2022–2025. As in the previous CAFE rulemaking, NHTSA plans to propose vehicle footprint [6] as the attribute. The standards are expected to be defined as footprint ''curves'' for passenger cars and light trucks in each model year, where vehicles of different footprints have specific fuel economy ''targets,'' with larger vehicles (and light trucks) generally having lower fuel economy targets than smaller vehicles (and passenger cars), reflecting their fuel economy capabilities.[7] The shape and stringency of the curves would reflect, in part, NHTSA's analysis of the technological and economic capabilities of the industry within the rulemaking timeframe. A manufacturer's individual CAFE standards for cars and trucks, in turn, would be based on the target levels set for the footprints of its particular mix of cars and trucks manufactured in that model year. A manufacturer with a relatively high percentage of smaller vehicles would have a higher standard than a manufacturer with a relatively low percentage of smaller vehicles. Compliance would be determined by comparing a manufacturer's harmonically averaged fleet fuel economy level in a model year with a required fuel economy level calculated using the manufacturer's actual production levels and the targets for each vehicle it produces.[8] As part of this rulemaking, NHTSA may evaluate the MY 2021 standards it finalized in 2012 to ensure they remain ''maximum feasible.'' As with any CAFE rulemaking, NHTSA will also consider other programmatic aspects other than stringency (*e.g.,* flexibilities and vehicle classification) that may affect model years prior to and including those for which NHTSA would set fuel economy standards.

The purpose of and need for an agency's action inform the reasonable range of alternatives to be considered in its NEPA analysis. 40 CFR 1502.13. NHTSA sets CAFE standards as part of a comprehensive energy policy established by EPCA (and amended by EISA) with the purposes of conserving petroleum and of addressing energy independence and security by reducing U.S. reliance on foreign oil.

In developing alternatives for analysis in the EIS, NHTSA must consider EPCA's requirements for setting CAFE standards. As discussed above, EPCA requires NHTSA to determine what level of CAFE stringency would be the ''maximum feasible'' for each model year, a determination made based on the consideration of four statutory factors: Technological feasibility, economic practicability, the effect of other standards of the Government on fuel economy, and the need of the United States to conserve energy. 49 U.S.C. 32902(f). In addition, EISA required fuel economy standards for MY 2011–2020 passenger cars and light trucks to ''achieve a combined fuel economy average for model year 2020 of at least 35 miles per gallon for the total fleet of passenger and non-passenger automobiles manufactured for sale in the United States for that model year.'' *Id.* § 32902(b)(2)(A). NHTSA was required to ''prescribe annual fuel economy standard increases that increase the applicable average fuel economy standard ratably beginning with model year 2011 and ending with model year 2020.'' *Id.* § 32902(b)(2)(C). For MY 2021–2030 passenger cars and light trucks, EISA does not set a target fuel economy or require that standards ''increase . . . ratably'' over the ten-year period. *See id.* § 32902(b)(2)(B).

NHTSA is considering the following alternatives for analysis in the Draft EIS:

- A ''no action'' alternative (also referred to as the ''baseline''), which assumes, for purposes of NEPA analysis, that NHTSA would issue a rule that would continue the current CAFE standards for MY 2021 indefinitely. NEPA requires agencies to consider a ''no action'' alternative in their NEPA analyses and to compare the effects of not taking action with the effects of reasonable action alternatives in order to demonstrate the different environmental effects of the action alternatives. *See* 40 CFR 1502.14(d). Given that NHTSA must set new CAFE standards and may not strictly take no action on fuel economy,[9] the agency has determined that, for this rulemaking, the closest analogue to a true ''no action'' alternative would be to continue the already existing and enforceable standards indefinitely without further change.[10]
- ''Action'' alternatives represented by calculating a lower bound and upper bound of a range of reasonable annual fuel economy standards, from MY 2022 forward.[11] The calculations and the related evaluation of impacts would be performed separately for passenger cars and light trucks at each of these points so as to demonstrate their effects independently, since car and truck standards could change at different rates

[6] Footprint, which is a measure of vehicle size, is calculated by multiplying a vehicle's wheelbase by its track width.

[7] Vehicle models of the same fleet but made by different manufacturers would have the same fuel economy target if they had the same vehicle footprint (*i.e.,* the quantity of the attribute upon which the standards would be based).

[8] While manufacturers may use a variety of flexibility mechanisms to comply with CAFE, including credits earned for over-compliance, NHTSA is statutorily prohibited from considering manufacturers' ability to use statutorily-provided flexibility mechanisms in determining what level of CAFE standards would be maximum feasible. *See* 49 U.S.C. 32902(h).

[9] *See* 49 U.S.C. 32902(a). CEQ has explained that ''[T]he regulations require the analysis of the no action alternative *even if the agency is under a court order or legislative command to act.* This analysis provides a benchmark, enabling decisionmakers to compare the magnitude of environmental effects of the action alternatives. . . . Inclusion of such an analysis in the EIS is necessary to inform the Congress, the public, and the President as intended by NEPA. [*See* 40 CFR 1500.1(a).]'' *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations,* 46 FR 18026 (1981) (emphasis added).

[10] Although NHTSA included ''augural'' standards for MYs 2022–2025 in its previous CAFE rulemaking, those standards are not final. In the absence of additional rulemaking activity, those standards would not be enforceable. However, assuming that no standard would exist after MY 2021 for purposes of the ''no action'' alternative would not be a reasonable assumption (in light of NHTSA's statutory responsibility to promulgate standards and the continuous forty-year history of the program), nor would it provide meaningful information to the decisionmaker for purposes of evaluating the impacts of the action alternatives. At this time, NHTSA believes that the continuation of the status quo ante, particularly that the final MY 2021 standards would continue indefinitely, is the most appropriate baseline against which to compare the proposed regulatory alternatives.

[11] CEQ guidance provides that agencies may use representative examples covering the ''full spectrum'' of reasonable alternatives for purposes of presenting the ''range of alternatives'' in an EIS. *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations,* 46 FR 18026 (Mar. 23, 1981).

from one another and at different rates in different years. These alternatives would bracket the range of actions NHTSA may select. In sum, in its final rule, NHTSA would be able to select an action alternative from any stringency level within that range. NHTSA seeks public comments on the stringency levels at which to define the lower and upper bounds of this range of reasonable alternatives.

• The preferred alternative, reflecting annual fuel economy standards for both passenger cars and light trucks that fall at or between the upper and lower bounds identified above. NHTSA has not yet identified its preferred alternative. NHTSA seeks comments on how it should define and balance the statutory criteria to choose the preferred alternative, given the statutory requirement of setting ''maximum feasible'' fuel economy standards. 49 U.S.C. 32902(f). When suggesting an approach, please explain the recommended way to balance EPCA's factors (technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy).[12]

Thus, NHTSA plans to analyze the impacts of eight different standards in the Draft EIS: Two points bracketing the possible action alternatives for passenger cars, two points bracketing the possible alternatives for light trucks, a No Action Alternative and a preferred alternative for passenger cars, and a No Action Alternative and a preferred alternative for light trucks. We note that the NPRM and Regulatory Impact Analysis (RIA) may analyze additional alternatives within the brackets described in the Draft EIS in order to explore different approaches to balancing the statutory factors.

NHTSA will analyze the lower bound and upper bound of a range of average annual fuel economy standards that would satisfy EPCA's requirement that the standards be ''maximum feasible'' for each model year, based on the different ways NHTSA could weigh EPCA's four statutory factors. Generally speaking, more stringent average annual fuel economy standards might weigh energy conservation and environmental considerations more heavily and technological feasibility and economic practicability concerns less heavily. In contrast, less stringent average annual fuel economy standards might weigh technological feasibility and economic practicability concerns more heavily and energy conservation and environmental considerations less heavily.

The range of alternatives will reflect differences in the degree of technology adoption across the fleet, in costs to manufacturers and consumers, and in conservation of oil and related impacts to the environment. For example, the most stringent average annual fuel economy standard NHTSA will evaluate would require greater adoption of fuel-saving technology across the fleet, including more advanced technology, than the least stringent average annual fuel economy standard NHTSA will evaluate. As a result, the most stringent alternative would impose greater costs and achieve greater energy conservation.

The changes in stringency considered in the lower and upper bounds may be defined as ''average'' changes in stringency; the preferred alternative and actual standards may either be constant throughout the period or may vary from year to year. However, analysis of the average yearly change over that period would provide sufficient environmental analysis to bracket the range of environmental impacts of reasonable alternatives and allow for a reasoned choice among the alternatives presented.

NHTSA may select the lower or upper bound levels of stringency for passenger cars and for light trucks as its preferred alternative, or it may select levels of stringency that fall between those bounds. Within the range identified above, NHTSA may consider setting more stringent standards for the earlier years of the rule than for the later years, or, alternatively, setting less stringent standards for the earlier years of the rule than for the later years, depending on our assessment of what would be ''maximum feasible'' for those time periods for each fleet. In addition, NHTSA may consider setting standards for passenger cars and light trucks that change at different rates between the low and high levels it is considering, depending on a determination of the maximum feasible level for each fleet over time. NHTSA also may select ''maximum feasible'' fuel economy standards for some or all model years that decrease or remain the same as compared to the immediately prior model year(s).

In selecting a preferred alternative, NHTSA is also mindful of its responsibility under Executive Order 13783, signed by President Donald J. Trump on March 28, 2017, to ensure that ''necessary and appropriate environmental regulations comply with the law, are of greater benefit than cost, when permissible, achieve environmental improvements for the American people, and are developed through transparent processes that employ the best available peer-reviewed science and economics.'' [13] E.O. 13783, *Promoting Energy independence and Economic Growth* (Mar. 28, 2017).

Planned Analysis. While the main focus of NHTSA's prior CAFE EISs for light duty vehicles (*i.e.,* the EIS for MYs 2012–2016 and MYs 2017–2025) was the quantification of impacts to energy, air quality, and climate, and qualitative analysis of life-cycle impacts and cumulative impacts, it also addressed other potentially affected resources. NHTSA conducted a qualitative review of impacts on resources such as water resources, biological resources, land use, hazardous materials, safety, noise, historic and cultural resources, and environmental justice.

Similar to past EIS practice, NHTSA plans to analyze environmental impacts related to fuel and energy use, emissions and their effects on climate change and the environment,[14] air quality,[15] natural resources, and the human environment. NHTSA will address life-cycle impacts consistent with its past EISs, by focusing on reviewing and summarizing findings from existing, credible scientific information evaluating the most significant environmental impacts from some of the fuels, materials, and technologies that may be used to comply with the Proposed Action and alternatives. NHTSA also will consider the cumulative impacts of the proposed standards for MY 2022–2025 passenger cars and light trucks together with any past, present, and reasonably foreseeable future actions.

[12] Note that NHTSA is statutorily prohibited from considering statutorily-provided flexibility mechanisms in determining what standards would be maximum feasible. 49 U.S.C. 32902(h).

[13] The CAFE program is not strictly an environmental one, as it was created under EPCA as part of a national energy policy to reduce U.S. reliance on foreign oil. However, fuel economy standards do have environmental impacts, and as noted above, NHTSA construes the statutory factors in EPCA as including environmental considerations. The environmental impacts will be analyzed in the EIS, and NHTSA is mindful of its obligations under E.O. 13783.

[14] NHTSA is planning to include in this EIS a quantitative analysis to estimate the impact of the alternatives on ocean acidification based on changes in atmospheric CO_2 concentrations.

[15] Consistent with past practice, in addition to the air quality analysis presented in the Draft and Final EIS, NHTSA will conduct a national-scale photochemical air quality modeling and health risks assessment that will be included in the Final EIS, but not the Draft EIS, due to the substantial time required to complete the analysis. In addition, because of the lead time required for this analysis, it will be based on the alternatives presented in the Draft EIS, but not the alternatives as they may be revised for the Final EIS. Still, NHTSA believes the analysis will provide meaningful information for the decisionmaker and the public.

NHTSA anticipates uncertainty in estimating the potential environmental impacts related to climate change. To account for this uncertainty, NHTSA plans to evaluate a range of potential global temperature changes that may result from changes in fuel and energy consumption and GHG emissions attributable to new CAFE standards. It is difficult to quantify how the specific impacts due to the potential temperature changes attributable to new CAFE standards may affect many aspects of the environment. NHTSA will endeavor to gather the key relevant and credible information using a transparent process that employs the best available peer-reviewed science and economics. NHTSA invites public comments on the scope of its analysis on climate change impacts, including citations to peer-reviewed scientific articles to frame and analyze the relevant issues.

In order to streamline its documentation and eliminate redundancy, NHTSA plans not to include analyses of either monetized health benefits in its air quality analysis or monetized climate change benefits in its climate change analysis in the EIS, as both of those analyses will be included in its RIA (consistent with past practice), which is subject to public notice and comment concurrently with the EIS. NHTSA will incorporate the analyses in the RIA by reference in the EIS consistent with the requirements of the CEQ implementing regulations. 40 CFR 1502.21. The EIS will continue to present analyses on air quality emissions (including non-monetized health impacts), GHG emissions, and climate change impacts (including impacts on CO_2 concentrations, temperature, sea-level rise, and precipitation).

NHTSA expects to rely on previously published EISs, incorporating material by reference ''when the effect will be to cut down on bulk without impeding agency and public review of the action.'' *Id.* Therefore, the NHTSA NEPA analysis and documentation will incorporate by reference relevant materials, including portions of the agency's prior NEPA documents, where appropriate.

Scoping and Public Participation. NHTSA's NEPA analysis for the MY 2022–2025 CAFE standards will consider the direct, indirect, and cumulative environmental impacts of proposed standards and those of reasonable alternatives. The scoping process initiated by this notice seeks public comment on the range of alternatives under consideration, on the impacts to be considered, and on the most important matters for in-depth analysis in the EIS. *See* 40 CFR 1500.5(d), 1501.7, 1508.25. All comments relevant to the scoping process are welcome.

NHTSA invites the public to participate in the scoping process [16] by submitting written comments concerning the appropriate scope of the NEPA analysis for the proposed CAFE standards to the docket number identified in the heading of this notice, using any of the methods described in the **ADDRESSES** section of this notice. NHTSA does not plan to hold a public scoping meeting because, based on prior experience, written comments will be effective in identifying and narrowing the considerations for analysis.

NHTSA is interested in comments on its bracketing approach to presenting a reasonable range of alternatives. Subject to the statutory requirements of EPCA/EISA, a variety of potential alternatives could be considered that meet the purpose and need for the agency's action, each falling along a theoretically infinite continuum of potential standards. As described above, NHTSA plans to address this by identifying alternatives at the upper and lower bounds of a range within which we believe the statutory requirement for ''maximum feasible'' would be satisfied, as well as identifying and analyzing the impacts of a preferred alternative. In this way, NHTSA expects to bracket the potential environmental impacts of the standards it may select.[17]

Two important purposes of scoping are identifying the significant considerations that merit in-depth analysis in the EIS and identifying and eliminating from detailed analysis the matters that are not significant and therefore require only a brief discussion in the EIS. 40 CFR 1500.4(g), 1501.7(a). In light of these purposes, written comments should include an internet citation (with a date last visited) to each study or report cited in the comments, if one is available. If a document cited is not available to the public online, the commenter should either provide sufficient bibliographical information to allow NHTSA to locate and obtain a copy of the study or attach a copy to the comments.[18] Commenters should indicate how each document cited or attached to their comments is relevant to the NEPA analysis and indicate the specific pages and passages in the attachment that are most informative.

The more specific the comments are, and the more support they provide in identifying peer-reviewed scientific studies and reports, the more useful the comments will be to the NEPA process. For example, if a comment identifies an additional area of impact or environmental concern that NHTSA should analyze, or an analytical tool or model that NHTSA should use to evaluate these environmental impacts, the comment should clearly describe it and provide a reference to a specific peer-reviewed scientific study, report, tool, or model, if possible. Specific, well-supported comments will help the agency prepare an EIS that is focused and relevant and will serve NEPA's overarching aims of making high quality information available to decisionmakers and the public by ''concentrat[ing] on the issues that are truly significant to the action in question, rather than amassing needless detail.'' 40 CFR 1500.1(b). By contrast, mere assertions that the agency should evaluate broad lists or categories of concerns, without support, will not assist the scoping process for the proposed standards.

Please be sure to reference the docket number identified in the heading of this notice in any submitted comments. All comments and materials received, including the names and addresses of the commenters who submit them, will become part of the administrative record and will be posted on the web at *http://www.regulations.gov*.

Separate **Federal Register** notices published by EPA will announce the availability of the Draft EIS, which will be available for public comment, and the Final EIS. NHTSA will issue the Draft EIS concurrently with its NPRM. In addition, NHTSA will simultaneously issue a Final EIS and Record of Decision (Final Rule), pursuant to 49 U.S.C. 304a, unless it is determined that statutory criteria or practicability considerations preclude concurrent issuance. NHTSA also plans to continue to post information about

[16] Consistent with NEPA and implementing regulations, NHTSA is sending this notice directly to: (1) Federal agencies having jurisdiction by law or special expertise with respect to the environmental impacts involved or authorized to develop and enforce environmental standards; (2) the Governors of every State, to share with the appropriate agencies and offices within their administrations and with the local jurisdictions within their States; (3) organizations representing state and local governments and Indian tribes; and (4) other stakeholders that NHTSA reasonably expects to be interested in the NEPA analysis for the MY 2022–2025 CAFE standards. *See* 42 U.S.C. 4332(2)(C); 49 CFR 520.21(g); 40 CFR 1501.7, 1506.6.

[17] Should NHTSA ultimately choose to set standards at levels other than the preferred alternative identified in the NPRM and Draft EIS, we believe that this bracketing will properly inform the decisionmaker, so long as the standards are set within its parameters.

[18] Please be mindful of copyright restrictions when attaching documents to any comments, as they will be made publicly available in the agency's docket.

the NEPA process and this CAFE rulemaking on its Web site (*http://www.nhtsa.gov*).

Issued in Washington, DC, on July 21, 2017 under authority delegated in 49 CFR parts 1.81 and 1.95.

James Tamm,

Chief, Fuel Economy Division.

[FR Doc. 2017–15701 Filed 7–25–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2017–0037; Notice No. 2017–02]

International Standards on the Transport of Dangerous Goods

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Notice of comment solicitation.

SUMMARY: PHMSA requests comments on issues being considered during the 51st and 52nd sessions of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE TDG).

DATES: Comments must be received by November 17, 2017.

ADDRESSES: You may submit comments identified by the docket number (PHMSA–2017–0037) by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* To Docket Operations, Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number for this notice at the beginning of the comment. Note that all comments received will be posted without change to the docket management system, including any personal information provided.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov,* or DOT's Docket Operations Office (see **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Mr. Steven Webb or Mr. Aaron Wiener, Office of Hazardous Materials Safety, U.S. Department of Transportation, Washington, DC 20590, (202) 366–8553.

Privacy Act: Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION: The 51st session of the UNSCOE TDG was held in Geneva, Switzerland from July 3 to 7, 2017. The 52nd session will be held November 27 to December 6, 2017, also in Geneva. These are the first and second of four meetings scheduled for the 2017–2018 biennium. The UNSCOE TDG will consider amendments to the 20th Revised Edition of the United Nations Recommendations on the Transport of Dangerous Goods Model Regulations (Model Regulations), and the 6th Revised Edition of the United Nations Manual of Tests and Criteria which may be implemented into relevant domestic, regional, and international regulations after January 1, 2021. Accordingly, PHMSA is soliciting input from interested persons for use in developing U.S. comments on issues to be considered by the UNSCOE TDG. Copies of working documents, informal documents, and the meeting agenda may be obtained from the United Nations (UN) Transport Division's Web site at *http://www.unece.org/trans/main/dgdb/dgsubc3/c32017.html.*

Topics on the agenda for the UNSCOE TDG meeting include:

- Explosives and related matters;
- Listing, classification, and packing;
- Electric storage systems;
- Transport of gases;
- Miscellaneous proposals for amendments to the Model Regulations on the Transport of Dangerous Goods;
- Global harmonization of the Transport of Dangerous Goods Regulations with the Model Regulations;
- Cooperation with the International Atomic Energy Agency;
- Guiding principles for the Model Regulations; and
- Issues relating to the Globally Harmonized System of Classification and Labelling of Chemicals (GHS).

Following the 51st and 52nd sessions of the UNSCOE TDG, a copy of the Sub-Committee's report for each session will be available at the UN Transport Division's Web site at *http://www.unece.org/trans/main/dgdb/dgsubc3/c3rep.html.* PHMSA's Web site at *http://www.phmsa.dot.gov/hazmat/regs/international* provides additional information regarding the UNSCOE TDG and related matters.

Signed at Washington, DC, on July 21, 2017.

William S. Schoonover,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2017–15719 Filed 7–25–17; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Action Pursuant to an Executive Order Issued on September 23, 2001, Titled ''Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism''

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of one individual whose property and interests in property are blocked pursuant to an Executive order issued on September 23, 2001, titled ''Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism.''

DATES: OFAC's action described in this notice was effective on July 21, 2017.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202–622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490, Assistant Director for Licensing, tel.: 202–622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202–622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treas.gov/ofac*).

Notice of OFAC Actions

On July 21, 2017, OFAC blocked the property and interests in property of the following individual pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism'':

Individual

1. BARKHANOEV, Malik Ruslanovish (a.k.a. ''INGUSHI, Saifuddin''; a.k.a. ''INGUSHI, Sayfuddin''), Iraq; Syria; DOB 14 Mar 1992; POB Ordzhonikidzevskaya, Ingushetia, Russia; nationality Russia; Gender Male (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT). Designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of the Islamic State of Iraq and Levant (ISIL), an entity designated pursuant to E.O. 13224.

Dated: July 21, 2017.

John E. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2017–15713 Filed 7–25–17; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0422]

Agency Information Collection Activity: Department of Veteran Affairs Acquisition Regulation (VAAR) Construction Provisions and Clauses 852.236–72, 852.236.80, 852.236–82, 852.236–83, 852.236–84 and 852.236–88

AGENCY: The Office of Management (OM), Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Management (OM), 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 extension 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 September 25, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Ricky Clark, Office of Acquisition and Logistics (003A2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *Ricky.Clark@va.gov.* Please refer to ''OMB Control No. ''2900–0422'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

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, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM functions, including whether the information will have practical utility; (2) the accuracy of OM 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: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521).

Title: Department Of Veteran Affairs Acquisition Regulation (VAAR) Clauses 852.236–72, 852.236.80, 852.236–82, 852.236–83, 852.236–84 and 852.236–88.

OMB Control Number: 2900–0422.

Type of Review: Extension of a currently approved collection.

Abstract: This collection of information contains the following six collections of information for the following Department of Veterans Affairs Acquisition Regulation (VAAR) clauses: (1) VAAR clause 852.236–72, Performance of Work by the Contractor, requires contractors awarded a construction contract containing Federal Acquisition Regulation (FAR) clause 52.236–1, Performance of Work by the Contractor, to submit a statement designating the branch or branches of contract work to be performed by the contractor's own forces. The FAR clause requires the contractor to perform a minimum percentage of the work under the contract with its own forces. This VAAR clause implements this FAR clause by requiring the contractor to provide information to the contracting officer on just how the contractor intends to fulfill this contractual obligation. The information is used by the contracting officer to ensure that the contractor complies with the contract requirements; (2) VAAR clause 852.236–80, Subcontracts and Work Coordination requires construction contractors, on contracts involving complex mechanical-electrical work, to furnish coordination drawings showing the manner in which utility lines will fit into available space and relate to each other and to the existing building elements. The intent of this information is to promote carefully planned work sequencing and proper trade coordination on construction contracts, to assure expeditious solutions to problems, and to avoid or minimize additional costs to the contractor and the Government. The information is used by the contracting officer and the VA engineer assigned to the project to resolve any problems relating to the installation of utilities on construction contracts; (3) VAAR clause 852.236–84, Schedule of Work Progress, requires construction contractors, on contracts that do not require the use of a NAS, to submit a progress schedule. The information is used by the contracting officer to track the contractor's progress under the contract and to determine whether or not the contractor is making satisfactory progress (4) VAAR clause 852.236–88, Contract Changes, supplements FAR clause 52.243–4, Changes. FAR clause 52.243–4 authorizes the contracting officer to order changes to a construction contract but does not specifically require the contractor to submit cost proposals for those changes. VAAR clause 852.236–88 requires contractors to submit cost proposals for changes ordered by the contracting officer or for changes proposed by the contractor. This information is needed to allow the contracting officer and the contractor to reach a mutually acceptable agreement on how much to pay the contractor for the proposed changes to the contract. It is also used by the contracting officer to determine whether or not to authorize the proposed changes or whether or not additional or alternate changes are needed; (5) VAAR clause 852.236–82, Payments under Fixed-Price Construction Contracts (without NAS–CPM), with its Alternate I, requires construction contractors to submit a schedule of costs for work to be performed under the contract. In addition, if the contract includes guarantee period services, Alternate I,

requires the contractor to submit information on the total and itemized costs of the guarantee period services and to submit a performance plan/program. The information is needed to allow the contracting officer to determine the correct amount to pay the contractor as work progresses and to properly proportion the amount paid for guarantee period services. The information is used by the contracting officer to determine the correct amount to pay the contractor; (6) VAAR clause 852.236–83, Payments under Fixed-Price Construction Contracts (including NAS–CPM), with its Alternate I, requires construction contractors to submit a schedule of costs for work to be performed under the contract. In addition, if the contract includes guarantee period services, Alternate I, requires the contractor to submit information on the total and itemized costs of the guarantee period services and to submit a performance plan/program. The information is needed to allow the contracting officer to determine the correct amount to pay the contractor as work progresses and to properly proportion the amount paid for guarantee period services. The contracting officer uses the information to determine the correct amount to pay the contractor. The difference between this clause and the one above, 852.236–83, is that this clause requires the contractor to use a computerized Network Analysis System (NAS) to prepare the cost estimate. The Information is necessary for the Department of Veterans Affairs to administer construction contracts and to carry out its responsibility to construct, maintain, and repair real property for the department.

Affected Public: Business or other for-profit and not-for-profit institutions.

Estimated Annual Burden:

a. Clause 852.236–72, Performance of Work by the Contractor—60 hours.

b. Clause 852.236–80, Subcontracts and Work Coordination—920 hours.

c. Clause 852.236–84, Schedule of Work Progress—1,828.5 hours.

d. Clause 852.236–88, Contract Changes—729 hours.

e. Clause 852.236–82, Payments under Fixed-Price Construction Contracts (without NAS–CPM), with its Alternate I—1219 hours.

f. Clause 852.236.83, Payments under Fixed-Price Construction Contracts (including NAS–CPM), with its Alternate I—46 hours.

Estimated Average Burden per Respondent:

g. Clause 852.236–72, Performance of Work by the Contractor—1 hour.

h. Clause 852.236–80, Subcontracts and Work Coordination—10 hours.

i. Clause 852.236–84, Schedule of Work Progress—1 hour.

j. Clause 852.236–88, Contract Changes—3 hours.

k. Clause 852.236–82, Payments under Fixed-Price Construction Contracts (without NAS–CPM), with its Alternate I—1 hour.

l. Clause 852.236–83, Payments under Fixed-Price Construction Contracts (including NAS–CPM), with its Alternate I—.5 hours

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. Clause 852.236–72, Performance of Work by the Contractor—60.

b. Clause 852.236–80, Subcontracts and Work Coordination—92.

c. Clause 852.236–84, Schedule of Work Progress—1,219.

d. Clause 852.236–88, Contract Changes—243.

e. Clause 852.236–82, Payments under Fixed-Price Construction Contracts (without NAS–CPM), with its Alternate I—1,219.

f. Clause 852.236–83, Payments under Fixed-Price Construction Contracts (including NAS–CPM), with its Alternate I—92.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–15699 Filed 7–25–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0622]

Agency Information Collection Activity: Department of Veterans Affairs Acquisition Regulation (VAAR) Clause 852.236–89, Buy American Act

AGENCY: The Office of Management (OM), Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Management (OM), 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 extension 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 September 25, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Ricky Clark, Office Of Acquisition and Logistics (003A2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *Ricky.Clark@va.gov.* Please refer to ''OMB Control No. ''2900–0622'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

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, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM functions, including whether the information will have practical utility; (2) the accuracy of OM 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: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521).

Title: Department of Veterans Affairs Acquisition Regulation (VAAR) Clause 852.236–89, Buy American Act.

OMB Control Number: 2900–0622.

Type of Review: Extension of a currently approved collection.

Abstract: The Buy American Act requires that only domestic construction material shall be used to perform domestic Federal contracts for construction, with certain exceptions. VA policy is to not accept foreign construction material. However, if a bidder chooses to submit a bid that includes foreign material, VA will consider such bids if the material is specifically identified and the price of the material is provided. VAAR clause 852.236–89, Buy American Act, advises

bidders of these provisions and requires bidders who want to offer foreign construction material to list the material and its price. Bidders who do not intend to offer foreign material do not need to submit any information under this clause. The information is required to allow VA to make an informed decision as to whether or not to accept a bid that includes foreign construction material. In actual practice, very few bidders ever offer foreign materials and, when they do, very few of those offers are accepted.

Affected Public: Business or other for-profit and not-for-profit institutions.

Estimated Annual Burden:

a. VAAR clause 852.236–89, Buy American Act—22 hours.

Estimated Average Burden per Respondent:

a. VAAR clause 852.236–89—30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 43.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–15697 Filed 7–25–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activity: Decision Ready Claims (DRC) Exam Review

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 extension 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 September 25, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *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.* Please refer to ''OMB Control No. 2900–NEW'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

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: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Decision Ready Claims (DRC) Exam Review (VA Form 21–0985).

OMB Control Number: 2900–NEW.

Type of Review: New collection.

Abstract: VA Form 21–0985 will be used to identify the condition(s) that a veteran would like VA to schedule a contract examination for in support of his/her Decision Ready Claim.

Affected Public: Individuals and households.

Estimated Annual Burden: 2,500 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 10,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–15700 Filed 7–25–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0418]

Agency Information Collection Activity: Department of Veteran Affairs Acquisition Regulation (VAAR) Sections 809.504(d) and Clause 852.209–70

AGENCY: The Office of Management (OM), Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Management (OM), 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 extension 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 September 25, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Ricky Clark, Office Of Acquisition and Logistics (003A2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *Ricky.Clark@va.gov.* Please refer to ''OMB Control No. ''2900–0418'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

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, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM functions, including whether the information will have practical utility; (2) the accuracy of OM 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: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521).

Title: Department Of Veteran Affairs Acquisition Regulation (VAAR) Sections 809.504(d) and Clause 852.209–70.

OMB Control Number: 2900–0418.

Type of Review: Extension of a currently approved collection.

Abstract: VAAR section 809.504(d) and Clause 852.209–70 requires VA to determine whether or not to award a contract to a firm that might involve or result in a conflict of interest. VA uses the information to determine whether additional contract terms and conditions are necessary to mitigate the conflict. 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.

Affected Public: Business or other for-profit and not-for-profit institutions.

Estimated Annual Burden:

a. VAAR section 809504(d) and VAAR clause 852.209–7—110 hours.

Estimated Average Burden per Respondent:

a. VAAR section 809.504(d) and VAAR clause 852.209–7—1 hour.

Frequency of Response: On occasion.

Estimated Number of Respondents: VAAR section 809.504(d) and VAAR clause 852.209–7—102.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–15698 Filed 7–25–17; 8:45 am]

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FEDERAL REGISTER

Vol. 82 Wednesday,
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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Seasons and Bag and Possession Limits for Certain Migratory Game Birds; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2016–0051; FF09M21200–178–FXMB1231099BPP0]

RIN 1018–BB40

Migratory Bird Hunting; Seasons and Bag and Possession Limits for Certain Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits for migratory game birds. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule permits the taking of designated species during the 2017–18 season.

DATES: This rule takes effect on July 26, 2017.

ADDRESSES: You may inspect comments received on the migratory bird hunting regulations during normal business hours at the Service's office at 5275 Leesburg Pike, Falls Church, Virginia. You may obtain copies of referenced reports from the street address above, or from the Division of Migratory Bird Management's Web site at *http://www.fws.gov/migratorybirds/*, or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2016–0051.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2017

On June 10, 2016, we published a proposal to amend title 50 of the Code of Federal Regulations (CFR) at part 20 (81 FR 38050). The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2017–18 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in the June 10, 2016, proposed rule.

The June 10, 2016, proposed rule also provided detailed information on the proposed 2017–18 regulatory schedule and announced the Service Regulations Committee (SRC) and Flyway Council meetings.

On August 12, 2016, we published in the **Federal Register** (81 FR 53391) a second document providing supplemental proposals for migratory bird hunting regulations. The August 12 supplement also provided detailed information on the 2017–18 regulatory schedule and re-announced the SRC and Flyway Council meetings.

On October 25–26, 2016, we held open meetings with the Flyway Council Consultants, at which the participants reviewed information on the current status of migratory game birds and developed recommendations for the 2017–18 regulations for these species.

On February 9, 2017, we published in the **Federal Register** (82 FR 10222) the proposed frameworks for the 2017–18 season migratory bird hunting regulations. On May 30, 2017, we published in the **Federal Register** (82 FR 24786) final season frameworks for migratory game bird hunting regulations, from which State wildlife conservation agency officials selected season hunting dates, hours, areas, and limits for 2017–18 seasons.

The final rule described here is the final in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations for 2017–18, and deals specifically with amending subpart K of 50 CFR part 20. It sets hunting seasons, hours, areas, and limits for migratory game bird species. This final rule is the culmination of the rulemaking process for the migratory game bird hunting seasons, which started with the June 10, 2016, proposed rule. As discussed elsewhere in this document, we supplemented that proposal on August 12, 2016, and February 9, 2017, and published final season frameworks on May 30, 2017, that provided the season selection criteria from which the States selected these seasons. This final rule sets the migratory game bird hunting seasons based on that input from the States. We previously addressed all comments in the May 30 **Federal Register**.

Required Determinations

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This final rule is not subject to the requirements of Executive Order (EO) 13771 (82 FR 9339, February 3, 2017) because this final rule establishes annual harvest limits related to routine hunting or fishing.

National Environmental Policy Act (NEPA) Consideration

The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being ''Duck Hunting Regulations for 2017–18,'' with its corresponding April 7, 2017, finding of no significant impact. The programmatic document as well the separate environmental assessments are available on our Web site at *https://www.fws.gov/birds/index.php* or from the address indicated under the caption **FOR FURTHER INFORMATION CONTACT.**

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *.'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks reflected any such modifications. Our biological opinions resulting from this section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES.**

Regulatory Planning and Review (Executive Orders 12866 and 13563)

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed this rule and has determined that this rule is significant because it would have an annual effect of $100 million or more on the economy.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

An economic analysis was prepared for the 2013–14 season. This analysis was based on data from the 2011 National Hunting and Fishing Survey, the most recent year for which data are available (see discussion in Regulatory Flexibility Act section, below). We used this analysis again for the 2017–18 season. This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives are (1) issue restrictive regulations allowing fewer days than those issued during the 2012–13 season, (2) issue moderate regulations allowing more days than those in alternative 1, and (3) issue liberal regulations identical to the regulations in the 2012–13 season. For the 2013–14 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of $317.8–$416.8 million. We also chose alternative 3 for the 2009–10, the 2010–11, the 2011–12, the 2012–13, the 2014–15, the 2015–16, the 2016–17, and the 2017–18 seasons. The 2013–14 analysis is part of the record for this rule and is available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2016–0051.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, 2008, and 2013. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2013 Analysis was based on the 2011 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.5 billion at small businesses in 2013. Copies of the Analysis are available upon request from the Division of Migratory Bird Management (see **FOR FURTHER INFORMATION CONTACT**) or from *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2016–0051.

Small Business Regulatory Enforcement Fairness Act

This final rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule will have an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

This rule does not contain any new information collection that requires approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has reviewed and approved the information collection requirements associated with migratory bird surveys and assigned the following OMB control numbers:

- 1018–0019—North American Woodcock Singing Ground Survey (expires 5/31/2018).
- 1018–0023—Migratory Bird Surveys (expires 6/30/2017; in accordance with 5 CFR 1320.10, the agency may continue to conduct or sponsor this collection of information while the submission is pending at OMB). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment

In accordance with E.O. 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule allows hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under E.O. 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in the June 10, 2016, **Federal Register** (81 FR 38050), we solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2017–18 migratory bird hunting season. The

resulting proposals will be contained in a separate proposed rule. By virtue of these actions, we have consulted with affected Tribes.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States through the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Review of Public Comments

The preliminary proposed rulemaking (June 10 **Federal Register**) opened the public comment period for 2017–18 migratory game bird hunting regulations. We previously addressed all comments in a May 30, 2017, **Federal Register** publication (82 FR 24786).

Regulations Promulgation

The rulemaking process for migratory game bird hunting, by its nature, operates under a time constraint as seasons must be established each year or hunting seasons remain closed. However, we intend that the public be provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment and the most opportunities for public involvement. We also provided notification of our participation in multiple Flyway Council meetings, opportunities for additional public review and comment on all Flyway Council proposals for regulatory change, and opportunities for additional public review during the Service Regulations Committee meeting. Therefore, we believe that sufficient public notice and opportunity for involvement have been given to affected persons.

Further, States need sufficient time to communicate these season selections to their affected publics, and to establish and publicize the necessary regulations and procedures to implement these seasons. Thus, we find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), these regulations will take effect less than 30 days after publication. Accordingly, with each conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State or Territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: June 13, 2017.

Virginia H. Johnson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

For the reasons set out in the preamble, title 50, chapter I, subchapter B, part 20, subpart K of the Code of Federal Regulations is amended as follows:

PART 20—MIGRATORY BIRD HUNTING

■ 1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742 a–j; Public Law 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

Note— The following annual hunting regulations provided for by §§ 20.101 through 20.106 and 20.109 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

■ 2. Section 20.101 is revised to read as follows:

§ 20.101 Seasons, limits, and shooting hours for Puerto Rico and the Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset.

CHECK COMMONWEALTH REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) *Puerto Rico.*

	Season dates	Limits	
		Bag	Possession
Doves and Pigeons:			
Zenaida, white-winged, and mourning doves (1) ..	Sept. 2–Oct. 31	20	20
Scaly-naped pigeons	Sept. 2–Oct. 31	5	5
Ducks	Nov. 11–Dec. 18 & Jan. 13–Jan. 29	6	12
		6	12
Common Moorhens	Nov. 11–Dec. 18 & Jan. 13–Jan. 29	6	12
		6	12
Common Snipe	Nov. 11–Dec. 18 & Jan. 13–Jan. 29	8	16
		8	16

(1) Not more than 10 Zenaida and 3 mourning doves in the aggregate.

Restrictions: In Puerto Rico, the season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, masked duck, purple gallinule, American coot, Caribbean coot, white-crowned pigeon, and plain pigeon.

Closed Areas: Closed areas are described in the May 30, 2017, **Federal Register** (82 FR 24786).

(b) *Virgin Islands.*

	Season dates	Limits	
		Bag	Possession
Zenaida doves	Sept. 1–Sept. 30	10	10
Ducks	CLOSED		

Restrictions: In the Virgin Islands, the seasons are closed for ground or quail doves, pigeons, ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, masked duck, and all other ducks, and purple gallinule.

Closed Areas: Ruth Cay, just south of St. Croix, is closed to the hunting of migratory game birds. All Offshore Cays under jurisdiction of the Virgin Islands Government are closed to the hunting of migratory game birds.

■ 3. Section 20.102 is revised to read as follows:

§ 20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset. Area descriptions were published in the May 30, 2017, **Federal Register** (82 FR 24786).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Area seasons	Dates
North Zone	Sept. 1–Dec. 16.
Gulf Coast Zone	Sept. 1–Dec. 16.
Southeast Zone	Sept. 16–Dec. 31.
Pribilof & Aleutian Islands Zone	Oct. 8–Jan. 22.
Kodiak Zone	Oct. 8–Jan. 22.

DAILY BAG AND POSSESSION LIMITS

Area	Ducks (1)	Canada geese (2)(3)	White fronted geese (4)(5)	Light geese (6)	Brant	Emperor geese (7)(8)	Snipe	Sandhill cranes (9)
North Zone	10–30	4–12	4–12	6–18	3–9	1–1	8–24	3–9
Gulf Coast Zone	8–24	4–12	4–12	6–18	3–9	1–1	8–24	2–6
Southeast Zone	7–21	4–12	4–12	6–18	3–9	1–1	8–24	2–6
Pribilof and Aleutian Islands Zone	7–21	4–12	4–12	6–18	3–9	1–1	8–24	2–6
Kodiak Zone	7–21	4–12	4–12	6–18	3–9	1–1	8–24	2–6

(1) The basic duck bag limits may include no more than 2 canvasbacks daily, and may not include sea ducks. In addition to the basic duck limits, the sea duck limit is 10 daily (singly or in the aggregate), including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers. The season for Steller's and spectacled eiders is closed.

(2) In Units 5 and 6, the taking of Canada geese is only permitted from September 28 through December 16. In the Middleton Island portion of Unit 6, the taking of Canada geese is by special permit only. The maximum number of Canada goose permits is 10 for the season. A mandatory goose-identification class is required. Hunters must check in and out. The daily bag and possession limit is 1. The season will close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

(3) In Units 9, 10, 17, and 18, for Canada geese, the daily bag limit is 6 and the possession limit is 18.

(4) In Units 9, 10, and 17, for white-fronted geese, the daily bag limit is 6 and the possession limit is 18.

(5) In Unit 18, for white-fronted geese, the daily bag limit is 10 and the possession limit is 30.

(6) Light geese include snow geese and Ross's geese.

(7) In Unit 8, the Kodiak Island Roaded Area is closed to emperor goose hunting. The Kodiak Island Roaded Area consists of all lands and water (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larsen Bay. Marine waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest, for example: Woody, Long, Gull and Puffin Islands.

(8) Emperor goose hunting is by State permit only; no more than 1 emperor goose may be authorized per permit, and no more than 1 permit may be issued per hunter per season. Hunters will be required to file a harvest report with the State after harvesting an emperor goose. Total emperor goose harvest may not exceed 1,000 birds. See State regulations for specific dates, times, and conditions of permit hunts and closures.

(9) In Unit 17 of the North Zone, for sandhill cranes, the daily bag limit is 2 and the possession limit is 6.

Falconry: The total combined bag and possession limit for migratory game birds taken with the use of a raptor under a falconry permit is 3 per day, 9 in possession, and may not exceed a more restrictive limit for any species listed in this subsection.

Special Tundra Swan Season: In Units 17, 18, 22, and 23, there will be a tundra swan season from September 1 through October 31 with a season limit

of 3 tundra swans per hunter. This season is by State permit only; hunters will be issued 1 permit allowing the take of up to 3 tundra swans. Hunters will be required to file a harvest report with the State after the season is completed. Up to 500 permits may be issued in Unit 18; 300 permits each in Units 22 and 23; and 200 permits in Unit 17.

■ 4. Section 20.103 is revised to read as follows:

§ 20.103 Seasons, limits, and shooting hours for doves and pigeons.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the May 30, 2017, **Federal Register** (82 FR 24786).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) *Doves.*

Note: Unless otherwise noted, the seasons listed below are for mourning and white-winged doves. Daily bag and possession limits are in the aggregate for the two species.

	Season dates	Limits	
		Bag	Poss.
EASTERN MANAGEMENT UNIT			
Alabama:			
North Zone.			
12 noon to sunset	Sept. 9 only	15	15
1/2 hour before sunrise to sunset	Sept. 10–Oct. 29 &	15	45
	Dec. 8–Jan. 15	15	45
South Zone.			
12 noon to sunset	Sept. 16 only	15	15
1/2 hour before sunrise to sunset	Sept. 17–Sept. 24 &	15	45
	Oct. 7–Oct. 28 &	15	45
	Nov. 18–Jan. 15	15	45
Delaware	Sept. 1–Sept. 30 & Oct. 17–Oct. 21 &	15	45
	Nov. 20–Jan. 13	15	45
		15	45
Florida:			
12 noon to sunset	Sept. 23–Oct. 23	15	45
1/2 hour before sunrise to sunset	Nov. 11–Dec. 4 &	15	45
	Dec. 12–Jan. 15	15	45
Georgia:			
12 noon to sunset	Sept. 2 only	15	15
1/2 hour before sunrise to sunset	Sept. 3–Sept. 17 &	15	45
	Oct. 14–Nov. 2 &	15	45
	Nov. 23–Jan. 15	15	45
Illinois (1)	Sept. 1–Nov. 14 &	15	45
	Dec. 26–Jan. 9	15	45
Indiana	Sept. 1–Oct. 15 &	15	45
	Nov. 1–Nov. 12 &	15	45
	Dec. 9–Jan. 10	15	45
Kentucky:			
11 a.m. to sunset	Sept. 1 only	15	15
1/2 hour before sunrise to sunset	Sept. 2–Oct. 26 &	15	45
	Nov. 23–Dec. 3 &	15	45
	Dec. 23–Jan. 14	15	45
Louisiana:			
North Zone:.			
1/2 hour before sunrise to sunset	Sept. 2–Sept. 24 &	15	45
	Oct. 7–Nov. 12 &	15	45
	Dec. 17–Jan. 15	15	45
South Zone:.			
1/2 hour before sunrise to sunset	Sept. 2–Sept. 10 &	15	45
	Oct. 7–Nov. 26 &	15	45
	Dec. 17–Jan. 15	15	45
Maryland:			
12 noon to sunset	Sept. 1–Oct. 14	15	45
1/2 hour before sunrise to sunset	Oct. 26–Nov. 18 &	15	45
	Dec. 16–Jan. 6	15	45
Mississippi:			
North Zone	Sept. 2–Oct. 8 &	15	45
	Oct. 21–Nov. 4 &	15	45
	Dec. 9–Jan. 15	15	45
South Zone	Sept. 2–Sept. 10 &	15	45
	Oct. 7–Nov. 11 &	15	45
	Dec. 2–Jan. 15	15	45
North Carolina	Sept. 2–Oct. 7 &	15	45
	Nov. 22–Nov. 25 &	15	45
	Nov. 27–Jan. 15	15	45
Ohio	Sept. 1–Nov. 5 &	15	45
	Dec. 16–Jan. 8	15	45

	Season dates	Limits	
		Bag	Poss.
Pennsylvania:			
12 noon to sunset	Sept. 1–Oct. 7	15	45
1/2 hour before sunrise to sunset	Oct. 14–Nov. 25 &	15	45
	Dec. 23–Jan. 1	15	45
Rhode Island:			
12 noon to sunset	Sept. 9–Oct. 8	15	45
1/2 hour before sunrise to sunset	Oct. 21–Dec. 3 &	15	45
	Dec. 9–Dec. 24	15	45
South Carolina:			
12 noon to sunset	Sept. 2–Sept. 4	15	45
1/2 hour before sunrise to sunset	Sept. 5–Oct. 14 &	15	45
	Nov. 11–Nov. 25 &	15	45
	Dec. 15–Jan. 15	15	45
Tennessee:			
12 noon to sunset	Sept. 1 only	15	15
1/2 hour before sunrise to sunset	Sept. 2–Sept. 28 &	15	45
	Oct. 14–Nov. 5 &	15	45
	Dec. 8–Jan. 15	15	45
Virginia:			
12 noon to sunset	Sept. 2–Sept. 8	15	45
1/2 hour before sunrise to sunset	Sept. 9–Oct. 29 &	15	45
	Nov. 22–Nov. 29 &	15	45
	Dec. 23–Jan. 15	15	45
West Virginia:			
12 noon to sunset	Sept. 1 only	15	15
1/2 hour before sunrise to sunset	Sept. 2–Oct. 14 &	15	45
	Oct. 30–Nov. 18 &	15	45
	Dec. 18–Jan. 12	15	45
Wisconsin	Sept. 1–Nov. 29	15	45
CENTRAL MANAGEMENT UNIT			
Arkansas	Sept. 2–Oct. 22 &	15	45
	Dec. 8–Jan. 15	15	45
Colorado	Sept. 1–Nov. 29	15	45
Iowa	Sept. 1–Nov. 29	15	45
Kansas	Sept. 1–Nov. 29	15	45
Minnesota	Sept. 1–Nov. 29	15	45
Missouri	Sept. 1–Nov. 29	15	45
Montana	Sept. 1–Oct. 30	15	45
Nebraska	Sept. 1–Oct. 30	15	45
New Mexico:			
North Zone	Sept. 1–Nov. 29	15	45
South Zone	Sept. 1–Oct. 29 &	15	45
	Dec. 2–Jan. 1	15	45
North Dakota	Sept. 1–Nov. 29	15	45
Oklahoma	Sept. 1–Oct. 31 &	15	45
	Dec. 1–Dec. 29	15	45
South Dakota	Sept. 1–Nov. 9	15	45
Texas (2):			
North Zone	Sept. 1–Nov. 12 &	15	45
	Dec. 15–Dec. 31	15	45
Central Zone	Sept. 1–Nov. 5 &	15	45
	Dec. 15–Jan. 7	15	45
South Zone	Sept. 22–Nov. 8 &	15	45
	Dec. 15–Jan. 21	15	45
(Special Season) 12 noon to sunset	Sept. 2–Sept. 3 &	15	45
	Sept. 9–Sept. 10	15	45
Wyoming	Sept. 1–Nov. 29	15	45
WESTERN MANAGEMENT UNIT			
Arizona (3)	Sept. 1–Sept. 15 &	15	45
	Nov. 24–Jan. 7	15	45
California (4)	Sept. 1–Sept. 15 &	15	45
	Nov. 11–Dec. 25	15	45
Idaho	Sept. 1–Oct. 30	15	45
Nevada	Sept. 1–Oct. 30	15	45
Oregon	Sept. 1–Oct. 30	15	45
Utah	Sept. 1–Oct. 30	15	45
Washington	Sept. 1–Oct. 30	15	45
OTHER POPULATIONS			
Hawaii (5)	Nov. 4–Jan. 28	10	30

(1) In *Illinois,* shooting hours are sunrise to sunset.

(2) In *Texas,* the daily bag limit is 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves with a maximum 90-day season. Possession limits are three times the daily bag limit. During the special season in the Special White-winged Dove Area of the South Zone, the daily bag limit is 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be mourning doves and 2 may be white-tipped doves. Possession limits are three times the daily bag limit.

(3) In *Arizona,* during September 1 through 15, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 may be white-winged doves. During November 24 through January 7, the daily bag limit is 15 mourning doves.

(4) In *California,* the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 may be white-wing doves.

(5) In *Hawaii,* the season is only open on the islands of Hawaii and Maui. On the island of Hawaii, the daily bag limit is 10 mourning doves, spotted doves, and chestnut-bellied sandgrouse in the aggregate. On the island of Maui, the daily bag limit is 10 mourning doves. Shooting hours are from one-half hour before sunrise through one-half hour after sunset. See State regulations for additional restrictions on hunting dates and areas.

(b) *Band-Tailed Pigeons.*

	Season dates	Limits	
		Bag	Possession
Arizona	Oct. 7–Oct. 20	2	6
California:			
North Zone	Sept. 16–Sept. 24	2	6
South Zone	Dec. 16–Dec. 24	2	6
Colorado (1)	Sept. 1–Sept. 14	2	6
New Mexico (1):			
North Zone	Sept. 1–Sept. 14	2	6
South Zone	Oct. 1–Oct. 14	2	6
Oregon	Sept. 15–Sept. 23	2	6
Utah (1)	Sept. 1–Sept. 14	2	6
Washington	Sept. 15–Sept. 23	2	6

(1) Each band-tailed pigeon hunter must have a band-tailed pigeon hunting permit issued by the State.

■ 5. Section 20.104 is revised to read as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and snipe.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the May 30, 2017, **Federal Register** (82 FR 24786).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

	Sora and Virginia rails	Clapper and King rails	Woodcock	Snipe
Daily bag limit	25 (1)	15 (2)	3	8
Possession limit	75 (1)	45 (2)	9	24
ATLANTIC FLYWAY				
Connecticut (3)	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Oct. 25–Nov. 18 & Nov. 20–Dec. 9	Oct. 25–Nov. 18 & Nov. 20–Dec. 9
Delaware	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Nov. 20–Dec. 2 & Dec. 13–Jan. 13	Sept. 19–Dec. 2 & Dec. 13–Jan. 13
Florida	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Dec. 18–Jan. 31	Nov. 1–Feb. 15
Georgia	Sept. 15–Nov. 5 & Nov. 23–Dec. 10	Sept. 15–Nov. 5 & Nov. 23–Dec. 10	Dec. 9–Jan. 22	Nov. 15–Feb. 28
Maine (4)	Sept. 1–Nov. 9	Closed	Oct. 2–Oct. 28 & Oct. 30–Nov. 16	Sept. 1–Dec. 16
Maryland (5)	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Oct. 27–Nov. 24 & Jan. 12–Jan. 27	Sept. 26–Nov. 24 & Dec. 12–Jan. 27
Massachusetts (6)	Sept. 1–Nov. 7	Closed	Oct. 4–Oct. 28 & Oct. 30–Nov. 18	Sept. 1–Dec. 16
New Hampshire	Closed	Closed	Oct. 1–Nov. 14	Sept. 15–Nov. 14
New Jersey (7):				
North Zone	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Oct. 21–Nov. 25	Sept. 16–Dec. 30
South Zone	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Nov. 11–Dec. 2 & Dec. 16–Dec. 29	Sept. 16–Dec. 30
New York (8)	Sept. 1–Nov. 9	Closed	Oct. 1–Nov. 14	Sept. 1–Nov. 9
North Carolina	Sept. 2–Oct. 21 & Nov. 3–Nov. 22	Sept. 2–Oct. 21 & Nov. 3–Nov. 22	Dec. 14–Jan. 27	Nov. 14–Feb. 28
Pennsylvania (9)	Sept. 1–Nov. 9	Closed	Oct. 14–Nov. 25	Oct. 14–Nov. 25
Rhode Island (10)	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Oct. 21–Dec. 4	Sept. 1–Nov. 9
South Carolina	Oct. 6–Oct. 10 &Nov. 3–Jan. 6.	Oct. 6–Oct. 10 &Nov. 3–Jan. 6.	Dec. 18–Jan. 31	Nov. 14–Feb. 28
Vermont	Closed	Closed	Oct. 1–Nov. 14	Oct. 1–Nov. 14

	Sora and Virginia rails	Clapper and King rails	Woodcock	Snipe
Virginia	Sept. 9–Nov. 17	Sept. 9–Nov. 17	Nov. 20–Dec. 8 & Dec. 21–Jan. 15	Oct. 6–Oct. 9 & Oct. 21–Jan. 31
West Virginia (11)	Sept. 1–Nov. 9	Closed	Oct. 14–Nov. 18 & Nov. 27–Dec. 5	Sept. 1–Dec. 16
MISSISSIPPI FLYWAY				
Alabama	Sept. 9–Sept. 24 & Nov. 24–Jan. 16	Sept. 9–Sept. 24 & Nov. 24–Jan. 16	Dec. 15–Jan. 28	Nov. 11–Feb. 25
Arkansas	Sept. 9–Nov. 17	Closed	Nov. 4–Dec. 18	Nov. 1–Feb. 15
Illinois (12)	Sept. 9–Nov. 17	Closed	Oct. 21–Dec. 4	Sept. 9–Dec. 24
Indiana (13)	Sept. 1–Nov. 9	Closed	Oct. 15–Nov. 28	Sept. 1–Dec. 16
Iowa (14)	Sept. 2–Nov. 10	Closed	Oct. 7–Nov. 20	Sept. 2–Nov. 30
Kentucky	Sept. 1–Nov. 9	Closed	Oct. 28–Nov. 10 & Nov. 13–Dec. 13	Sept. 20–Oct. 29 & Nov. 23–Jan. 28
Louisiana:				
West Zone	Sept. 15–Sept. 30 & Nov. 11–Jan. 3	Sept. 15–Sept. 30 & Nov. 11–Jan. 3	Dec. 18–Jan. 31	Nov. 2–Dec. 3 & Dec. 16–Feb. 28
East Zone	Sept. 15–Sept. 30 & Nov. 11–Jan. 3	Sept. 15–Sept. 30 & Nov. 11–Jan. 3	Dec. 18–Jan. 31	Nov. 2–Dec. 3 & Dec. 16–Feb. 28
Coastal Zone	Sept. 15–Sept. 30 & Nov. 11–Jan. 3	Sept. 15–Sept. 30 & Nov. 11–Jan. 3	Dec. 18–Jan. 31	Nov. 2–Dec. 3 & Dec. 16–Feb. 28
Michigan	Sept. 1–Nov. 9	Closed	Sept. 23–Nov. 6	Sept. 1–Nov. 9
Minnesota	Sept. 1–Nov. 6	Closed	Sept. 23–Nov. 6	Sept. 1–Nov. 6
Mississippi	Sept. 2–Nov. 10	Sept. 2–Nov. 10	Dec. 18–Jan. 31	Nov. 14–Feb. 28
Missouri	Sept. 1–Nov. 9	Closed	Oct. 15–Nov. 28	Sept. 1–Dec. 16
Ohio	Sept. 1–Nov. 9	Closed	Oct. 13–Nov. 26	Sept. 1–Nov. 26 & Dec. 16–Jan. 4
Tennessee:				
Reelfoot Zone	Sept. 1–Nov. 9	Closed	Nov. 11–Dec. 25	Nov. 14–Feb. 28
State Zone	Sept. 1–Nov. 9	Closed	Nov. 11–Dec. 25	Nov. 14–Feb. 28
Wisconsin:				
North Zone	Sept. 23–Nov. 21	Closed	Sept. 23–Nov. 6	Sept. 23–Nov. 21
South Zone	Sept. 30–Oct. 8 & Oct. 14–Dec. 3	Closed	Sept. 23–Nov. 6	Sept. 30–Oct. 8 & Oct. 14–Dec. 3
Miss. River Zone	Sept. 30–Oct. 6 & Oct. 14–Dec. 5	Closed	Sept. 23–Nov. 6	Sept. 30–Oct. 6 & Oct. 14–Dec. 5
CENTRAL FLYWAY				
Colorado	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16
Kansas	Sept. 1–Nov. 9	Closed	Oct. 14–Nov. 27	Sept. 1–Dec. 16
Montana	Closed	Closed	Closed	Sept. 1–Dec. 16
Nebraska (15)	Sept. 1–Nov. 9	Closed	Sept. 23–Nov. 6	Sept. 1–Dec. 16
New Mexico (16)	Sept. 16–Nov. 24	Closed	Closed	Oct. 14–Jan. 28
North Dakota	Closed	Closed	Sept. 23–Nov. 6	Sept. 16–Dec. 3
Oklahoma	Sept. 1–Nov. 9	Closed	Nov. 1–Dec. 15	Oct. 1–Jan. 15
South Dakota (17)	Closed	Closed	Closed	Sept. 1–Oct. 31
Texas	Sept. 9–Sept. 24 & Nov. 4–Dec. 27	Sept. 9–Sept. 24 & Nov. 4–Dec. 27	Dec. 18–Jan. 31	Oct. 28–Feb. 11
Wyoming	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16
PACIFIC FLYWAY				
Arizona (18):				
North Zone	Closed	Closed	Closed	Oct. 6–Jan. 14
South Zone	Closed	Closed	Closed	Oct. 20–Jan. 28
California	Closed	Closed	Closed	Oct. 14–Jan. 28
Colorado	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16
Idaho:				
Zone 1	Closed	Closed	Closed	Oct. 7–Jan. 19
Zone 2	Closed	Closed	Closed	Oct. 7–Jan. 19
Zone 3	Closed	Closed	Closed	Oct. 14–Jan. 26
Zone 4	Closed	Closed	Closed	Oct. 7–Jan. 19
Montana	Closed	Closed	Closed	Sept. 1–Dec. 16
Nevada:				
Northeast Zone	Closed	Closed	Closed	Sept. 23–Oct. 22 &Oct. 25–Jan. 7
Northwest Zone	Closed	Closed	Closed	Oct. 7–Oct. 22 & Oct. 25–Jan. 21
South Zone (19)	Closed	Closed	Closed	Oct. 14–Oct. 22 & Oct. 25–Jan. 28
New Mexico	Sept. 16–Nov. 24	Closed	Closed	Oct. 16–Jan. 30
Oregon:				
Zone 1	Closed	Closed	Closed	Nov. 4–Feb. 18
Zone 2	Closed	Closed	Closed	Oct. 7–Nov. 26 & Nov. 29–Jan. 21
Utah				
Zone 1	Closed	Closed	Closed	Oct. 7–Jan. 20
Zone 2	Closed	Closed	Closed	Oct. 14–Jan. 27

	Sora and Virginia rails	Clapper and King rails	Woodcock	Snipe
Washington:				
East Zone	Closed	Closed	Closed	Oct. 14–Oct. 18 & Oct. 21–Jan. 28
West Zone	Closed	Closed	Closed	Oct. 14–Oct. 18 & Oct. 21–Jan. 28
Wyoming	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16

(1) The daily bag and possession limits for sora and Virginia rails apply singly or in the aggregate of the two species.
(2) All daily bag and possession limits for clapper and king rails apply singly or in the aggregate of the two species and, unless otherwise specified, the limits are in addition to the limits on sora and Virginia rails in all States. In *Delaware, Maryland,* and *New Jersey,* the limits for clapper and king rails are 10 daily and 30 in possession.
(3) In *Connecticut,* the limits for clapper and king rails apply singly or in the aggregate of the two species. Limits for clapper and king rail are 10 daily and 30 in possession and may include no more than 1 king rail per day.
(4) In *Maine,* the daily bag and possession limit for sora and Virginia rails is 25.
(5) In *Maryland,* no more than 1 king rail may be taken per day.
(6) In *Massachusetts,* the sora rail limits are 5 daily and 15 in possession; the Virginia rail limits are 10 daily and 30 in possession.
(7) In *New Jersey,* the season for king rail is closed by State regulation.
(8) In *New York,* the rail daily bag and possession limits are 8 and 24, respectively. Seasons for sora and Virginia rails and snipe are closed on Long Island.
(9) In *Pennsylvania,* the daily bag and possession limits for sora and Virginia rails, singly or in the aggregate, are 3 and 9, respectively.
(10) In *Rhode Island,* the sora and Virginia rails limits are 3 daily and 9 in possession, singly or in the aggregate; the clapper and king rail limits are 1 daily and 3 in possession, singly or in the aggregate; the snipe limits are 5 daily and 15 in possession.
(11) In *West Virginia,* the daily bag and possession limit for sora and Virginia rails is 25; the possession limit for snipe is 16.
(12) In *Illinois,* shooting hours are from sunrise to sunset.
(13) In *Indiana,* the season on Virginia rails is closed.
(14) In *Iowa,* the limits for sora and Virginia rails are 12 daily and 36 in possession.
(15) In *Nebraska,* the rail limits are 10 daily and 30 in possession.
(16) In *New Mexico,* in the Central Flyway portion of the State, the rail limits are 10 daily and 20 in possession.
(17) In *South Dakota,* the snipe limits are 5 daily and 15 in possession.
(18) In *Arizona,* Ashurst Lake in Unit 5B is closed to snipe hunting.
(19) In *Nevada,* the snipe season in that portion of the South Zone including the Moapa Valley to the confluence of the Muddy and Virgin rivers is only open November 1 through January 25.

■ 6. Section 20.105 is revised to read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise noted. Area descriptions were published in the May 30, 2017, **Federal Register** (82 FR 24786).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) *Common Moorhens and Purple Gallinules.*

	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Delaware	Sept. 1–Nov. 9	15	45
Florida (1)	Sept. 1–Nov.9	15	45
Georgia	Nov. 18–Nov. 26 &	15	45
	Dec. 9–Jan. 28	15	45
New Jersey	Sept. 1–Nov. 9	10	30
New York:			
Long Island	Closed		
Remainder of State	Sept. 1–Nov. 9	8	24
North Carolina	Sept. 2–Oct. 21 &	15	45
	Nov. 3–Nov. 22	15	45
Pennsylvania	Sept. 1–Nov. 9	3	9
South Carolina	Oct. 6–Oct. 10 &	15	45
	Nov. 3–Jan. 6	15	45
Virginia	Sept. 9–Nov. 17	15	45
West Virginia	Oct. 2–Oct. 14 &	15	30
	Dec. 2–Jan. 27	15	30
MISSISSIPPI FLYWAY			
Alabama	Sept. 9–Sept. 24 &	15	45
	Nov. 24–Jan. 16	15	45
Arkansas	Sept. 1–Nov. 9	15	45
Kentucky	Sept. 1–Nov. 9	3	9
Louisiana	Sept. 15–Sept. 30 &	15	45
	Nov. 11–Jan. 3	15	45
Michigan	Sept. 1–Nov. 9	1	3
Minnesota (2):			
North Zone	Sept. 23–Nov. 21	15	45
Central Zone	Sept. 23–Oct. 1 &	15	45
	Oct. 7–Nov. 26	15	45

	Season dates	Limits	
		Bag	Possession
South Zone	Sept. 23–Oct. 1 &	15	45
	Oct. 14–Dec. 3	15	45
Mississippi	Sept. 2–Nov. 10	15	45
Ohio	Sept. 1–Nov. 9	15	45
Tennessee	Sept. 1–Nov. 9	15	45
Wisconsin:			
North Zone	Sept. 23–Nov. 21	15	30
South Zone	Sept. 30–Oct. 8 &	15	30
	Oct. 14–Dec. 3	15	30
Mississippi River Zone	Sept. 30–Oct. 6 &	15	30
	Oct. 14–Dec. 5	15	30
CENTRAL FLYWAY			
New Mexico:			
Zone 1	Sept. 16–Nov. 24	1	3
Zone 2	Sept. 16–Nov. 24	1	3
Oklahoma	Sept. 1–Nov. 9	15	45
Texas	Sept. 9–Sept. 24 &	15	45
	Nov. 4–Dec. 27	15	45
PACIFIC FLYWAY			
All States	Seasons are in aggregate with coots and listed in paragraph (e).		

(1) The season applies to common moorhens only.
(2) In *Minnesota,* the daily bag limit is 15 and the possession limit is 45 coots and moorhens in the aggregate.

(b) *Special Sea Duck Seasons* (scoters, eiders, and long-tailed ducks in Atlantic Flyway).

Within the special sea duck areas, the daily bag limit is 5 scoters, eiders, and long-tailed ducks in the aggregate, including no more than 4 scoters, 4 eiders, and 4 long-tailed ducks. Possession limits are three times the daily bag limit. These limits may be in addition to regular duck bag limits only during the regular duck season in the special sea duck hunting areas.

	Season dates	Limits	
		Bag	Possession
Connecticut	Nov. 13–Jan. 20	5	15
Delaware	Nov. 20–Jan. 27	5	15
Georgia	Nov. 18–Nov. 26 &	5	15
	Dec. 9–Jan. 28	5	15
Maine	Nov. 10–Jan. 18	5	15
Maryland	Nov. 4–Jan. 12	5	15
Massachusetts (1)	Nov. 20–Jan. 27	5	15
New Hampshire	Nov. 15–Jan. 13	5	15
New Jersey	Nov. 4–Jan. 12	5	15
North Carolina	Nov. 20–Jan. 27	5	15
Rhode Island	Nov. 23–Jan. 21	5	15
South Carolina	Nov. 18–Nov. 25 &	5	15
	Dec. 9–Jan. 28	5	15
Virginia	Nov. 10–Jan. 8	5	15

Note: Notwithstanding the provisions of this Part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in *Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina,* and *Virginia* in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

(1) In *Massachusetts,* the daily bag limit may not include more than 1 hen eider. Possession limits are three times the daily bag limit.

(c) *Early (September) Duck Seasons.*

Note: Unless otherwise specified, the seasons listed below are for teal only.

	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Delaware (1)	Sept. 8–Sept. 26	6	18
Florida (2)	Sept. 16–Sept. 24	6	18
Georgia	Sept. 9–Sept. 24	6	18
Maryland (1)	Sept. 16–Sept. 30	6	18
North Carolina (1)	Sept. 13–Sept. 30	6	18
South Carolina (3)	Sept. 15–Sept. 30	6	18
Virginia (1)	Sept. 16–Sept. 30	6	18
MISSISSIPPI FLYWAY			

	Season dates	Limits	
		Bag	Possession
Alabama	Sept. 9–Sept. 24	6	18
Arkansas (3)	Sept. 15–Sept. 30	6	18
Illinois (3)	Sept. 9–Sept. 24	6	18
Indiana (3)	Sept. 9–Sept. 24	6	18
Iowa (3):			
North Zone	Sept. 2–Sept. 10	6	18
South Zone	Sept. 2–Sept. 10	6	18
Missouri River Zone	Sept. 2–Sept. 17	6	18
Kentucky (2)	Sept. 16–Sept. 24	6	18
Louisiana	Sept. 15–Sept. 30	6	18
Michigan	Sept. 1–Sept. 10	6	18
Mississippi	Sept. 9–Sept. 24	6	18
Missouri (3)	Sept. 9–Sept. 24	6	18
Ohio (3)	Sept. 2–Sept. 17	6	18
Tennessee (2)	Sept. 9–Sept. 17	6	18
Wisconsin	Sept.1–Sept. 7	6	18
CENTRAL FLYWAY			
Colorado (1)	Sept. 9–Sept. 17	6	18
Kansas:			
Low Plains	Sept. 9–Sept. 24	6	18
High Plains	Sept. 16–Sept. 24	6	18
Nebraska (1):			
Low Plains	Sept. 2–Sept. 17	6	18
High Plains	Sept. 2–Sept. 10	6	18
New Mexico	Sept. 16–Sept. 24	6	18
Oklahoma	Sept. 9–Sept. 24	6	18
Texas:			
High Plains	Sept. 9–Sept. 24	6	18
Rest of State	Sept. 9–Sept. 24	6	18

(1) Area restrictions. See State regulations.
(2) In *Florida, Kentucky,* and *Tennessee,* the daily bag limit for the first 5 days of the season is 6 wood ducks and teal in the aggregate, of which no more than 2 may be wood ducks. During the last 4 days of the season, the daily bag limit is 6 teal only. The possession limit is three times the daily bag limit.
(3) Shooting hours are from sunrise to sunset.

(d) *Special Early Canada Goose Seasons.*

	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Connecticut (1):			
North Zone	Sept. 1–Sept. 30	15	45
South Zone	Sept. 15–Sept. 30	15	45
Delaware	Sept. 1–Sept. 25	15	45
Florida	Sept. 2–Sept. 24	5	15
Georgia	Sept. 2–Sept. 24	5	15
Maine:			
Northern Zone	Sept. 1–Sept. 25	6	18
Southern Zone	Sept. 1–Sept. 25	10	30
Coastal Zone	Sept. 1–Sept. 25	10	30
Maryland (1)(2):			
Eastern Unit	Sept. 1–Sept. 15	8	24
Western Unit	Sept. 1–Sept. 25	8	24
Massachusetts:			
Central Zone	Sept. 5–Sept. 22	7	21
Coastal Zone	Sept. 5–Sept. 22	7	21
Western Zone	Sept. 5–Sept. 22	7	21
New Hampshire	Sept. 1–Sept. 25	5	15
New Jersey (1)(2)(3)	Sept. 1–Sept. 30	15	45
New York (4):			
Lake Champlain Zone	Sept. 1–Sept. 25	8	24
Northeastern Zone	Sept. 1–Sept. 25	15	45
East Central Zone	Sept. 1–Sept. 25	15	45
Hudson Valley Zone	Sept. 1–Sept. 25	15	45
West Central Zone	Sept. 1–Sept. 25	15	45
South Zone	Sept. 1–Sept. 25	15	45
Western Long Island Zone	Closed.		
Central Long Island Zone	Sept. 5–Sept. 30	15	45

	Season dates	Limits	
		Bag	Possession
Eastern Long Island Zone	Sept. 5–Sept. 30	15	45
North Carolina (5)(6)	Sept. 1–Sept. 30	15	45
Pennsylvania (7):			
SJBP Zone (8)	Sept. 1–Sept. 25	1	3
Rest of State (9)	Sept. 1–Sept. 25	8	24
Rhode Island (1)	Sept. 1–Sept. 30	15	45
South Carolina	Sept. 1–Sept. 30	15	45
Vermont:			
Lake Champlain Zone	Sept. 1–Sept. 25	8	24
Interior Vermont Zone	Sept. 1–Sept. 25	8	24
Connecticut River Zone (10)	Sept. 1–Sept. 25	5	15
Virginia (11)	Sept. 1–Sept. 25	10	30
West Virginia	Sept. 1–Sept. 9	5	15
CENTRAL FLYWAY			
North Dakota:			
Missouri River Zone	Sept. 1–Sept. 7	15	45
Remainder of State	Sept. 1–Sept. 15	15	45
Oklahoma	Sept. 9–Sept. 18	8	24
South Dakota (12)	Sept. 2–Sept. 30	15	45
Texas:			
East Zone	Sept. 9–Sept. 24	5	15
PACIFIC FLYWAY			
Colorado	Sept. 1–Sept. 9	4	12
Idaho:			
Zone 4	Sept. 1–Sept. 15	5	15
Oregon:			
Northwest Permit Zone	Sept. 9–Sept. 17	5	15
Southwest Zone	Sept. 9–Sept. 13	5	15
Eastern Zone	Sept. 9–Sept. 13	5	15
Klamath County Zone	Sept. 9–Sept. 13	5	15
Harney and Lake County Zone	Sept. 9–Sept. 13	5	15
Malheur County Zone	Sept. 9–Sept. 13	5	15
Washington:			
Areas 1 & 3	Sept. 9–Sept. 14	5	15
Areas 2A & 2B (13)	Sept. 2–Sept. 10	5	15
Area 4 & 5	Sept. 9–Sept. 10	5	10
Wyoming:			
Teton County Zone	Sept. 1–Sept. 8	4	12
Balance of State Zone	Sept. 1–Sept. 8	4	12

(1) Shooting hours are one-half hour before sunrise to one-half hour after sunset.
(2) The use of shotguns capable of holding more than 3 shotshells is allowed.
(3) The use of electronic calls is allowed.
(4) In *New York,* shooting hours are one-half hour before sunrise to one-half hour after sunset, the use of shotguns capable of holding more than 3 shotshells is allowed, and the use of electronic calls is allowed, except during Youth Waterfowl Hunting Days in Lake Champlain, Northeastern, and Southeastern Goose Hunting Areas. During the designated Youth Waterfolw Hunting Days in these areas, shooting hours are one-half hour before sunrise to sunset, shotguns must be capable of holding no more than 3 shotshells, and electronic calls are not allowed. See State regulations for further details.
(5) In *North Carolina,* the use of unplugged guns and electronic calls is allowed in that area west of U.S. Highway 17 only.
(6) In *North Carolina,* shooting hours are one-half hour before sunrise to one-half hour after sunset in that area west of U.S. Highway 17 only.
(7) In *Pennsylvania,* shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 15 and September 18 to September 25. On September 16, shooting hours are one-half hour before sunrise to sunset.
(8) In *Pennsylvania,* in the area south of SR 198 from the Ohio State line to intersection of SR 18, SR 18 south to SR 618, SR 618 south to U.S. Route 6, U.S. Route 6 east to U.S. Route 322/SR 18, U.S. Route 322/SR 18 west to intersection of SR 3013, SR 3013 south to the Crawford/Mercer County line, not including the Pymatuning State Park Reservoir and an area to extend 100 yards inland from the shoreline of the reservoir, excluding the area east of SR 3011 (Hartstown Road), the daily bag limit is 1 goose with a possession limit of 3 geese. The season is closed on State Game Lands 214. However, during youth waterfowl hunting days, regular season regulations apply.
(9) In *Pennsylvania,* in the area of Lancaster and Lebanon Counties north of the Pennsylvania Turnpike, east of SR 501 to SR 419, south of SR 419 to the Lebanon-Berks County line, west of the Lebanon-Berks County line and the Lancaster-Berks County line to SR 1053, west of SR 1053 to the Pennsylvania Turnpike I–76, the daily bag limit is 1 goose with a possession limit of 3 geese. On State Game Lands No. 46 (Middle Creek Wildlife Management Area), the season is closed. However, during youth waterfowl hunting days, regular season regulations apply.
(10) In *Vermont,* the season in the Connecticut River Zone is the same as the New Hampshire Inland Zone season, set by New Hampshire.
(11) In *Virginia,* shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 15 in the area east of I–95. Shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 20 in the area west of I–95.
(12) See State regulations for additional information and restrictions.
(13) In *Washington,* in Pacific County, the daily bag and possession limits are 15 and 45 Canada geese, respectively.

(e) *Waterfowl, Coots, and Pacific-Flyway Seasons for Common Moorhens.*

Definitions

The Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

The Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana,

Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

The Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

The Pacific Flyway: Includes the States of Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Light Geese: Includes lesser snow (including blue) geese, greater snow geese, and Ross's geese.

Dark Geese: Includes Canada geese, white-fronted geese, emperor geese, brant (except in California, Oregon, Washington, and the Atlantic Flyway), and all other geese except light geese.

ATLANTIC FLYWAY

Flyway-Wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 4 mallards (2 female mallards), 2 scaup, 2 black ducks, 1 pintail, 2 canvasbacks, 1 mottled duck, 3 wood ducks, 2 redheads, 4 scoters, 4 eiders, 4 long-tailed ducks, and 1 fulvous tree duck. The possession limit is three times the daily bag limit.

Harlequin Ducks: All areas of the Flyway are closed to harlequin duck hunting.

Merganser Limits: The daily bag limit is 5 mergansers and may include no more than 2 hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 2 may be hooded mergansers. The possession limit is three times the daily bag limit.

	Season dates	Limits	
		Bag	Possession
Connecticut			
Ducks and Mergansers:		6	18
North Zone	Oct. 14–Oct. 21 &		
	Nov. 10–Jan. 10		
South Zone	Oct. 14–Oct. 17 &		
	Nov. 16–Jan. 20		
Coots	Same as for Ducks	15	45
Canada Geese:			
AFRP Unit North	Oct. 14–Oct. 21 &	5	15
	Nov. 11–Dec. 2 &	5	15
	Dec. 16–Feb. 15	5	15
AFRP Unit South	Oct. 14–Oct. 21 &	5	15
	Nov. 11–Dec. 2 &	5	15
	Dec. 15–Feb. 15	5	15
NAP H–Unit	Oct. 12–Oct. 21 &	3	9
	Nov. 11–Jan. 20	3	9
AP Unit	Oct. 14–Oct. 21 &	3	9
	Nov. 18–Jan. 6	3	9
Special Season	Jan. 25–Feb. 15	5	15
Light Geese:			
North Zone	Oct. 2–Jan. 15 &	25	
	Feb. 21–Mar. 10	25	
South Zone	Oct. 2–Dec. 2 &	25	
	Jan. 9–Mar. 10	25	
Brant:			
North Zone	Nov. 2–Jan. 10	2	6
South Zone	Nov. 13–Jan. 20	2	6
Delaware			
Ducks	Oct. 27–Nov. 7 &	6	18
	Nov. 20–Nov. 25 &	6	18
	Dec. 8–Jan. 27	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese	Nov. 20–Nov. 25 &	2	6
	Dec. 15–Feb. 3	2	6
Light Geese (1)	Oct. 10–Feb. 10	25	
Brant	Nov. 20–Nov. 25 &	2	6
	Dec. 2–Jan. 31	2	6
Florida			
Ducks	Nov. 18–Nov. 26 &	6	18
	Dec. 9–Jan. 28	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese	Nov. 18–Nov. 26 &	5	15
	Dec. 1–Jan. 30	5	15
Light Geese	Same as for Ducks	15	
Georgia			
Ducks	Nov. 18–Nov. 26 &	6	18
	Dec. 9–Jan. 28	6	18

	Season dates	Limits	
		Bag	Possession
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese	Oct. 14–Oct. 29 &	5	15
	Nov. 18–Nov. 26 &	5	15
	Dec. 9–Jan. 28	5	15
Light Geese	Same as for Canada Geese	5	15
Brant	Closed		
Maine			
Ducks (2):		6	18
North Zone	Sept. 25–Dec. 2		
South Zone	Oct. 2–Oct. 14 &		
	Nov. 1–Dec. 26		
Coastal Zone	Oct. 2–Oct. 14 &		
	Nov. 10–Jan. 4		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	5	15
Canada Geese:			
North Zone	Oct. 2–Dec. 21	3	9
South Zone	Oct. 2–Oct. 26 &	3	9
	Nov. 1–Dec. 26	3	9
Coastal Zone	Oct. 2–Oct. 26 &	3	9
	Nov. 10–Jan. 4	3	9
Light Geese	Oct. 2–Jan. 31	25	
Brant:			
North Zone	Sept. 25–Dec. 2	2	6
South Zone	Oct. 2–Oct. 14 &	2	6
	Nov. 1–Dec. 26	2	6
Coastal Zone	Oct. 2–Oct. 14 &	2	6
	Nov. 10–Jan. 4	2	6
Maryland			
Ducks and Mergansers (3)	Oct. 14–Oct. 21 &	6	18
	Nov. 11–Nov. 24 &	6	18
	Dec. 12–Jan. 27	6	18
Coots	Same as for Ducks	15	45
Canada Geese:			
RP Zone	Nov. 18–Nov. 24 &	5	15
	Dec. 15–Mar. 10	5	15
AP Zone	Nov. 18–Nov. 24 &	2	6
	Dec. 15–Feb. 3	2	6
Light Geese	Oct. 2–Nov. 24 &	25	
	Dec. 11–Feb. 3	25	
	Feb. 10	25	
Brant	Nov. 8–Nov. 24 &	2	6
	Dec. 11–Jan. 31	2	6
Massachusetts			
Ducks (4):		6	18
Western Zone	Oct. 10–Nov. 25 &		
	Dec. 4–Dec. 25		
Central Zone	Oct. 9–Nov. 25 &		
	Dec. 11–Dec. 30		
Coastal Zone	Oct. 13–Oct. 21 &		
	Nov. 16–Jan. 15		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese:			
NAP Zone:			
Central Zone	Oct. 9–Nov. 25 &	3	9
	Dec. 11–Jan. 11	3	9
(Special season)	Jan. 20–Feb. 10	5	15
Coastal Zone	Oct. 13–Oct. 21 &	3	9
	Nov. 16–Jan. 26	3	9
(Special season) (5)	Jan. 27–Feb. 15	5	15
AP Zone	Oct. 10–Nov. 25 &	3	9
	Dec. 4–Dec. 13	3	9
Light Geese:			
Western Zone	Oct. 10–Nov. 25 &	15	45
	Dec. 4–Dec. 25	15	45
Central Zone	Oct. 9–Nov. 25 &	15	45
	Dec. 11–Dec. 30	15	45
	Jan. 16–Feb. 4	15	45

	Season dates	Limits	
		Bag	Possession
Coastal Zone (5)	Oct. 13–Oct. 21 &	15	45
	Nov. 16–Jan. 15	15	45
	Jan. 28–Feb. 15	15	45
Brant:			
Western & Central Zone	Closed		
Coastal Zone	Nov. 20–Jan. 27	2	6
New Hampshire			
Ducks:		6	18
Northern Zone	Oct. 3–Dec. 1		
Inland Zone	Oct. 3–Nov. 5 &		
	Nov. 21–Dec. 17		
Coastal Zone	Oct. 4–Oct. 15 &		
	Nov. 22–Jan. 8		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese:			
Northern Zone	Oct. 3–Dec. 11	3	9
Inland Zone	Oct. 3–Nov. 5 &	3	9
	Nov. 22–Dec. 27	3	9
Coastal Zone	Oct. 4–Oct. 15 &	3	9
	Nov. 22–Jan. 18	3	9
Light Geese:			
Northern Zone	Oct. 3–Dec. 11	25	
Inland Zone	Oct. 3–Dec. 27	25	
Coastal Zone	Oct. 4–Jan. 18	25	
Brant:			
Northern Zone	Oct. 3–Dec. 1	2	6
Inland Zone	Oct. 3–Nov. 5 &	2	6
	Nov. 22–Dec. 17	2	6
Coastal Zone	Oct. 4–Oct. 15 &	2	6
	Nov. 22–Jan. 8	2	6
New Jersey			
Ducks:		6	18
North Zone	Oct. 14–Oct. 21 &		
	Nov. 11–Jan. 11		
South Zone	Oct. 21–Oct. 28 &		
	Nov. 18–Jan. 18		
Coastal Zone	Nov. 9–Nov. 11 &		
	Nov. 23–Jan. 27		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada and White-fronted Geese:			
North Zone	Nov. 11–Nov. 25 &	3	9
	Dec. 9–Jan. 20	3	9
South Zone	Nov. 18–Dec. 2 &	3	9
	Dec. 9–Jan. 20	3	9
Coastal Zone	Nov. 9–Nov. 11 &	5	15
	Nov. 18–Feb. 15	5	15
Special Season Zone	Jan. 22–Feb. 15	5	15
Light Geese:			
North Zone	Oct. 17–Feb. 15	25	
South Zone	Oct. 17–Feb. 15	25	
Coastal Zone	Oct. 17–Feb. 15	25	
Brant:			
North Zone	Oct. 14–Oct. 21 &	2	6
	Nov. 11–Jan. 11	2	6
South Zone	Oct. 21–Oct. 28 &	2	6
	Nov. 18–Jan. 18	2	6
Coastal Zone	Nov. 9–Nov. 11 &	2	6
	Nov. 23–Jan. 27	2	6
New York			
Ducks and Mergansers:		6	18
Long Island Zone	Nov. 23–Nov. 26 &		
	Dec. 4–Jan. 28		
Lake Champlain Zone	Oct. 11–Oct. 15 &		
	Nov. 7–Dec. 31		
Northeastern Zone	Oct. 7–Oct. 29 &		
	Nov. 4–Dec. 10		
Southeastern Zone	Oct. 7–Oct. 15 &		
	Nov. 11–Dec. 31		
Western Zone	Oct. 28–Dec. 6 &		
	Dec. 26–Jan. 14		

	Season dates	Limits	
		Bag	Possession
Coots	Same as for Ducks	15	45
Canada Geese:			
Western Long Island (AFRP)	Oct. 14–Oct. 29 &	8	24
	Nov. 23–Nov. 26 &	8	24
	Dec. 4–Feb. 26	8	24
Central Long Island (NAP–L)	Nov. 23–Nov. 26 &	3	9
	Dec. 4–Feb. 7	3	9
Eastern Long Island (NAP–H)	Nov. 23–Nov. 26 &	3	9
	Dec. 4–Feb. 7	3	9
Lake Champlain (AP) Zone	Oct. 11–Nov. 29	3	9
Northeast (AP) Zone	Oct. 28–Dec. 10 &	3	9
	Dec. 26–Dec. 31	3	9
East Central (AP) Zone	Oct. 28–Nov. 17 &	3	9
	Nov. 23–Dec. 21	3	9
Hudson Valley (AP) Zone	Nov. 4–Nov. 17 &	3	9
	Dec. 2–Jan. 6	3	9
West Central (AP) Zone	Oct. 28–Nov. 26 &	3	9
	Dec. 26–Jan. 14	3	9
South (AFRP)	Oct. 28–Dec. 17 &	5	15
	Dec. 26–Jan. 14 &	5	15
	Mar. 2–Mar. 10	5	15
Light Geese (6):			
Long Island Zone	Nov. 23–Mar. 9	25	
Lake Champlain Zone	Oct. 1–Dec. 31	25	
Northeastern Zone	Oct. 1–Jan. 15	25	
Southeastern Zone	Oct. 1–Jan. 15	25	
Western Zone	Oct. 1–Jan. 15	25	
Brant:			
Long Island Zone	Nov. 23–Nov. 26 &	2	6
	Dec. 4–Jan. 28	2	6
Lake Champlain Zone	Oct. 7–Dec. 5	2	6
Northeastern Zone	Oct. 1–Nov. 29	2	6
Southeastern Zone	Oct. 1–Nov. 29	2	6
Western Zone	Oct. 1–Nov. 29	2	6
North Carolina			
Ducks (7)	Oct. 4–Oct. 7 &	6	18
	Nov. 11–Dec. 2 &	6	18
	Dec. 16–Jan. 27	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese:			
RP Hunt Zone	Oct. 4–Oct. 14 &	5	15
	Nov. 11–Dec. 2 &	5	15
	Dec. 16–Feb. 10	5	15
SJBP Hunt Zone	Oct. 4–Nov. 3 &	5	15
	Nov. 11–Dec. 30	5	15
Northeast Hunt Zone (8)	Jan. 12–Jan. 27	1	3
Light Geese	Oct. 10–Feb. 10	25	
Brant	Dec. 16–Jan. 27	1	3
Pennsylvania			
Ducks:		6	18
North Zone	Oct. 7–Nov. 18 &		
	Dec. 19–Jan. 13		
South Zone	Oct. 14–Oct. 21 &		
	Nov. 21–Jan. 20		
Northwest Zone	Oct. 7–Dec. 9		
	Dec. 26–Dec. 30		
Lake Erie Zone	Oct. 30–Jan. 6		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese:			
Eastern (AP) Zone	Nov. 15–Nov. 25 &	3	9
	Dec. 16–Jan. 31	3	9
SJBP Zone	Oct. 7–Nov. 25 &	3	9
	Dec. 12–Jan. 20	3	9
Resident (RP) Zone	Oct. 28–Nov. 25 &	5	15
	Dec. 18–Jan. 20 &	5	15
	Jan. 27–Feb. 24	5	15
Light Geese:			
Eastern (AP) Zone	Oct. 2–Jan. 31	25	
SJBP Zone	Oct. 2–Jan. 20	25	
Resident (RP) Zone	Oct. 24–Feb. 24	25	

	Season dates	Limits	
		Bag	Possession
Brant	Oct. 14–Dec. 22	2	6
Rhode Island			
Ducks	Oct. 13–Oct. 16 &	6	18
	Nov. 22–Nov. 26 &	6	18
	Dec. 2–Jan. 21	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese	Nov. 18–Nov. 26 &	3	9
	Dec. 2–Jan. 29	3	9
Special season	Feb. 3–Feb. 9	5	15
Light Geese	Oct. 15–Jan. 29	25	.....
Brant	Nov. 23–Jan. 21	2	6
South Carolina			
Ducks (9)(10)	Nov. 11 &	6	18
	Nov. 18–Nov. 25 &	6	18
	Dec. 9–Jan. 28	6	18
Mergansers (11)	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada and White-fronted Geese (12)	Nov. 18–Nov. 25 &	5	15
	Dec. 9–Jan. 28 &	5	15
	Feb. 13–Feb. 28	5	15
Light Geese	Nov. 18–Nov. 25 &	25	.....
	Dec. 9–Jan. 28 &	25	
	Feb. 13–Feb. 28	25	
Brant	Nov. 18–Nov. 25 &	2	6
	Dec. 9–Jan. 28	2	6
Vermont			
Ducks:	.....	6	18
Lake Champlain Zone	Oct. 11–Oct 15 &	.....	.....
	Nov. 7–Dec. 31		
Interior Zone	Oct. 11–Dec. 9	.....	.....
Connecticut River Zone	Oct. 3–Nov. 5 &	.....	.....
	Nov. 22–Dec. 17		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese:			
Lake Champlain Zone	Oct. 11–Nov. 29	3	9
Interior Zone	Oct. 11–Nov. 29	3	9
Connecticut River Zone	Oct. 3–Nov. 5 &	3	9
	Nov. 22–Dec. 27	3	9
Light Geese:			
Lake Champlain Zone	Oct. 1–Dec. 31 &	25	.....
	Feb. 26–Mar. 10	25	
Interior Zone	Oct. 1–Dec. 31 &	25	.....
	Feb. 26–Mar. 10	25	
Connecticut River Zone	Oct. 3–Dec. 27	25	.....
Brant:			
Lake Champlain Zone	Oct. 7–Dec. 5	2	6
Interior Zone	Oct. 7–Dec. 5	2	6
Connecticut River Zone	Oct. 3–Nov. 5 &	2	6
	Nov. 22–Dec. 17	2	6
Virginia			
Ducks (13)	Oct. 6–Oct. 9 &	6	18
	Nov. 15–Nov. 26 &	6	18
	Dec. 16–Jan. 28	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese:			
Eastern (AP) Zone	Nov. 15–Nov. 26 &	2	6
	Dec. 22–Jan. 28	2	6
Western (SJBP) Zone	Nov. 15–Nov. 26 &	3	9
	Dec. 18–Jan. 14 &	3	9
(Special season)	Jan. 15–Feb. 15	5	15
Western (RP) Zone	Nov. 15–Nov. 26 &	5	15
	Dec. 16–Feb. 21	5	15
Light Geese	Oct. 17–Jan. 31	25	.....
Brant	Nov. 15–Nov. 26 &	2	6
	Dec. 16–Jan. 31	2	6
West Virginia			
Ducks (14)	Oct. 2–Oct. 14 &	6	18
	Nov. 6–Nov. 11 &	6	18
	Dec. 18–Jan. 27	6	18

	Season dates	Limits	
		Bag	Possession
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	30
Canada Geese	Oct. 2–Oct. 21 &	5	15
	Nov. 6–Nov. 11 &	5	15
	Dec. 5–Jan. 27	5	15
Light Geese	Oct. 2–Oct. 14 &	5	15
	Nov. 6–Nov. 11 &	5	15
	Dec. 5–Jan. 27	5	15
Brant	Nov. 29–Jan. 27	1	3

(1) In *Delaware,* the Bombay Hook National Wildlife Refuge (NWR) snow goose season is open Mondays, Wednesdays, and Fridays only.
(2) In *Maine,* the daily bag limit may include no more than 4 of any species, with no more than 12 of any one species in possession. The season for Barrow's goldeneye is closed.
(3) In *Maryland,* the black duck season is closed October 14 through October 21. Additionally, the daily bag limit of 6 ducks may include no more than 5 sea ducks, of which no more than 4 may be scoters, eiders, or long-tailed ducks.
(4) In *Massachusetts,* the daily bag limit may include no more than 4 of any single species in addition to the flyway-wide bag restrictions.
(5) In *Massachusetts,* the January 27 to February 15 portion of the season in the Coastal Zone is restricted to that portion of the Coastal Zone north of the Cape Cod Canal.
(6) In *New York,* the use of electronic calls and shotguns capable of holding more than 3 shotshells are allowed for hunting of light geese on any day when all other waterfowl hunting seasons are closed.
(7) In *North Carolina,* the season is closed for black ducks October 4 through October 7 and November 11 through November 17.
(8) In *North Carolina,* a permit is required to hunt Canada geese in the Northeast Hunt Zone.
(9) In *South Carolina,* the daily bag limit of 6 may not exceed 1 black-bellied whistling duck or hooded merganser in the aggregate. Further, the black duck/mottled duck limit is as follows: (1) For areas east and south of Interstate 95, either 1 black or 1 mottled duck in the daily bag in the aggregate; (2) for areas west and north of Interstate 95, either 2 black ducks, or 1 black duck and 1 mottled duck in the daily bag.
(10) In *South Carolina,* on November 11, only hunters 17 years of age or younger can hunt ducks, coots, and mergansers. The youth must be accompanied by a person at least 21 years of age who is properly licensed, including State and Federal waterfowl stamps. Youth who are 16 or 17 years of age who hunt on this day are not required to have a State license or State waterfowl stamp but must possess a Federal waterfowl stamp and migratory bird permit.
(11) In *South Carolina,* the daily bag limit for mergansers may include no more than 1 hooded merganser.
(12) In *South Carolina,* the daily bag limit may include no more than 2 white-fronted geese.
(13) In *Virginia,* the season is closed for black ducks October 6 through October 9.
(14) In *West Virginia,* the season is closed for eiders, whistling ducks, and mottled ducks.

MISSISSIPPI FLYWAY

Flyway-Wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 4 mallards (no more than 2 of which may be females), 1 mottled duck, 2 black ducks, 1 pintail, 2 canvasbacks, 2 redheads, 3 scaup, and 3 wood ducks. The possession limit is three times the daily bag limit.

Merganser Limits: The daily bag limit is 5 mergansers and may include no more than 2 hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 2 may be hooded mergansers. The possession limit is three times the daily bag limit.

	Season dates	Limits	
		Bag	Possession
Alabama			
Ducks:		6	18
North Zone	Nov. 24–Nov. 25 & Dec. 2–Jan. 28.		
South Zone	Same as North Zone.		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese (1)(2):			
SJBP Zone	Sept. 1–Sept 30 &	5	15
	Oct. 7–Oct. 21 &	5	15
	Nov. 24–Nov. 25 &	5	15
	Dec. 2–Jan. 28		
North Zone	Same as SJBP Zone	5	15
South Zone	Same as SJBP Zone	5	15
Light Geese:			
SJBP Zone	Same as for Dark Geese	5	15
North Zone	Same as for Dark Geese	5	15
South Zone	Same as for Dark Geese	5	15
Arkansas			
Ducks	Nov. 18–Nov. 26 &	6	18
	Dec. 7–Dec. 23 &	6	18
	Dec. 26–Jan. 28	6	18
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	5	10
Canada Geese	Sept. 1–Sept. 30 &	5	15
	Nov. 15–Dec. 1 &	3	9
	Dec. 3–Jan. 28	3	9

	Season dates	Limits	
		Bag	Possession
White–fronted Geese	Nov. 15–Dec. 1 &	2	4
	Dec. 3–Jan. 28	2	4
Brant	Closed.		
Light Geese	Same as for White-fronted Geese	20	
Illinois			
Ducks:		6	18
North Zone	Oct. 21–Dec. 19		
Central Zone	Oct. 28–Dec. 26		
South Central Zone	Nov. 11–Jan. 9		
South Zone	Nov. 23–Jan. 21		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese:			
North Zone	Sept. 1–Sept. 15 &	5	15
	Oct. 21–Jan. 18	2	6
Central Zone	Sept. 1–Sept. 15 &	5	15
	Oct. 28–Nov. 5 &	2	6
	Nov. 12–Jan. 31	2	6
South Central Zone	Sept. 1–Sept. 15 &	2	6
	Nov. 11–Jan. 31	2	6
South Zone	Sept. 1–Sept. 15 &	2	6
	Nov. 23–Jan. 31	2	6
White–fronted Geese:			
North Zone	Oct. 23–Jan. 18	2	6
Central Zone	Nov. 5–Jan. 31	2	6
South Central Zone	Nov. 11–Jan. 31	2	6
South Zone	Nov. 23–Jan. 31	2	6
Light Geese:			
North Zone	Oct. 21–Jan. 18	20	
Central Zone	Oct. 28–Jan. 31	20	
South Central Zone	Nov. 11–Jan. 31	20	
South Zone	Nov. 23–Jan. 31	20	
Brant	Same as for Light Geese	1	3
Indiana			
Ducks:		6	18
North Zone	Oct. 21–Dec. 10 &		
	Dec. 23–Dec. 31		
Central Zone	Oct. 28–Nov. 5 &		
	Nov. 25–Jan. 14		
South Zone	Nov. 4–Nov. 12 &		
	Dec. 2–Jan. 21		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese (1)(3):			
North Zone	Sept. 9–Sept. 17 &	5	15
	Oct. 21–Nov. 26 &	5	15
	Dec. 16–Feb. 11	5	15
Central Zone	Sept. 9–Sept. 17 &	5	15
	Oct. 28–Nov. 12 &	5	15
	Nov. 25–Feb. 11	5	15
South Zone	Sept. 9–Sept. 17 &	5	15
	Nov. 4–Nov. 26 &	5	15
	Dec. 2–Feb. 11	5	15
Light Geese:			
North Zone	Same as for Dark Geese	20	
Central Zone	Same as for Dark Geese	20	
South Zone	Same as for Dark Geese	20	
Iowa			
Ducks:		6	18
North Zone	Sept. 23–Oct. 1 &		
	Oct. 14–Dec. 3		
Missouri River Zone	Oct. 7–Oct. 8 &		
	Oct. 21–Dec 17		
South Zone	Sept. 30–Oct. 4 &		
	Oct. 21–Dec 14		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese (1):			
Cedar Falls/Waterloo	Sept. 2–Sept. 10	5	15
Des Moines	Sept. 2–Sept. 10	5	15
Cedar Rapids/Iowa City	Sept. 2–Sept. 10	5	15

	Season dates	Limits	
		Bag	Possession
North Zone (4)	Sept. 23–Oct. 8 &	5	15
	Oct. 14–Oct. 31 &	5	15
	Nov. 1–Jan. 1	5	15
Missouri River Zone (4)	Oct. 7–Oct. 15 &	5	15
	Oct. 21–Oct. 31 &	5	15
	Nov. 1–Jan. 15	5	15
South Zone (4)	Sept. 30–Oct. 8 &	5	15
	Oct. 21–Oct. 31 &	5	15
	Nov. 1–Jan. 15	5	15
Light Geese:			
North Zone	Sept. 23–Oct. 8 &	20	.....
	Oct. 14–Jan. 10	20	.....
Missouri River Zone	Oct. 7–Oct. 15 &	20	.....
	Oct. 21–Jan. 24	20	.....
South Zone	Sept. 30–Oct. 8 &	20	.....
	Oct. 21–Jan. 24	20	.....
Kentucky			
Ducks:	.....	6	18
West Zone	Nov. 23–Nov. 26 &	.....	.....
	Dec. 4–Jan. 28	.....	.....
East Zone	Same as West Zone	.....	.....
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese:			
Northeast Zone	Dec. 16–Jan. 31	3	9
Rest of State	Sept. 16–Sept. 30 &	5	15
	Nov. 23–Feb. 15	3	9
White–fronted Geese	Nov. 23–Feb. 15	2	6
Brant	Nov. 23–Feb. 15	1	3
Light Geese	Nov. 23–Feb. 15	20	60
Louisiana			
Ducks:	.....	6	18
West Zone	Nov. 11–Dec. 3 &	.....	.....
	Dec. 16–Jan. 21	.....	.....
East Zone (including Catahoula Lake)	Nov. 18–Dec. 3 &	.....	.....
	Dec. 16–Jan. 28	.....	.....
Coastal Zone	Nov. 11–Dec. 3 &	.....	.....
	Dec. 16–Jan. 21	.....	.....
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese	Nov. 4–Dec. 3 &	3	9
	Dec. 16–Jan. 31	3	9
White–fronted Geese	Nov. 4–Dec. 3 &	2	6
	Dec. 16–Feb. 11	2	6
Brant	Closed.		
Light Geese	Same as for White-fronted Geese	20	
Michigan			
Ducks:	.....	6	18
North Zone	Sept. 30–Nov. 26 &	.....	.....
	Dec. 2–Dec. 3	.....	.....
Middle Zone	Oct. 7–Dec. 3 &	.....	.....
	Dec. 16–Dec. 17	.....	.....
South Zone	Oct. 14–Dec. 10 &	.....	.....
	Dec. 30–Dec. 31	.....	.....
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese (1)(2):			
North Zone	Sept. 1–Sept. 30 &	5	15
	Oct. 1–Dec. 16	5	15
Middle Zone	Sept. 1–Sept. 30 &	5	15
	Oct. 7–Dec. 22	5	15
South Zone:			
Muskegon Wastewater GMU	Oct. 17–Nov. 14 &	5	15
	Dec. 2–Dec. 19	5	15
Allegan County GMU	Sept. 1–Sept. 10 &	5	15
	Nov. 11–Feb. 15	5	15
Remainder of South Zone	Sept. 1–Sept. 30 &	5	15
	Oct. 14–Dec. 10 &	5	15
	Dec. 30–Dec. 31 &	5	15
	Jan. 27–Feb. 12	5	15
Light Geese:			
North Zone	Same as for Dark Geese	20	.....

	Season dates	Limits	
		Bag	Possession
Middle Zone	Same as for Dark Geese	20	
South Zone:			
Muskegon Wastewater GMU	Same as for Dark Geese	20	
Allegan County GMU	Same as for Dark Geese	20	
Remainder of South Zone	Same as for Dark Geese	20	
Minnesota			
Ducks:		6	18
North Zone	Sept. 23–Nov. 21		
Central Zone	Sept. 23–Oct. 1 &		
	Oct. 7–Nov. 26		
South Zone	Sept. 23–Oct. 1 &		
	Oct. 14–Dec. 3		
Mergansers	Same as for Ducks	5	15
Coots (5)	Same as for Ducks	15	45
Dark Geese (1):			
North Zone	Sept. 2–Sept. 17 &	5	15
	Sept. 23–Dec. 22	3	9
Central Zone	Sept. 2–Sept. 17 &	5	15
	Sept. 23–Oct. 1 &	3	9
	Oct. 7–Dec. 27	3	9
South Zone	Sept. 2–Sept. 17 &	5	15
	Sept. 23–Oct. 1 &	3	9
	Oct. 14–Jan. 3	3	9
Light Geese:			
North Zone	Same as for Dark Geese	20	60
Central Zone	Same as for Dark Geese	20	60
South Zone	Same as for Dark Geese	20	60
Mississippi			
Ducks	Nov. 24–Nov. 26 &	6	18
	Dec. 1–Dec. 3 &	6	18
	Dec. 6–Jan. 28	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese	Sept. 1–Sept 30 &	5	15
	Nov. 10–Nov. 26 &	3	9
	Dec. 1–Dec. 3 &	3	9
	Dec. 6–Jan. 28	3	9
White-fronted Geese	Nov. 10–Nov. 26 &	3	9
	Dec. 1–Dec. 3 &	3	9
	Dec. 6–Jan. 28	3	9
Brant	Same as for White-fronted Geese	1	3
Light Geese	Same as for White-fronted Geese	20	
Missouri			
Ducks and Mergansers:		6	18
North Zone	Nov. 4–Jan. 2		
Middle Zone	Nov. 4–Nov. 10 &		
	Nov. 16–Jan. 7		
South Zone	Nov. 23–Nov. 26 &		
	Dec. 4–Jan. 28		
Coots	Same as for Ducks	15	45
Canada Geese and Brant:			
North Zone	Oct. 7–Oct. 15 &	3	9
	Nov. 11–Feb. 6	3	9
Middle Zone	Same as North Zone	3	9
South Zone	Same as North Zone	3	9
White-fronted Geese:			
North Zone	Nov. 11–Feb. 6	2	6
Middle Zone	Same as North Zone	2	6
South Zone	Same as North Zone	2	6
Light Geese:			
North Zone	Nov. 11–Feb. 6	20	
Middle Zone	Same as North Zone	20	
South Zone	Same as North Zone	20	
Ohio			
Ducks (6):		6	18
Lake Erie Marsh Zone	Oct. 14–Oct. 29 &		
	Nov. 11–Dec. 24		
North Zone	Oct. 21–Nov. 5 &		
	Nov. 18–Dec. 31		
South Zone	Oct. 21–Nov. 5 &		
	Dec. 16–Jan. 28		
Mergansers	Same as for Ducks	5	15

	Season dates	Limits	
		Bag	Possession
Coots	Same as for Ducks	15	45
Dark Geese (1)(7):			
Lake Erie Goose Zone	Sept. 2–Sept. 10 &	5	15
	Oct. 14–Oct. 29 &	3	9
	Nov. 11–Dec. 24 &	3	9
	Jan. 6–Feb. 10	3	9
North Zone	Sept. 2–Sept. 10 &	5	15
	Oct. 21–Nov. 5 &	3	9
	Nov. 18–Dec. 31 &	3	9
	Jan. 6–Feb. 10	3	9
Pymatuning	Sept. 2–Sept. 10 &	5	15
	Oct. 21–Nov. 5 &	3	9
	Nov. 18–Dec. 31 &	3	9
	Jan. 6–Jan. 28	3	9
South Zone	Sept. 2–Sept. 10 &	5	15
	Oct. 21–Nov. 5 &	3	9
	Nov. 23–Feb. 10	3	9
Light Geese:			
Lake Erie Goose Zone	Oct. 14–Oct. 29 &	10	30
	Nov. 11–Dec. 24 &	10	30
	Jan. 6–Feb. 10	10	30
North Zone	Oct. 21–Nov. 5 &	10	30
	Nov. 18–Dec. 31 &	10	30
	Jan. 6–Feb. 10	10	30
Pymatuning	Oct. 21–Nov. 5 &	10	30
	Nov. 18–Dec. 31 &	10	30
	Jan. 6–Jan. 28	10	30
South Zone	Oct. 21–Nov. 5 &	10	30
	Nov. 23–Feb. 10	10	30
Tennessee			
Ducks:		6	18
Reelfoot Zone	Nov. 11–Nov. 12 &		
	Dec. 2–Jan. 28		
Rest of State	Nov. 25–Nov. 26 &		
	Dec. 2–Jan. 28		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese:			
Northwest Zone	Sept. 1–Sept. 15 &	5	15
	Oct. 14–Oct. 18 &	3	9
	Nov. 11–Nov. 12 &	3	9
	Dec. 2–Feb. 10	3	9
Rest of State	Sept. 1–Sept. 15 &	5	15
	Oct. 14–Oct. 31 &	3	9
	Nov. 25–Nov. 26 &	3	9
	Dec. 2–Jan. 28	3	9
White-fronted Geese:			
Northwest Zone	Nov. 25–Nov. 26 &	2	6
	Dec. 2–Feb. 10	2	6
Rest of State	Same as Northwest Zone	2	6
Brant:			
Northwest Zone	Nov. 25–Nov. 26 &	2	6
	Dec. 2–Jan. 28	2	6
Rest of State	Same as Northwest Zone	2	6
Light Geese	Same as White-fronted Geese	20	
Wisconsin			
Ducks (6):		6	18
North Zone	Sept. 23–Nov. 21		
South Zone	Sept. 30–Oct. 8 &		
	Oct. 14–Dec. 3		
Mississippi River Zone	Sept. 30–Oct. 6 &		
	Oct. 14–Dec. 5		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese:			
North Zone (8)	Sept. 1–Sept. 15	5	15
	Sept. 16–Dec. 16	2	6
South Zone (8)	Sept. 1–Sept. 15	5	15
	Sept. 16–Oct. 8 &	2	6
	Oct. 14–Dec. 21	2	6
Horicon Zone (8)(9)	Sept. 1–Sept. 15	5	15
	Sept. 16–Dec. 16	2	6

	Season dates	Limits	
		Bag	Possession
Mississippi River Zone (8)	Sept. 1–Sept. 15	5	15
	Sept. 30–Oct. 6 &	2	6
	Oct. 14–Jan. 4	2	6
White-fronted Geese:			
North Zone	Sept. 16–Dec. 16	1	3
South Zone	Sept. 16–Oct. 8 &	1	3
	Oct. 14–Dec. 21	1	3
Horicon Zone	Sept. 16–Dec. 16	1	3
Mississippi River Zone	Sept. 30–Oct. 6 &	1	3
	Oct. 14–Jan. 4	1	3
Brant	Same as for White-fronted Geese	1	3
Light Geese	Same as for White-fronted Geese	20	

(1) The dark goose daily bag limit is an aggregate daily bag limit for Canada geese, white-fronted geese, and brant.
(2) In *Alabama* and *Michigan,* the dark goose daily bag limit may not include more than 1 brant. Additionally, after September 30, the daily bag may not include more than 3 Canada geese.
(3) In *Indiana,* the dark goose daily bag limit of 5 may include 5 Canada geese during September 9 through September 17. During all other open season segments, the dark goose daily bag limit may not include more than 3 Canada geese. The possession limit is three times the daily bag limit.
(4) In *Iowa,* in the North Zone, the Missouri River Zone, and the South Zone, the dark goose daily bag limit may not include more than 2 Canada geese until November 1. After such time, the daily bag limit may not include more than 3 Canada geese. The possession limit is three times the daily bag limit.
(5) In *Minnesota,* the daily bag limit is 15 and the possession limit is 45 coots and moorhens in the aggregate.
(6) In *Ohio* and *Wisconsin,* the daily bag limit may include no more than one female mallard.
(7) In *Ohio,* only Canada geese may be taken during the September 2 to September 10 portion of the dark goose season.
(8) In *Wisconsin,* a special Early Canada goose season permit is required for September 1 through 15.
(9) In *Wisconsin,* a state tag is required for Canada goose harvest. See State regulations for further information.

Central Flyway

Flyway-Wide Restrictions

Duck Limits: The daily bag limit is 6 ducks, which may include no more than 5 mallards (2 female mallards), 1 pintail, 2 canvasbacks, 2 redheads, 3 scaup, and 3 wood ducks. The possession limit is three times the daily bag limit.

Merganser Limits: The daily bag limit is 5 mergansers and may include no more than 2 hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 2 may be hooded mergansers. The possession limit is three times the daily bag limit.

	Season dates	Limits	
		Bag	Possession
Colorado:			
Ducks		6	18
Southeast Zone	Oct. 25–Jan. 28		
Northeast Zone	Oct. 7–Nov. 27 & Dec. 16–Jan. 28		
Mountain/Foothills Zone	Sept. 30–Nov. 27 & Dec. 23–Jan. 28		
Coots	Same as for Ducks	15	45
Mergansers	Same as for Ducks	5	15
Dark Geese:			
Northern Front Range Unit	Sept. 30–Oct. 11 &	5	15
	Nov. 18–Feb. 18	5	15
South Park/San Luis Valley Unit	Same as N. Front Range Unit	5	15
North Park Unit	Same as N. Front Range Unit	5	15
Rest of State in Central Flyway	Nov. 6–Feb. 18	5	15
Light Geese:			
Northern Front Range Unit	Nov. 4–Feb. 18	50	
South Park/San Luis Valley Unit	Same as N. Front Range Unit	50	
North Park Unit	Same as N. Front Range Unit	50	
Rest of State in Central Flyway	Same as N. Front Range Unit	50	
Kansas:			
Ducks		6	18
High Plains	Oct. 7–Jan. 1 & Jan. 20–Jan. 28		
Low Plains.			
Early Zone	Oct. 7–Dec. 3 & Dec. 16–Dec. 31		
Late Zone	Oct. 28–Dec. 31 & Jan. 20–Jan. 28		
Southeast Zone	Nov. 11–Dec. 31 & Jan. 6–Jan. 28		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese (1)	Oct. 28–Oct. 29 &	6	18
	Nov. 8–Feb. 18	6	18
White-fronted Geese	Oct. 28–Dec. 31 &	2	6
	Jan. 27–Feb. 18	2	6
Light Geese	Oct. 28–Oct. 29 &	50	
	Nov. 8–Feb. 18	50	

	Season dates	Limits	
		Bag	Possession
Montana:			
Ducks and Mergansers (2)		6	18
Zone 1	Sept. 30–Jan. 4		
Zone 2	Sept. 30–Oct. 8 & Oct. 21–Jan. 16		
Coots	Same as for Ducks	15	45
Dark Geese:			
Zone 1	Sept. 30–Jan. 7 &	5	15
	Jan. 13–Jan. 17	5	15
Zone 2	Sept. 30–Oct. 8 &	5	15
	Oct. 21–Jan. 24	5	15
Light Geese:			
Zone 1	Same as for Dark Geese	20	60
Zone 2	Same as for Dark Geese	20	60
Nebraska:			
Ducks		6	18
Zone 1	Oct. 14–Dec. 26		
Zone 2:			
Low Plains	Oct. 7–Dec. 19		
High Plains	Oct. 7–Dec. 19 & Jan. 8–Jan. 28		
Zone 3:			
Low Plains	Oct. 26–Jan. 7		
High Plains	Oct. 26–Jan. 7 &		
	Jan. 8–Jan. 28		
Zone 4	Oct. 7–Dec. 19		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese:			
Niobrara Unit	Oct. 30–Feb. 11	5	15
East Unit	Oct. 30–Feb. 11	5	15
North Central Unit	Oct. 7–Jan. 19	5	15
Platte River Unit	Oct. 30–Feb. 11	5	15
Panhandle Unit	Oct. 30–Feb. 11	5	15
White-fronted Geese	Oct. 7–Dec. 10 &	3	9
	Feb. 3–Feb. 11	3	9
Light Geese	Oct. 7–Dec. 31 &	50	
	Jan. 24–Feb. 11	50	
New Mexico:			
Ducks and Mergansers (3)		6	18
North Zone	Oct. 14–Jan. 17		
South Zone	Oct. 25–Jan. 28		
Coots	Same as for Ducks	15	45
Dark Geese:			
Middle Rio Grande Valley Unit	Dec. 23–Jan. 16	2	2
Rest of State	Oct. 14–Jan. 28	5	15
Light Geese	Oct. 14–Jan. 28	50	
North Dakota:			
Ducks (2)		6	18
High Plains	Sept. 23–Dec. 3 & Dec. 9–Dec. 31		
Remainder of State	Sept. 23–Dec. 3		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese (4):			
Missouri River Zone	Sept. 23–Dec. 29	5	15
Rest of State	Sept. 23–Dec. 21	8	24
White-fronted Geese	Sept. 23–Dec. 3	3	9
Light Geese	Sept. 23–Dec. 31	50	
Oklahoma:			
Ducks		6	18
High Plains	Oct. 14–Jan. 10		
Low Plains:			
Zone 1	Oct. 28–Nov. 26 & Dec. 9–Jan. 21		
Zone 2	Nov. 4–Nov. 26 & Dec. 9–Jan. 28		
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese (1)	Nov. 4–Nov. 26 &	8	24
	Dec. 9–Feb. 18	8	24
White-fronted Geese	Nov. 4–Nov. 26 &	2	6
	Dec. 9–Feb. 11	2	6
Light Geese	Nov. 4–Nov. 26 &	50	
	Dec. 9–Feb. 18	50	
South Dakota:			
Ducks (2)		6	18

	Season dates	Limits	
		Bag	Possession
High Plains	Oct. 14–Dec. 26 & Dec. 27–Jan. 18	.....	.....
Low Plains:			
North Zone	Sept. 30–Dec. 12	.....	.....
Middle Zone	Sept. 30–Dec. 12	.....	.....
South Zone	Oct. 14–Dec. 26	.....	.....
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada Geese:			
Unit 1	Oct. 1–Dec. 17	8	24
Unit 2	Nov. 6–Feb. 18	4	12
Unit 3	Oct. 21–Dec. 24 &	4	12
	Jan. 13–Jan. 21	4	12
White-fronted Geese	Sept. 30–Dec. 24	2	6
Light Geese	Sept. 30–Jan. 12	50	
Texas:			
Ducks (5)	.....	6	18
High Plains	Oct. 28–Oct. 29 & Nov. 3–Jan. 28	.....	.....
Low Plains:			
North Zone	Nov. 11–Nov. 26 & Dec. 2–Jan. 28	.....	.....
South Zone	Nov. 4–Nov. 26 & Dec. 9–Jan. 28	.....	.....
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese (6):			
East Tier:			
South Zone	Nov. 4–Jan. 28	5	15
North Zone	Nov. 4–Jan. 28	5	15
West Tier	Nov. 4–Feb. 4	5	15
Light Geese:			
East Tier:			
South Zone	Nov. 4–Jan. 28	20	.....
North Zone	Nov. 4–Jan. 28	20	.....
West Tier	Nov. 4–Feb. 4	20	.....
Wyoming:			
Ducks (2)(7)	.....	6	18
Zone C1	Sept. 30–Oct. 17 & Oct. 28–Jan. 14	.....	.....
Zone C2	Sept. 23–Dec. 3 & Dec. 9–Jan. 2	.....	.....
Zone C3	Same as Zone C2	.....	.....
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese:			
Zone G1A (7)	Sept. 30–Oct. 11 &	2	6
	Nov. 18–Feb. 18	4	12
Zone G1	Sept. 30–Oct. 17 &	5	15
	Oct. 28–Nov. 26 &	5	15
	Dec. 2–Jan. 27	5	15
Zone G2	Sept. 23–Dec. 3 &	5	15
	Dec. 9–Jan. 10	5	15
Zone G3	Same as Zone G2	5	15
Light Geese	Sept. 30–Dec. 31 &	10	30
	Feb. 7–Feb. 18	10	30

(1) In *Kansas* and *Oklahoma,* the dark geese daily bag limit includes Canada geese, brant, and all other geese except white-fronted geese and light geese.

(2) In *Montana,* during the first 9 days of the duck season, and in *North Dakota, South Dakota,* and *Wyoming,* during the first 16 days of the duck season, the daily bag and possession limit may include 2 and 6 additional blue-winged teal, respectively.

(3) In *New Mexico,* Mexican-like ducks are included in the aggregate with mallards.

(4) In *North Dakota,* see State regulations for additional shooting hour restrictions.

(5) In *Texas,* the daily bag limit is 6 ducks, which may include no more than 5 mallards (only 2 of which may be females), 2 redheads, 3 wood ducks, 3 scaup, 2 canvasbacks, 1 pintail, and 1 dusky duck (mottled duck, Mexican-like duck, black duck and their hybrids). The season for dusky ducks is closed the first 5 days of the season in all zones. The possession limit is three times the daily bag limit.

(6) In *Texas,* the daily bag limit for dark geese is 5 in the aggregate and may include no more than 2 white-fronted geese. Possession limits are three times the daily bag limits.

(7) See State regulations for additional restrictions.

PACIFIC FLYWAY

Flyway-wide Restrictions

Duck and Merganser Limits: The daily bag limit of 7 ducks (including mergansers) may include no more than 2 female mallards, 1 pintail, 2 redheads, 3 scaup, and 2 canvasbacks. The possession limit is three times the daily bag limit.

Coot and Common Moorhen Limits: Daily bag and possession limits are in the aggregate for the two species.

	Season dates	Limits	
		Bag	Possession
Arizona			
Ducks (1):		7	21
North Zone:			
Scaup	Oct. 21–Jan. 14	3	9
Other Ducks	Oct. 6–Jan. 14	7	21
South Zone:			
Scaup	Nov. 4–Jan. 28	3	9
Other Ducks	Oct. 20–Jan. 28	7	21
Coots and Moorhens	Same as for Other Ducks	25	75
Dark Geese:			
North Zone	Oct. 6–Jan. 14	4	12
South Zone	Oct. 20–Jan. 28	4	12
Light Geese	Same as for Dark Geese	10	30
California			
Ducks:		7	21
Northeastern Zone:			
Scaup	Oct. 7–Dec. 3 &	3	9
	Dec. 23–Jan. 19	3	9
Other Ducks	Oct. 7–Jan. 19	7	21
Colorado River Zone:			
Scaup	Nov. 4–Jan. 28	3	9
Other Ducks	Oct. 20–Jan. 28	7	21
Southern Zone:			
Scaup	Nov. 4–Jan. 28	3	9
Other Ducks	Oct. 21–Jan. 28	7	21
Southern San Joaquin Valley Zone:			
Scaup	Nov. 4–Jan. 28	3	9
Other Ducks	Oct. 21–Jan. 28	7	21
Balance of State Zone:			
Scaup	Nov. 4–Jan. 28	3	9
Other Ducks	Oct. 21–Jan. 28	7	21
Coots and Moorhens	Same as for Other Ducks	25	25
Canada Geese (2) (3):			
Northeastern Zone (4)	Oct. 7–Jan. 14	10	30
Colorado River Zone	Oct. 20–Jan. 28	4	12
Southern Zone	Oct. 21–Jan. 28	3	9
Balance of State Zone	Sept. 30–Oct. 4 &	10	30
	Oct. 21–Jan. 28	10	30
North Coast Special Management Area	Nov. 7–Jan. 28 &	10	30
	Feb. 17–Mar. 10	10	30
White-fronted Geese (2):			
Northeastern Zone	Oct. 7–Jan. 14 &	10	30
	Mar. 3–Mar. 7	10	30
Colorado River Zone	Oct. 20–Jan. 28	4	12
Southern Zone	Oct. 21–Jan. 28	3	9
Balance of State Zone	Oct. 21–Jan. 28 &	10	30
	Feb. 10–Feb. 14	10	30
Sacramento Valley Special Management Area	Oct. 21–Dec. 21	3	9
Light Geese:			
Northeastern Zone	Oct. 7–Dec. 3 &	20	60
	Jan. 6–Jan. 19 &	20	60
	Feb. 6–Mar. 10	20	60
Colorado River Zone	Oct. 20–Jan. 28	20	60
Southern Zone	Oct. 21–Jan. 28	20	60
Imperial County Special Management Area	Nov. 4–Jan. 28 &	20	60
	Feb. 3–Feb. 19	20	60
Balance of State Zone	Oct. 21–Jan. 28 &	20	60
	Feb. 10–Feb. 14	20	60
Brant:			
Northern Zone	Nov. 8–Dec. 14	2	6
Balance of State Zone	Nov. 9–Dec. 15	2	6
Colorado			
Ducks:		7	21
East Zone:			
Scaup	Sept. 30–Dec. 24	3	9
Other Ducks	Sept. 30–Jan. 12	7	21
West Zone:			
Scaup	Sept. 30–Oct. 18 &	3	9
	Nov. 4–Jan. 9	3	9
Other Ducks	Sept. 30–Oct. 18 &	7	21
	Nov. 4–Jan. 28	7	21
Coots	Same as for Other Ducks	25	75

	Season dates	Limits	
		Bag	Possession
Dark Geese:			
East Zone	Sept. 30–Jan. 3	4	12
West Zone	Sept. 30–Oct. 9 &	4	12
	Nov. 4–Jan. 28	4	12
Light Geese:	Same as for Dark Geese	10	30
Idaho			
Ducks:		7	21
Zone 1:			
Scaup	Oct. 7–Dec. 31	3	9
Other Ducks	Oct. 7–Jan. 19	7	21
Zone 2:			
Scaup	Oct. 7–Dec. 31	3	9
Other Ducks	Oct. 7–Jan. 19	7	21
Zone 3:			
Scaup	Nov. 2–Jan. 26	3	9
Other Ducks	Oct. 14–Jan. 26	7	21
Zone 4:			
Scaup	Oct. 7–Dec. 31	3	9
Other Ducks	Oct. 7–Jan. 19	7	21
Coots	Same as for Other Ducks	25	75
Canada Geese and Brant:			
Zone 1	Oct. 7–Jan. 19	4	12
Zone 2	Oct. 7–Jan. 19	4	12
Zone 3	Oct. 14–Jan. 26	4	12
Zone 4	Oct. 7–Jan. 4	4	12
Zone 5	Oct. 7–Jan. 4	4	12
White-fronted Geese:			
Zone 1	Oct. 7–Jan. 19	10	30
Zone 2	Oct. 7–Jan. 19	10	30
Zone 3	Oct. 14–Jan. 26	10	30
Zone 4	Nov. 6–Feb. 18	10	30
Zone 5	Oct. 7–Jan. 4	10	30
Light Geese:			
Zone 1	Oct. 7–Jan. 19	20	60
Zone 2	Nov. 5–Jan. 19 &	20	60
	Feb. 10–Mar. 10	20	60
Zone 3	Nov. 26–Mar. 10	20	60
Zone 4	Oct. 14–Jan. 26	20	60
Zone 5 (5)	Oct. 7–Jan. 19	20	60
Zone 6	Oct. 7–Jan. 19	20	60
Montana			
Ducks:		7	21
Scaup	Sept. 30–Dec. 24	3	9
Other Ducks	Sept. 30–Jan. 7 &	7	21
	Jan. 13–Jan. 17	7	21
Coots	Same as for Other Ducks	25	25
Dark Geese (6)	Sept. 30–Jan. 7 &	4	12
	Jan. 13–Jan. 17	4	12
Light Geese (6)	Same as for Dark Geese	20	60
Nevada			
Ducks:		7	21
Northeast Zone:			
Scaup	Sept. 23–Oct. 22 &	3	9
	Oct. 25–Dec. 19	3	0
Other Ducks	Sept. 23–Oct. 22 &	7	21
	Oct. 25–Jan. 7	7	21
Northwest Zone:			
Scaup	Oct. 28–Jan. 21	3	9
Other Ducks	Oct. 7–Oct. 22 &	7	21
	Oct. 25–Jan. 21	7	21
South Zone:			
Scaup	Nov. 4–Jan. 28	3	9
Other Ducks	Oct. 14–Oct. 22 &	7	21
	Oct. 25–Jan. 28	7	21
Moapa Valley Special Management Area (7):			
Scaup	Nov. 4–Jan. 28	3	9
Other Ducks	Oct. 28–Jan. 28	7	21
Coots and Moorhens	Same as for Other Ducks	25	75
Canada Geese and Brant:			
Northeast Zone	Same as for Other Ducks	4	12
Northwest Zone	Same as for Other Ducks	4	12
South Zone	Same as for Other Ducks	4	12

	Season dates	Limits	
		Bag	Possession
Moapa Valley Special Management Area (7):	Same as for Other Ducks	4	12
White-fronted Geese:			
Northeast Zone	Same as for Canada Geese	10	30
Northwest Zone	Same as for Canada Geese	10	30
South Zone	Same as for Canada Geese	10	30
Moapa Valley Special Management Area (7):	Same as for Canada Geese	10	30
Light Geese (8):			
Northeast Zone	Oct. 25–Jan. 7 &	20	60
	Feb. 24–Mar. 10	20	60
Northwest Zone	Oct. 25–Jan. 21 &	20	60
	Feb. 24–Mar. 10	20	60
South Zone	Oct. 14–Oct. 22 &	20	60
	Oct. 25–Jan. 28	20	60
Moapa Valley Special Management Area (7):	Oct. 28–Jan. 28	20	60
New Mexico			
Ducks:		7	21
Scaup	Oct. 16–Jan. 9	3	9
Other Ducks	Oct. 16–Jan. 28	7	21
Coots and Moorhens	Same as for Other Ducks	25	75
Canada Geese and Brant:			
North Zone	Sept. 23–Oct. 8 &	4	12
	Oct. 30–Jan. 28	4	12
South Zone	Oct. 14–Jan. 28	4	12
White-fronted Geese:			
North Zone	Same as for Canada Geese	10	30
South Zone	Same as for Canada Geese	10	30
Light Geese:			
North Zone	Same as for Canada Geese	20	60
South Zone	Same as for Canada Geese	20	60
Oregon			
Ducks:		7	21
Zone 1:			
Columbia Basin Unit:			
Scaup	Nov. 4–Jan. 28	3	9
Other Ducks	Oct. 14–Oct. 29 &	7	21
	Nov. 1–Jan. 28	7	21
Rest of Zone 1	Same as Columbia Basin Unit.		
Zone 2:			
Scaup	Oct. 7–Nov. 26 &	3	9
	Nov. 29–Jan. 2	3	9
Other Ducks	Oct. 7–Nov. 26 &	7	21
	Nov. 29–Jan. 21	7	21
Coots	Same as for Other Ducks	25	75
Canada Geese:			
Northwest Permit Zone (9) (10)	Oct. 21–Oct. 29 &	4	12
	Nov. 18–Jan. 7 &	4	12
	Feb. 3–Mar. 10	4	12
Tillamook County Management Area	Closed.		
Southwest Zone	Oct. 14–Oct. 29 &	4	12
	Nov. 6–Jan. 28	4	12
South Coast Zone	Sept. 30–Nov. 26 &	6	18
	Dec. 16–Jan. 9 &	6	18
	Feb. 17–Mar. 10	6	18
Eastern Zone	Oct. 14–Oct. 29 &	4	12
	Nov. 6–Jan. 28	4	12
Klamath County Zone	Oct. 7–Nov. 26 &	4	12
	Dec. 11–Jan. 28	4	12
Harney and Lake County Zone	Oct. 7–Nov. 26 &	4	12
	Dec. 11–Jan. 28	4	12
Malheur County Zone	Oct. 7–Nov. 26 &	4	12
	Dec. 11–Jan. 28	4	12
White-fronted Geese:			
Northwest Permit Zone (9)	Same as for Canada Geese	10	30
Tillamook County Management Area	Closed.		
Southwest Zone	Same as for Canada Geese	10	30
South Coast Zone	Same as for Canada Geese	10	30
Eastern Zone	Same as for Canada Geese	10	30
Klamath County Zone	Oct. 7–Nov. 26 &	10	30
	Jan. 16–Mar. 10	10	30
Harney and Lake County Zone (11)	Oct. 7–Nov. 26 &	10	30
	Jan. 16–Mar. 10	10	30

	Season dates	Limits	
		Bag	Possession
Malheur County Zone	Oct. 7–Nov. 26 &	10	30
	Jan. 16–Mar. 10	10	30
Light Geese:			
Northwest Permit Zone (9)	Same as for Canada Geese	6	18
Tillamook County Management Area	Closed.		
Southwest Zone	Same as for Canada Geese	6	18
South Coast Zone	Same as for Canada Geese	6	18
Eastern Zone	Same as for Canada Geese	6	18
Klamath County Zone (12)	Oct. 7–Nov. 26 &	6	18
	Jan. 16–Mar. 10	6	18
Harney and Lake County Zone (12)	Oct. 7–Nov. 26 &	6	18
	Jan. 16–Mar. 10	6	18
Malheur County Zone (12)	Oct. 7–Nov. 26 &	6	18
	Jan. 16–Mar. 10	6	18
Brant	Nov. 25–Dec. 10	2	6
Utah			
Ducks:		7	21
Zone 1:			
Scaup	Oct. 7–Dec. 31	3	9
Other Ducks	Oct. 7–Jan. 20	7	21
Zone 2:			
Scaup	Nov. 3–Jan. 27	3	9
Other Ducks	Oct. 14–Jan. 27	7	21
Coots	Same as for Other Ducks	25	75
Canada Geese and Brant:			
Northern Zone	Oct. 7–Oct. 19 &	4	12
	Oct. 28–Jan. 28	4	12
Wasatch Front Zone	Oct. 7–Oct. 19 &	4	12
	Nov. 4–Feb. 4	4	12
East Box Elder County Zone	Oct. 7–Jan. 20	4	12
Southern Zone	Oct. 14–Jan. 27	4	12
White-fronted Geese:			
Northern Zone	Same as for Canada Geese	10	30
Wasatch Front Zone	Same as for Canada Geese	10	30
East Box Elder County Zone	Same as for Canada Geese	10	30
Southern Zone	Same as for Canada Geese	10	30
Light Geese:			
Northern Zone	Oct. 25–Nov. 30 &	20	60
	Jan. 1–Mar. 10	20	60
Wasatch Front Zone	Same as for Northern Zone	20	60
East Box Elder County Zone	Same as for Northern Zone	20	60
Southern Zone	Same as for Northern Zone	20	60
Washington			
Ducks:		7	21
East Zone:			
Scaup	Nov. 4–Jan. 28	3	9
Other Ducks	Oct. 14–Oct 18 &	7	21
	Oct. 21–Jan. 28	7	21
West Zone (13)	Same as East Zone.		
Coots	Same as for Other Ducks	25	75
Canada Geese:			
Area 1 (14)	Oct. 14–Oct. 26 &	4	12
	Nov. 4–Jan. 28	4	12
Area 2A (15) (16)	Oct. 14–Oct. 29 &	4	12
	Nov. 25–Jan. 14 &	4	12
	Feb. 10–Mar. 10	4	12
Area 2B (15) (16)	Oct. 14–Oct. 29 &	4	12
	Nov. 25–Jan. 14 &	4	12
	Feb. 10–Mar. 10	4	12
Area 3 (14)	Oct. 14–Oct. 26 &	4	12
	Nov. 4–Jan. 28	4	12
Area 4 (14)	Oct. 14–Oct. 15 &	4	12
	Oct. 18 &	4	12
	Oct. 21–Jan. 28	4	12
Area 5 (14)	Oct. 14–Oct. 16 &	4	12
	Oct. 21–Jan. 28	4	12
White-fronted Geese:			
Area 1 (14)	Oct. 14–Jan. 28	10	30
Area 2A (15)	Same as for Canada Geese	10	30
Area 2B (15)	Same as for Canada Geese	10	30
Area 3 (14)	Same as for Canada Geese	10	30
Area 4 (14)	Same as for Canada Geese	10	30

	Season dates	Limits	
		Bag	Possession
Area 5 (14)	Same as for Canada Geese	10	30
Light Geese:			
Area 1 (14)	Oct. 14–Jan. 28	6	18
Area 2A (15)	Same as for Canada Geese	6	18
Area 2B (15)	Same as for Canada Geese	6	18
Area 3 (14)	Same as for Canada Geese	6	18
Area 4 (14)	Same as for Canada Geese	6	18
Area 5 (14)	Same as for Canada Geese	6	18
Brant (18):			
Coastal Zone	Jan. 6–Jan. 21	2	6
Puget Sound Zone	Jan. 6–Jan. 21	2	6
Wyoming			
Ducks:		7	21
Snake River Zone:			
Scaup	Sept. 23–Dec. 17	3	9
Other Ducks	Sept. 23–Jan. 5	7	21
Balance of State Zone			
Scaup	Sept. 23–Dec. 17	3	9
Other Ducks	Sept. 23–Jan. 5	7	21
Coots	Same as for Other Ducks	25	75
Dark Geese	Sept. 23–Dec. 28	4	12
Light Geese	Sept. 23–Dec. 28	10	30

(1) In *Arizona,* the daily bag limit may include no more than either 2 female mallards or 2 Mexican-like ducks, or 1 of each; and not more than 6 female mallards and Mexican-like ducks, in the aggregate, may be in possession.
(2) In *California,* the daily bag and possession limits for Canada geese and white–fronted geese are in the aggregate.
(3) In *California,* small Canada geese are Cackling and Aleutian Canada geese, and large Canada geese are Western and Lesser Canada geese.
(4) In *California,* in the Northeastern Zone, the daily bag limit may include no more than 2 large Canada geese.
(5) In *Idaho,* the season on light geese is closed in Fremont and Teton Counties.
(6) In *Montana,* check State regulations for special seasons and exceptions in Freezeout Lake WMA; Canyon Ferry; Flathead; and Deer Lodge County.
(7) In *Nevada,* youth 17 years of age or younger are allowed to hunt on October 14 on the Moapa Valley portion of Overton Wildlife Management Area. Youth must be accompanied by an adult who is at least 18 years of age.
(8) In *Nevada,* there is no open season on light geese in Ruby Valley within Elko and White Pine Counties. In addition, the season is closed in Alkali Lake, Fernley, Humboldt, Kirch, Mason Valley, Scripps, and Steptoe Valley Wildlife Management Areas and Washoe State Park from February 24 to March 10.
(9) In *Oregon,* in the Northwest Permit Zone, see State regulations for specific dates, times, and conditions of permit hunts and closures.
(10) In *Oregon,* in the Northwest Permit Zone, the season for dusky Canada geese is closed.
(11) In *Oregon,* in Lake County, the daily bag and possession limits for white-fronted geese are 1 and 3, respectively.
(12) In *Oregon,* in Klamath County, Harney and Lake County, and Malheur County Zones, during January 29 through March 10, the daily bag and possession limits are 20 and 60, respectively.
(13) In *Washington,* the daily bag limit in the West Zone may include no more than 2 scoters, 2 long-tailed ducks, and 2 goldeneyes, with the possession limit three times the daily bag limit. The daily bag and possession limit, and the season limit, for harlequins is 1.
(14) In *Washington,* in Areas 1, 3, and 5, hunting is allowed every day. In Area 4, hunting is allowed only on Saturdays, Sundays, Wednesdays, and certain holidays. See State regulations for details, including shooting hours.
(15) In *Washington,* in Areas 2A and 2B, see State regulations for specific dates, times, and conditions of permit hunts and closures.
(16) In *Washington,* in Areas 2A and 2B, the season for dusky Canada geese is closed.
(17) In *Washington,* brant may be hunted in Clallam, Pacific, Skagit, and Watcom Counties only; see State regulations for specific dates.

(f) *Youth Waterfowl Hunting Days.*

The following seasons are open only to youth hunters. Youth hunters must be accompanied into the field by an adult at least 18 years of age. This adult cannot duck hunt but may participate in other open seasons.

Definition

Youth Hunters: States may use their established definition of age for youth hunters. However, youth hunters may not be over the age of 17. Youth hunters 16 years of age and older must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp).

		Season dates
ATLANTIC FLYWAY:		
Connecticut	Ducks, geese, mergansers, and coots	Oct. 7 & Nov. 4.
Delaware	Ducks, geese, brant, mergansers, and coots	Oct. 21 & Feb. 10.
Florida	Ducks, mergansers, coots, moorhens, and geese	Feb. 3 & 4.
Georgia	Ducks, geese, mergansers, coots, moorhens, and gallinules.	Nov. 11 & 12.
Maine	Ducks, geese, mergansers, and coots:	
	North Zone	Sept. 16 & Dec. 9.
	South Zone	Sept. 23 & Oct. 21.
	Coastal Zone	Sept. 23 & Nov. 4.
Maryland (1)(2)	Ducks, coots, light geese, Canada geese, sea ducks, and brant.	Nov. 4 & Feb. 10.
Massachusetts	Ducks, mergansers, coots, and geese	Sept. 23 & Oct. 7.
New Hampshire	Ducks, geese, mergansers, and coots	Sept. 23 & 24.

		Season dates
New Jersey	Ducks, geese, mergansers, coots, moorhens, and gallinules:	
	North Zone	Oct. 7 & Feb. 3.
	South Zone	Oct. 14 & Feb. 3.
	Coastal Zone	Nov. 4 & Feb. 10.
New York (3)	Ducks, mergansers, coots, brant, and Canada geese:	
	Long Island Zone	Nov. 11 & 12.
	Lake Champlain Zone	Sept. 23 & 24.
	Northeastern Zone	Sept. 23 & 24.
	Southeastern Zone	Sept. 16 & 17.
	Western Zone	Oct. 14 & 15.
North Carolina	Ducks, mergansers, geese (4), brant, tundra swans (5), and coots.	Feb. 3 & Feb. 10.
Pennsylvania	Ducks, mergansers, Canada geese, coots, moorhens, brant, and gallinules:	
	North Zone	Sept. 16 & Jan. 20.
	South Zone	Sept. 16 & Jan. 27.
	Northwest Zone	Sept. 16 & Dec. 16.
	Lake Erie Zone	Sept. 16 & Oct. 21.
Rhode Island	Ducks, mergansers, geese, and coots	Oct. 28 & 29.
South Carolina	Ducks, geese, mergansers, and coots	Feb. 3 & 10.
Vermont	Ducks, geese, mergansers and coots	Sept. 23 & 24.
Virginia	Ducks, mergansers, coots, tundra swans (5), and Canada geese (6).	Oct. 21 & Feb. 3.
West Virginia	Ducks, geese, mergansers, coots, and gallinules	Sept. 16 & Nov. 4.
MISSISSIPPI FLYWAY		
Alabama	Ducks, mergansers, coots, geese, moorhens, and gallinules.	Nov. 18 & Feb. 3.
Arkansas	Ducks, geese, mergansers, coots, moorhens, and gallinules.	Dec. 2 & Feb. 3.
Illinois	Ducks, geese, mergansers, and coots	
	North Zone	Oct. 14 & 15.
	Central Zone	Oct. 21 & 22.
	South Central Zone	Nov. 4 & 5.
	South Zone	Nov. 11 & 12.
Indiana	Ducks, mergansers, coots, moorhens, gallinules, and geese:	
	North Zone	Oct. 14 & 15.
	Central Zone	Oct. 21 & 22.
	South Zone	Oct. 28 & 29.
Iowa	Ducks, mergansers, and coots:	
	North Zone	Sept. 16 & 17.
	Missouri River Zone	Sept. 30 & Oct. 1.
	South Zone	Sept. 23 & 24.
Kentucky	Ducks, geese, mergansers, coots, moorhens, and gallinules:	
	West Zone	Feb. 3 & 4.
	East Zone	Nov. 4 & 5.
Louisiana	Ducks, mergansers, coots, moorhens, gallinules, and geese:	
	West Zone	Nov. 4 & Jan. 27.
	East Zone	Nov. 11 & Feb. 3.
	Coastal Zone	Nov. 4 & Nov. 5.
Michigan	Ducks, geese, mergansers, coots, moorhens, and gallinules.	Sept. 9 & 10.
Minnesota	Ducks, geese, mergansers, coots, moorhens, and gallinules.	Sept. 9.
Mississippi	Ducks, mergansers, coots, moorhens, gallinules, and geese.	Nov. 18 & Feb. 3.
Missouri	Ducks, coots, mergansers, moorhens, gallinules, and geese:	
	North Zone	Oct. 28 & 29.
	Middle Zone	Oct. 28 & 29.
	South Zone	Nov. 18 & 19.
Ohio	Ducks, mergansers, coots, moorhens, gallinules, and geese:	
	Lake Erie Marsh	Oct. 7 & 8.
	North Zone	Oct. 7 & 8.
	South Zone	Oct. 7 & 8.
Tennessee	Ducks, mergansers, coots, moorhens, gallinules, and geese:	
	Reelfoot Zone	Feb. 3 & 10.
	Remainder of State	Feb. 3 & 10.

		Season dates
Wisconsin	Ducks, geese, mergansers, coots, moorhens, and gallinules.	Sept. 16 & 17.
CENTRAL FLYWAY		
Colorado	Ducks, dark geese, mergansers, and coots:	
	Mountain/Foothills Zone	Sept. 23 & 24.
	Northeast Zone	Sept. 30 & Oct. 1.
	Southeast Zone	Oct. 21 & 22.
Kansas (7)	Ducks, geese, mergansers, and coots:	
	High Plains	Sept. 30 & Oct. 1.
	Low Plains:	
	Early Zone	Sept. 30 & Oct. 1.
	Late Zone	Oct. 21 & 22.
	Southeast Zone	Nov. 4 & 5.
Montana	Ducks, geese, mergansers, and coots	Sept. 23 & 24.
Nebraska	Ducks, geese, mergansers, and coots:	
	Zone 1	Oct. 7 & 8.
	Zone 2	Sept. 30 & Oct. 1.
	Zone 3	Oct. 21 & 22.
	Zone 4	Sept. 30 & Oct. 1.
New Mexico	Ducks, mergansers, coots, and moorhens:	
	North Zone	Sept. 30 & Oct. 1.
	South Zone	Oct. 7 & 8.
North Dakota	Ducks, geese, mergansers, and coots	Sept. 16 & 17.
Oklahoma	Ducks, geese mergansers, and coots:	
	High Plains	Sept. 30 & Feb. 3.
	Low Plains:	
	Zone 1	Sept. 30 & Feb. 3.
	Zone 2	Sept. 30 & Feb. 3.
South Dakota	Ducks, Canada geese, mergansers, and coots	Sept. 23 & 24.
Texas	Ducks, geese, mergansers, moorhens, gallinules, and coots:	
	High Plains	Oct. 21 & 22.
	Low Plains:	
	North Zone	Nov. 4 & 5.
	South Zone	Oct. 28 & 29.
Wyoming	Ducks, geese, mergansers, and coots:	
	Zone C1	Sept. 23 & 24.
	Zone C2	Sept. 16 & 17.
	Zone C3	Sept. 16 & 17.
PACIFIC FLYWAY		
Arizona	Ducks, geese, mergansers, coots, and moorhens:	
	North Zone	Sept. 30 & Oct. 1.
	South Zone	Feb. 3 & 4.
California	Ducks, geese, brant, mergansers, coots, and moorhens:	
	Northeastern Zone	Sept. 23 & 24.
	Colorado River Zone	Feb. 3 & 4.
	Southern Zone	Feb. 3 & 4.
	Southern San Joaquin Valley Zone	Feb. 3 & 4.
	Balance of State Zone	Feb. 3 & 4.
Colorado	Ducks, geese, mergansers, and coots:	
	East Zone	Sept. 23 & 24.
	West Zone	Oct. 28 & 29.
Idaho	Ducks, geese, mergansers, and coots	Sept. 30 & Oct. 1.
Montana	Ducks, geese, mergansers, and coots	Sept. 23 & 24.
Nevada	Ducks, geese, mergansers, coots, and moorhens:	
	Northeast Zone	Sept. 9 & 10.
	Northwest Zone	Sept. 23 & Feb. 3.
	South Zone	Feb. 10 & 11.
New Mexico	Ducks, mergansers, coots, and moorhens	Oct. 7 & 8.
Oregon	Ducks, geese, mergansers, and coots	Sept. 23 & 24.
Utah	Ducks, dark geese, mergansers, and coots:	
	Zone 1	Sept. 23.
	Zone 2	Sept. 30.
Washington	Ducks, Canada geese, mergansers, and coots	Sept. 16 & 17.
Wyoming	Ducks, geese, mergansers, and coots	Sept. 16 & 17.

(1) In *Maryland,* youth hunter(s) must be accompanied by an adult at least 21 years old and who possesses a current Maryland hunting license or is exempt from the hunting license requirement. The adult accompanying the youth hunter(s) may not possess a hunting weapon and may not participate in other seasons that are open on the youth days.

(2) In *Maryland,* the bag limit for Canada geese is 2 in the AP Zone and 5 in the RP Zone.

(3) In *New York,* the daily bag limit for Canada geese is 3.

(4) In *North Carolina,* the daily bag limit in the Northeast Hunt Zone may not include dark geese except by permit.

(5) In *North Carolina* and *Virginia,* the daily bag limit may not include tundra swans except by permit.

(6) In *Virginia,* the daily bag limit for Canada geese is 2.

(7) In *Kansas,* the adult accompanying the youth must possess any licenses and/or stamps required by law for that individual to hunt waterfowl.

■ 7. Section 20.106 is revised to read as follows:

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise noted. Area descriptions were published in the May 30, 2017, **Federal Register** (82 FR 24786).

Federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take sandhill cranes at the level allowed by the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

	Season dates	Limits	
		Bag	Possession
MISSISSIPPI FLYWAY			
Kentucky (1)	Dec. 16–Jan. 14	2	2 per season.
Minnesota (1):			
NW Goose Zone	Sept. 16–Oct. 22	1	3.
Tennessee (1)(2):			
Southeast Zone (3)	Dec. 2–Jan. 28	3	3 per season.
Rest of State	Dec. 2–Jan. 28	3	3 per season.
CENTRAL FLYWAY			
Colorado (1)	Sept. 30–Nov. 26	3	9.
Kansas (1)(4)(5)	Nov. 8–Jan. 4	3	9.
Montana:			
Regular Season Area (1)	Sept. 30–Nov. 26	3	9.
Special Season Area (6)	Sept. 9–Oct. 8		2 per season
New Mexico:			
Regular Season Area (1)	Oct. 28–Jan. 28	3	6.
Middle Rio Grande Valley Area (6)(7)	Nov. 11–Nov. 12 &	3	6 per season.
	Nov. 4 &	3	3 per season.
	Nov. 25–Nov. 26 &	3	6 per season.
	Dec. 16–Dec. 17 &	3	6 per season.
	Jan. 6–Jan. 7 &	3	6 per season.
	Jan. 13–Jan. 14	3	6 per season.
Southwest Area (6)	Oct. 28–Nov. 5 &	3	6 per season.
	Jan. 6–Jan. 7	3	6 per season.
Estancia Valley (6)(8)	Oct. 28–Nov. 5	3	6.
North Dakota (1):			
Area 1	Sept. 16–Nov. 12	3	9.
Area 2	Sept. 16–Nov. 12	2	6.
Oklahoma (1)	Oct. 21–Jan. 21	3	9.
South Dakota (1)	Sept. 23–Nov. 19	3	9.
Texas (1):			
Zone A	Oct. 28–Jan. 28	3	9.
Zone B	Nov. 24–Jan. 28	3	9.
Zone C	Dec. 16–Jan. 21	2	6.
Wyoming:			
Regular Season (Area 7) (1)	Sept. 16–Nov. 12	3	9.
Riverton-Boysen Unit (Area 4) (6)	Sept. 16–Oct. 8		1 per season.
Big Horn, Hot Springs, Park, and Washakie Counties (Area 6) (6).	Sept. 16–Oct. 8		1 per season.
Johnson, Natrona, and Sheridan Counties (Area 8) (6).	Sept. 1–Sept. 30		1 per season
PACIFIC FLYWAY			
Arizona (6):			
Zone 1 (9)	Nov. 17–Dec. 10		3 per season.
Zone 2 (10)	Nov. 25–Dec. 13		3 per season.
Idaho (6):			
Areas 1, 3, & 4	Sept. 1–Sept. 30		2 per season.
Areas 2 & 5	Sept. 1–Sept. 15		2 per season.
Montana (6)(11):			
Zone 1	Sept. 9–Oct. 8	1	1.
Zone 2	Sept. 9–Oct. 8	2	2.
Zone 3	Sept. 9–Oct. 8	2	2.

	Season dates	Limits	
		Bag	Possession
Zone 4	Sept. 9–Oct. 8	1	1.
Utah (6):			
Rich County	Sept. 2–Sept. 10		1 per season.
Cache County	Sept. 2–Sept. 10		1 per season.
East Box Elder County	Sept. 2–Sept. 10		1 per season.
Uintah County	Sept. 30–Oct. 29		1 per season.
Wyoming (6):			
Areas 1, 2, 3, & 5	Sept. 1–Sept. 8		1 per season.

(1) Each person participating in the regular sandhill crane seasons must have a valid sandhill crane hunting permit in their possession while hunting.
(2) In *Tennessee,* the shooting hours are from sunrise to 3 p.m.
(3) In *Tennessee,* in the Southeast Zone, the season is also closed from January 12 through January 14, 2018.
(4) In *Kansas,* shooting hours are from sunrise until sunset.
(5) In *Kansas,* each person desiring to hunt sandhill cranes is required to pass an annual, online sandhill crane identification examination.
(6) Hunting is by State permit only. See State regulations for further information.
(7) In *New Mexico,* in the Middle Rio Grande Valley Area (Bernardo WMA and Casa Colorado WMA), the season is only open for youth hunters on November 4. See State regulations for further details.
(8) In *New Mexico,* in the Estancia Valley Area, the season will be closed to crane hunting on November 1.
(9) In *Arizona,* in Zone 1, season dates are November 17 to 19, November 21 to 23, November 25 to 27, November 29 to December 1, December 3 to 5, and December 8 to 10. December 8 to 10 is restricted to youth hunters only.
(10) In *Arizona,* in Zone 2, season dates are November 25 to 27, November 29 to December 1, December 3 to 5, December 7 to 9, and December 11 to 13.
(11) In *Montana,* the possession limit is 2 per season.

■ 8. Section 20.107 is revised to read as follows:

§ 20.107 Seasons, limits, and shooting hours for swans.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Hunting is by State permit only.

Federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take swans at the level allowed by the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

Note: Successful permittees must immediately validate their harvest by that method required in State regulations.

	Season dates	Limits
ATLANTIC FLYWAY		
North Carolina	Nov. 11–Jan. 31	1 tundra swan per permit.
Virginia	Nov. 15–Jan. 31	1 tundra swan per permit.
CENTRAL FLYWAY (1)		
Montana	Sept. 30–Jan. 4	1 tundra swan per permit.
North Dakota	Sept. 30–Dec. 31	1 tundra swan per permit.
South Dakota	Sept. 30–Jan. 12	1 tundra swan per permit.
PACIFIC FLYWAY (1)		
Montana (2)	Oct. 7–Dec. 1	1 swan per season.
Nevada (3)(4)	Oct. 7–Jan. 7	2 swans per season.
Utah (4)(5)	Oct. 7–Dec. 10	1 swan per season.

(1) See State regulations for description of area open to swan hunting.
(2) In *Montana,* all harvested swans must be reported by way of a bill measurement card within 3 days of harvest.
(3) In *Nevada,* all harvested swans and tags must be checked or registered within 5 days of harvest.
(4) Harvests of trumpeter swans are limited to 5 in Nevada and 10 in Utah. When it has been determined that the quota of trumpeter swans allotted to Nevada and Utah have been filled, the season for taking of any swan species in the respective State will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.
(5) In *Utah,* all harvested swans and tags must be checked or registered within 3 days of harvest.

■ 9. Section 20.109 is revised to read as follows:

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as otherwise restricted by State regulations.

Area descriptions were published in the May 30, 2017, **Federal Register** (82 FR 24786).

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

Limits: The daily bag limit may include no more than 3 migratory game birds, singly or in the aggregate. The possession limit is three times the daily bag limit. These limits apply to falconry during both regular hunting seasons and extended falconry seasons, unless further restricted by State regulations. The falconry bag and possession limits are not in addition to regular season limits. Unless otherwise specified, extended falconry for ducks does not include sea ducks within the special sea duck areas.

Although many States permit falconry during the gun seasons, only extended falconry seasons are shown below. Please consult State regulations for details.

	Extended falconry dates
ATLANTIC FLYWAY	
Delaware:	
Doves	Jan. 15–Jan. 31.
Rails	Nov. 9–Dec. 15.
Woodcock	Oct. 14–Oct. 21 & Jan. 15–Mar. 9.
Ducks, mergansers, and coots	Jan. 29–Mar. 3.
Brant	Nov. 20–Dec. 2 & Jan. 29–Mar. 10.
Florida:	
Doves	Jan. 16–Feb. 1.
Rails	Nov. 10–Dec. 16.
Woodcock	Nov. 24–Dec. 17 & Feb. 1–Mar. 10.
Common moorhens	Nov. 10–Dec. 14.
Ducks, mergansers, light geese, and coots	Nov. 3–Nov. 12 & Feb. 5–Mar. 2.
Georgia:	
Ducks, geese, mergansers, coots, moorhens, gallinules, and sea ducks	Nov. 27–Dec. 4.
Maine:	
Ducks, mergansers, and coots (1):	
North Zone	Dec. 22–Feb. 12.
South & Coastal Zones	Jan. 8–Feb. 28.
Maryland:	
Doves	Jan. 8–Jan. 24.
Rails	Nov. 10–Dec. 16.
Woodcock	Oct. 1–Oct. 26 & Feb. 7–Mar. 10.
Ducks	Feb. 2–Mar. 10.
Brant	Feb. 1–Mar. 10.
Light Geese	Feb. 27–Mar. 10
Massachusetts:	
Ducks, mergansers, sea ducks, and coots	Jan. 28–Feb. 9.
New Hampshire:	
Ducks, mergansers, and coots:	
Northern Zone	Dec. 12–Jan. 25.
Inland Zone	Nov. 6–Nov. 21 & Dec. 28–Jan. 25.
Coastal Zone	Jan. 25–Mar. 10.
New Jersey:	
Woodcock:	
North Zone	Oct. 2–Oct. 20 & Nov. 27–Jan. 17.
South Zone	Oct. 2–Nov. 10 & Dec. 4–Dec. 15 & Dec. 30–Jan. 17.
Ducks, mergansers, coots, and brant:	
North Zone	Jan. 17–Mar. 10.
South Zone	Jan. 17–Mar. 10.
Coastal Zone	Jan. 28–Mar. 10.
New York:	
Ducks, mergansers and coots:	
Long Island Zone	Nov. 1–Nov. 22 & Nov. 27–Dec. 3 & Jan. 29–Feb. 13.
Northeastern Zone	Oct. 1–Oct. 6 & Oct. 30–Nov. 3 & Dec. 11–Jan. 13.
Southeastern Zone	Oct. 1–Oct. 6 & Oct. 16–Nov. 10 & Jan. 1–Jan. 13.
Western Zone	Oct. 1–Oct. 27 & Dec. 7–Dec. 25.
North Carolina:	
Doves	Oct. 14–Oct. 28.
Rails, moorhens, and gallinules	Dec. 2–Jan. 6.
Woodcock	Nov. 4–Dec. 2 & Feb. 1–Feb. 28.

	Extended falconry dates
Ducks, mergansers and coots	Oct. 24–Nov. 4 & Jan. 29–Feb. 17.
Pennsylvania:	
Doves	Oct. 9–Oct. 13 & Nov. 27–Dec. 8.
Rails	Nov. 10–Dec. 16.
Woodcock and snipe	Sept. 1–Oct. 13 & Nov. 27–Dec. 16.
Moorhens and gallinules	Nov. 10–Dec. 13.
Ducks, mergansers, and coots:	
North Zone	Nov. 20–Dec. 18 & Feb. 16–Mar. 10.
South Zone	Oct. 23–Nov. 20 & Feb. 16–Mar. 10.
Northwest Zone	Dec. 11–Dec. 23 & Jan. 31–Mar. 10.
Lake Erie Zone	Jan. 18–Mar. 10.
Canada Geese:	
SJBP Zone	Mar. 2–Mar. 10.
AP Zone	Feb. 1–Mar. 10.
RP Zone	Mar. 6–Mar. 10.
South Carolina:	
Ducks, mergansers, and coots	Nov. 1–Nov. 17 & Nov. 26–Dec. 8.
Virginia:	
Doves	Jan. 16–Jan. 31.
Woodcock	Oct. 17–Nov. 19 & Dec. 9–Dec. 20 & Jan. 16–Jan. 31.
Rails, moorhens, and gallinules	Nov. 18–Dec. 24.
Ducks, mergansers, and coots	Nov. 27–Dec. 15 & Jan. 29–Feb. 9.
Canada Geese:	
Eastern (AP) Zone	Dec. 16–Dec. 21 & Jan. 29–Feb. 21.
Western (SJBP) Zone	Dec. 16–Dec. 17 & Feb. 16–Feb. 21.
Brant	Oct. 17–Nov. 14 & Nov. 27–Dec. 15.
MISSISSIPPI FLYWAY	
Arkansas:	
Ducks, mergansers, and coots	Feb. 1–Feb. 15.
Illinois:	
Doves	Nov. 15–Dec. 1.
Rails	Sept. 1–Sept. 8 & Nov. 18–Dec. 16.
Woodcock	Sept. 1–Oct. 20 & Dec. 5–Dec. 16.
Ducks, mergansers, and coots	Feb. 10–Mar. 10.
Indiana:	
Doves	Oct. 16–Oct. 31.
Woodcock	Sept. 20–Oct. 14 & Nov. 29–Jan. 4.
Ducks, mergansers, and coots:	
North Zone	Sept. 27–Sept. 30 & Feb. 14–Mar. 10.
Central Zone	Oct. 21–Oct. 27 & Feb. 17–Mar. 10.
South Zone	Oct. 28–Nov. 3 & Feb. 17–Mar. 10.
Iowa:	
Ducks, mergansers, and coots	Jan. 6–Feb. 3.
Kentucky:	
Ducks, mergansers, and coots	Nov. 27–Dec. 3 & Jan. 29–Feb. 15.
Louisiana:	
Doves	Sept. 15–Oct. 1.
Woodcock	Nov. 2–Dec. 17.
Rails and moorhens:	
West Zone	Nov. 3–Nov. 10 & Jan. 4–Jan. 31.
East Zone	Nov. 3–Nov. 10 & Jan. 4–Jan. 31.
Coastal Zone	Nov. 3–Nov. 10 & Jan. 4–Jan. 31.
Ducks:	
West Zone	Nov. 3–Nov. 10 & Dec. 4–Dec. 15 & Jan. 22–Jan. 31.
East Zone	Nov. 3–Nov. 17 & Dec. 4–Dec. 15 & Jan. 29–Jan. 31.

	Extended falconry dates
Coastal Zone	Nov. 3–Nov. 10 & Dec. 4–Dec. 15 & Jan. 22–Jan. 31.
Michigan:	
Ducks, mergansers, coots, and moorhens	Jan. 1–Jan. 15 & Feb. 19–Mar. 10.
Minnesota:	
Woodcock	Sept. 1–Sept. 22 & Nov. 7–Dec. 16.
Rails and snipe	Nov. 7–Dec. 16.
Doves	Nov. 30–Dec. 16.
Ducks, mergansers, coots, moorhens, and gallinules	Dec. 16–Jan. 30.
Mississippi:	
Doves	Nov. 12–Nov. 20 & Jan. 16–Jan. 23.
Ducks, mergansers and coots	Feb. 4–Mar. 4.
Missouri:	
Doves	Nov. 30–Dec. 16.
Ducks, mergansers, and coots	Sept. 9–Sept. 24 & Feb. 10–Mar. 10.
Tennessee:	
Doves	Sept. 29–Oct. 13 & Nov. 6–Nov. 7.
Ducks, mergansers, and coots	Sept. 18–Oct. 20.
Wisconsin:	
Rails, snipe, moorhens, and gallinules:	
North Zone	Sept. 1–Sept. 22 & Nov. 22–Dec. 16.
South Zone	Sept. 1–Sept. 29 & Oct. 9–Oct. 13 & Dec. 4–Dec. 16.
Mississippi River Zone	Sept. 1–Sept. 29 & Oct. 7–Oct. 13 & Dec. 6–Dec. 16.
Woodcock	Sept. 1–Sept. 22 & Nov. 7–Dec. 16.
Ducks, mergansers, and coots	Sept. 16–Sept. 17 & Jan. 12–Feb. 18.
CENTRAL FLYWAY	
Kansas:	
Ducks, mergansers, and coots:	
Low Plains	Feb. 24–Mar. 10.
Montana (2):	
Ducks, mergansers, and coots	Sept. 20–Sept. 29.
Nebraska:	
Ducks, mergansers, and coots:	
Zone 1	Feb. 25–Mar. 10.
Zone 2	Feb. 25–Mar. 10.
Zone 3	Feb. 25–Mar. 10.
Zone 4	Feb. 25–Mar. 10.
New Mexico:	
Doves:	
North Zone	Nov. 30–Dec. 4 & Dec. 23–Jan. 3.
South Zone	Oct. 30–Nov. 6 & Nov. 23–Dec. 1.
Ducks and coots	Sept. 16–Sept. 24.
Sandhill cranes:	
Regular Season Area	Oct. 14–Oct. 27.
Estancia Valley Area (3)	Nov. 6–Dec. 26.
Common moorhens	Nov. 25–Dec. 31.
Sora and Virginia rails	Nov. 25–Dec. 31.
North Dakota:	
Ducks, mergansers, coots, and snipe	Sept. 4–Sept. 8 & Sept. 11–Sept. 15.
Oklahoma:	
Doves	Feb. 22–Mar. 10.
Ducks, mergansers, and coots:	
Low Plains	Feb. 19–Mar. 5.
Gallinules and rails	Feb. 2–Mar. 10.
Woodcock	Dec. 16–Feb. 15.
Sandhill cranes	Jan. 22–Feb. 4.
South Dakota:	
Ducks, mergansers, and coots:	
High Plains	Sept. 1–Sept. 8.
Low Plains:	
North Zone	Sept. 1–Sept. 29 & Dec. 13–Dec. 16.
Middle Zone	Sept. 1–Sept. 29 & Dec. 13–Dec. 16.
South Zone	Sept. 22–Oct. 13 & Dec. 27–Jan. 6.
Texas:	

	Extended falconry dates
Doves	Nov. 18–Dec. 4.
Rails, gallinules, and woodcock	Jan. 29–Feb. 12.
Ducks, mergansers, and coots:	
Low Plains	Jan. 29–Feb. 12.
Wyoming:	
Doves	Nov. 30–Dec. 16.
Rails	Nov. 10–Dec. 16.
Ducks, mergansers, and coots:	
Zone C1	Sept. 23–Sept. 24 & Oct. 18–Oct. 25.
Zone C2 & C3	Sept. 16–Sept. 22 & Dec. 4–Dec. 6.
PACIFIC FLYWAY	
Arizona:	
Doves	Sept. 16–Nov. 1.
Ducks, mergansers, coots, and moorhens:	
North Zone	Oct. 2–Oct. 5.
South Zone	Jan. 29–Feb. 1.
California:	
Ducks, mergansers, coots, and moorhens:	
Colorado River Zone	Jan. 29–Feb. 1.
Southern Zone	Jan. 29–Feb. 2.
Southern San Joaquin Valley Zone	Jan. 29–Jan. 31.
Geese:	
Southern Zone (4)	Jan. 29–Feb. 2.
New Mexico:	
Doves:	
North Zone	Nov. 30–Dec. 4 & Dec. 23–Jan. 3.
South Zone	Oct. 30–Nov. 6 & Nov. 23–Dec. 1.
Oregon:	
Doves	Oct. 31–Dec. 16.
Band–tailed pigeons (5)	Sept. 1–Sept. 14 & Sept. 24–Dec. 16.
Utah:	
Doves	Oct. 31–Dec. 16.
Band–tailed pigeons	Sept. 15–Dec. 16.
Washington:	
Doves	Oct. 31–Dec. 16.
Wyoming:	
Doves	Nov. 30–Dec. 16.
Sora and Virginia rails	Nov. 10–Dec. 16.
Ducks, mergansers, and coots	Sept. 16–Sept. 17.

(1) In *Maine,* the daily bag and possession limits for black ducks are 1 and 3, respectively.
(2) In *Montana,* the bag limit is 2 and the possession limit is 6.
(3) In *New Mexico,* the bag limit for sandhill cranes in the Estancia Valley Area is 2 per day and the possession limit is 2 per season.
(4) In *California,* in the Imperial County Special Management Area, there is no extended falconry season.
(5) In *Oregon,* no more than 1 pigeon daily in bag or possession.

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Part III

Environmental Protection Agency

40 CFR Part 50
Review of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[EPA–HQ–OAR–2013–0146; FRL–9965–28–OAR]

RIN 2060–AR57

Review of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Based on the Environmental Protection Agency's (EPA's) review of the air quality criteria addressing human health effects of oxides of nitrogen and the primary national ambient air quality standards (NAAQS) for nitrogen dioxide (NO_2), the EPA is proposing to retain the current standards, without revision.

DATES: Comments must be received on or before September 25, 2017.

Public Hearings: If, by August 2, 2017, the EPA receives a request from a member of the public to speak at a public hearing concerning the proposed decision, we will hold a public hearing, with information about the hearing provided in a subsequent notice in the **Federal Register**.

To request a hearing, to register to speak at a hearing or to inquire if a hearing will be held, please contact Ms. Regina Chappell at (919) 541–3650 or by email at *chappell.regina@epa.gov.* The EPA will post all information regarding any public hearing on this proposed action, including whether a hearing will be held, its location, date, and time if applicable and any updates online at *https://www.epa.gov/naaqs/nitrogen-dioxide-no2-primary-air-quality-standards.*

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2013–0146 to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed on the *www.regulations.gov* Web site. This includes documents in the docket for the proposed decision (Docket ID No. EPA–HQ–OAR–2013–0146) and a separate docket, established for the Integrated Science Assessment (ISA) for this review (Docket ID No. EPA–HQ–ORD–2013–0232) that has been incorporated by reference into the docket for this proposed decision. All documents in these dockets are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and may be viewed, with prior arrangement, at the EPA Docket Center. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Docket Information Center, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the Air and Radiation Docket Information Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Ms. Breanna Alman, Health and Environmental Impacts Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C504–06, Research Triangle Park, NC 27711; telephone: (919) 541–2351; fax: (919) 541–0237; email: *alman.breanna@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information

Preparing Comments for the EPA

1. Submitting CBI. Do not submit this information to the EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

2. Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the action by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—the agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Availability of Information Related to This Action

A number of the documents that are relevant to this proposed decision are available through the EPA's Web site at *https://www.epa.gov/naaqs/nitrogen-dioxide-no2-primary-air-quality-standards.* These documents include the *Integrated Review Plan for the Primary National Ambient Air Quality Standards for Nitrogen Dioxide* (U.S. EPA, 2011a), available at *https://www3.epa.gov/ttn/naaqs/standards/nox/data/201406finalirpprimaryno2.pdf,* the *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria* (U.S. EPA, 2016a), available at *https://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=310879,* and the *Policy Assessment for the Review of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen* (U.S. EPA, 2017a), available at *https://www.epa.gov/naaqs/policy-assessment-review-primary-national-ambient-air-quality-standards-oxides-nitrogen.* These and other related documents are also available for

inspection and copying in the EPA docket identified above.

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Executive Summary

This section summarizes background information about this proposed action and the Administrator's proposed decision to retain the current primary NO_2 standards.

Summary of Background Information

There are currently two primary standards for oxides of nitrogen. NO_2 is the component of oxides of nitrogen of greatest concern for health and is the indicator for the primary NAAQS. The two primary NO_2 standards are: A 1-hour standard established in 2010 at a level of 100 parts per billion (ppb) and based on the 98th percentile of the annual distribution of daily maximum 1-hour NO_2 concentrations, averaged over 3 years; and an annual standard, originally set in 1971, at a level of 53 ppb and based on annual average NO_2 concentrations.

Sections 108 and 109 of the Clean Air Act (CAA) govern the establishment, review, and revision, as appropriate, of the NAAQS to protect public health and welfare. The CAA requires the EPA to periodically review the air quality criteria—the science upon which the standards are based—and the standards themselves. This review of the primary (health-based) NO_2 NAAQS is being conducted pursuant to these statutory requirements. The schedule for completing this review is established by a federal court order, which requires signature of a proposed determination by July 14, 2017, and a final determination by April 6, 2018.

The last review of the primary NO_2 NAAQS was completed in 2010. In that review, the EPA supplemented the existing primary annual NO_2 standard by establishing a new short-term standard with a level of 100 ppb, based on the 3-year average of the 98th percentile of the annual distribution of daily maximum 1-hour concentrations (75 FR 6474, February 9, 2010). Revisions to the NAAQS were accompanied by revisions to the data handling procedures and the ambient air monitoring and reporting requirements, including the establishment of requirements for states to locate monitors near heavily trafficked roadways in large urban areas and in other locations where maximum NO_2 concentrations can occur.

Consistent with the review completed in 2010, this review is focused on the health effects associated with gaseous oxides of nitrogen and on the protection afforded by the primary NO_2 standards. The gaseous oxides of nitrogen include NO_2 and nitric oxide (NO), as well as their gaseous reaction products. Total oxides of nitrogen include these gaseous species as well as particulate species (*e.g.,* nitrates). The EPA is separately considering the health and non-ecological welfare effects of particulate species in the review of the NAAQS for particulate matter (PM) (U.S. EPA, 2016b). In addition, the EPA is separately reviewing the ecological welfare effects associated with oxides of nitrogen, oxides of sulfur, and PM, and the protection provided by the secondary NO_2, SO_2 and PM standards. (U.S. EPA, 2017b).

Summary of Proposed Decision

In this notice, the EPA is proposing to retain the current primary NO_2 standards, without revision. This proposed decision has been informed by a careful consideration of the full body of scientific evidence and information available in this review, giving particular weight to the assessment of the evidence in the ISA; analyses and considerations in the Policy Assessment (PA); and the advice and recommendations of the Clean Air Scientific Advisory Committee (CASAC).

As in the last review, the strongest evidence continues to come from studies examining respiratory effects following short-term NO_2 exposures (*e.g.,* typically minutes to hours). In particular, the ISA concludes that ''[a] causal relationship exists between short-term NO_2 exposure and respiratory effects based on evidence for asthma exacerbation'' (U.S. EPA, 2016a, pp. 1–17). The strongest support for this conclusion comes from controlled human exposure studies examining the potential for NO_2-induced increases in airway responsiveness (AR) (which is a hallmark of asthma) in individuals with asthma. Most of these studies were available in the last review and, consistent with the evidence in that review, an updated meta-analysis indicates increased AR in some people with asthma following resting exposures to NO_2 concentrations from 100 to 530 ppb. However, there is not an apparent dose-response relationship between NO_2 exposure and increased AR and there is uncertainty regarding the potential adversity of reported responses. In addition, these studies are largely focused on adults with mild asthma, rather than adults or children with more severe cases of the disease.

Evidence supporting the ISA conclusion also comes from epidemiologic studies reporting associations between short-term NO_2 exposures and an array of respiratory outcomes related to asthma exacerbation. Such studies consistently

report associations with several asthma-related outcomes, including asthma-related hospital admissions and emergency department visits in children and adults. The epidemiologic evidence that is newly available in the current review is consistent with evidence from the last review and does not fundamentally alter our understanding of respiratory effects related to short-term NO_2 exposures. While our fundamental understanding of such effects has not changed, recent epidemiologic studies do reduce some uncertainty from the last review by reporting health effect associations with short-term NO_2 exposures in copollutant models and by their use of improved exposure metrics.

In addition to the effects of short-term exposures, the ISA concludes that there is ''likely to be a causal relationship'' between long-term NO_2 exposures and respiratory effects, based on the evidence for asthma development in children. The strongest evidence supporting this conclusion comes from recent epidemiologic studies demonstrating associations between long-term NO_2 exposures and asthma incidence. While these studies strengthen the evidence for effects of long-term exposures, compared to the last review, they are subject to uncertainties resulting from the methods used to assign NO_2 exposures, the high correlations between NO_2 and other traffic-related pollutants, and the lack of information regarding the extent to which reported effects are independently associated with NO_2 rather than the overall mixture of traffic-related pollutants. Additional support comes from experimental studies supporting the biological plausibility of a potential mode of action by which NO_2 exposures could cause asthma development. These include studies that support a potential role for repeated short-term NO_2 exposures in the development of asthma.

While the evidence supports the occurrence of adverse NO_2-related respiratory effects at ambient NO_2 concentrations likely to have been above those allowed by the current primary NO_2 NAAQS, available studies do not call into question the adequacy of the public health protection provided by the current standards. In particular, compared to the last review when the 1-hour standard was set, evidence from controlled human exposure studies has not altered our understanding of the NO_2 exposure concentrations that cause increased AR. In addition, while epidemiologic studies report relatively precise associations with serious NO_2-related health outcomes (*i.e.,* emergency department visits, hospital admissions, asthma incidence) in locations likely to have violated the current 1-hour and/or annual standards during portions of study periods, studies do not indicate such associations in locations with NO_2 concentrations that would have clearly met those standards.

Beyond the scientific evidence, the EPA also considers the extent to which quantitative analyses can inform conclusions on the adequacy of the public health protection provided by the current primary NO_2 standards. In particular, the EPA considers analyses estimating the potential for NO_2 exposures of public health concern that could be allowed by the current standards. Overall, these analyses indicate that the current 1-hour standard provides substantial protection against exposures to ambient NO_2 concentrations that have consistently been shown to increase AR in people with asthma, even under worst-case conditions across a variety of study areas in the U.S. Such NO_2 concentrations were not estimated to occur, even at monitoring sites adjacent to some of the most heavily trafficked roads. In addition, the analyses indicate that meeting the current 1-hour standard limits the potential for exposure to 1-hour NO_2 concentrations that have the potential to exacerbate symptoms in some people with asthma, but for which uncertainties in the evidence become increasingly important.

When taken together, the Administrator reaches the proposed conclusion that the current body of scientific evidence and the results of quantitative analyses support the degree of public health protection provided by the current 1-hour and annual primary NO_2 standards and do not call into question any of the elements of those standards. He additionally reaches the proposed conclusion that the current 1-hour and annual NO_2 primary standards, together, are requisite to protect public health with an adequate margin of safety.

These proposed conclusions are consistent with CASAC recommendations. In its advice to the Administrator, ''the CASAC recommends retaining, and not changing the existing suite of standards'' (Diez Roux and Sheppard, 2017). The CASAC further stated that ''it is the suite of the current 1-hour and annual standards, together, that provide protection against adverse effects'' (Diez Roux and Sheppard, 2017, p. 9).

Therefore, in this review, the Administrator proposes to retain the current primary NO_2 standards, without revision. The Administrator solicits comment on his proposed conclusions regarding the public health protection provided by the current primary NO_2 standards and on his proposal to retain those standards in this review. He invites comment on all aspects of these proposed conclusions and their underlying rationales, as discussed in detail in section II below.

I. Background

A. Legislative Requirements

Two sections of the Clean Air Act (CAA or the Act) govern the establishment and revision of the NAAQS. Section 108 (42 U.S.C. 7408) directs the Administrator to identify and list certain air pollutants and then to issue air quality criteria for those pollutants. The Administrator is to list those air pollutants that in his ''judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare;'' ''the presence of which in the ambient air results from numerous or diverse mobile or stationary sources;'' and ''for which . . . [the Administrator] plans to issue air quality criteria. . . .'' Air quality criteria are intended to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air . . . .'' 42 U.S.C. 7408(b). Section 109 (42 U.S.C. 7409) directs the Administrator to propose and promulgate ''primary'' and ''secondary'' NAAQS for pollutants for which air quality criteria are issued. Section 109(b)(1) defines a primary standard as one ''the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health.'' [1] A secondary standard, as defined in section 109(b)(2), must ''specify a level of air quality the attainment and maintenance of which, in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of [the] pollutant in the ambient air.'' [2]

[1] The legislative history of section 109 indicates that a primary standard is to be set at ''the maximum permissible ambient air level . . . which will protect the health of any [sensitive] group of the population,'' and that for this purpose ''reference should be made to a representative sample of persons comprising the sensitive group rather than to a single person in such a group.'' See S. Rep. No. 91–1196, 91st Cong., 2d Sess. 10 (1970).

[2] As specified in section 302(h) (42 U.S.C. 7602(h)) effects on welfare include, but are not limited to, ''effects on soils, water, crops,

The requirement that primary standards provide an adequate margin of safety was intended to address uncertainties associated with inconclusive scientific and technical information available at the time of standard setting. It was also intended to provide a reasonable degree of protection against hazards that research has not yet identified. *See Lead Industries Association* v. *EPA,* 647 F.2d 1130, 1154 (DC Cir 1980), *cert. denied,* 449 U.S. 1042 (1980); *American Petroleum Institute* v. *Costle,* 665 F.2d 1176, 1186 (D.C. Cir. 1981), *cert. denied,* 455 U.S. 1034 (1982); *American Farm Bureau Federation* v. *EPA,* 559 F. 3d 512, 533 (D.C. Cir. 2009); *Association of Battery Recyclers* v. *EPA,* 604 F. 3d 613, 617–18 (D.C. Cir. 2010). Both kinds of uncertainties are components of the risk associated with pollution at levels below those at which human health effects can be said to occur with reasonable scientific certainty. Thus, in selecting primary standards that provide an adequate margin of safety, the Administrator is seeking not only to prevent pollution levels that have been demonstrated to be harmful but also to prevent lower pollutant levels that may pose an unacceptable risk of harm, even if the risk is not precisely identified as to nature or degree. The CAA does not require the Administrator to establish a primary NAAQS at a zero-risk level, *see Lead Industries* v. *EPA,* 647 F.2d at 1156 n.51, but rather at a level that reduces risk sufficiently so as to protect public health with an adequate margin of safety.

In addressing the requirement for an adequate margin of safety, the EPA considers such factors as the nature and severity of the health effects involved, the size of sensitive population(s) at risk,[3] and the kind and degree of the uncertainties that must be addressed. The selection of any particular approach to providing an adequate margin of safety is a policy choice left specifically to the Administrator's judgment. *See Lead Industries Association* v. *EPA,* 647 F.2d at 1161–62.

In setting primary and secondary standards that are ''requisite'' to protect public health and welfare, respectively, as provided in section 109(b), the EPA's task is to establish standards that are neither more nor less stringent than necessary for these purposes. In so doing, the EPA may not consider the costs of implementing the standards. *See generally, Whitman* v. *American Trucking Associations,* 531 U.S. 457, 465–472, 475–76 (2001). Likewise, ''[a]ttainability and technological feasibility are not relevant considerations in the promulgation of national ambient air quality standards.'' *American Petroleum Institute* v. *Costle,* 665 F. 2d at 1185.

Section 109(d)(1) requires that ''not later than December 31, 1980, and at 5-year intervals thereafter, the Administrator shall complete a thorough review of the criteria published under section 108 and the national ambient air quality standards . . . and shall make such revisions in such criteria and standards and promulgate such new standards as may be appropriate . . . . '' Section 109(d)(2) requires that an independent scientific review committee ''shall complete a review of the criteria . . . and the national primary and secondary ambient air quality standards . . . and shall recommend to the Administrator any new . . . standards and revisions of existing criteria and standards as may be appropriate . . . .'' Since the early 1980s, this independent review function has been performed by the Clean Air Scientific Advisory Committee (CASAC).[4]

B. Related NO_2 Control Programs

States are primarily responsible for ensuring attainment and maintenance of ambient air quality standards once EPA has established them. Under section 110 of the Act, 42 U.S.C. 7410, and related provisions, states are to submit, for EPA approval, state implementation plans (SIPs) that provide for the attainment and maintenance of such standards through control programs directed to sources of the pollutants involved. The states, in conjunction with EPA, also administer the prevention of significant deterioration program that covers these pollutants. See 42 U.S.C. 7470–7479. In addition, federal programs provide for nationwide reductions in emissions of these and other air pollutants under Title II of the Act, 42 U.S.C. 7521–7574, which involves controls for automobile, truck, bus, motorcycle, nonroad engine and equipment, and aircraft emissions; the new source performance standards (NSPS) under section 111 of the Act, 42 U.S.C. 7411; and the national emission standards for hazardous air pollutants under section 112 of the Act, 42 U.S.C. 7412.

Currently there are no areas in the United States that are designated as nonattainment of the NO_2 NAAQS (see 77 FR 9532 (February 17, 2012)). In addition, there are currently no monitors where there are design values (DVs)[5] above either the 1-hour or annual standard (U.S. EPA, 2017 Figure 2–5), with the maximum DVs in 2015 being 30 ppb (annual) and 72 ppb (hourly) (U.S. EPA, 2017 Section 2.3.1).[6]

While NO_X (the sum of NO and NO_2) is emitted from a wide variety of source types, the top three categories of sources of NO_X emissions are highway vehicles, off-highway vehicles, and stationary fuel combustion sources.[7] The EPA anticipates that NO_X emissions will continue to decrease over the next 20 years as a result of the ongoing implementation of mobile source emissions standards.[8] In particular, Tier 2 and Tier 3 emission standards for new light-duty vehicles, combined with the reduction of gasoline sulfur content, will significantly reduce motor vehicle emissions of NO_X, with Tier 3 standards phasing in from model year 2017 to model year 2025. For heavy-duty engines, new NO_X standards were phased in between the 2007 and 2010 model years, following the introduction of ultra-low sulfur diesel fuel. More stringent NO_X standards for nonroad diesel engines, locomotives, and certain marine engines are becoming effective throughout the next decade. In future decades, these vehicles and engines

vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.''

[3] As used here and similarly throughout this notice, the term population (or group) refers to persons having a quality or characteristic in common, such as a specific pre-existing illness or a specific age or life stage. As discussed more fully in section II.C.3 below, the identification of sensitive groups (called at-risk groups or at-risk populations) involves consideration of susceptibility and vulnerability.

[4] Lists of CASAC members and members of the NO_2 Review Panel are available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/WebCASAC/CommitteesandMembership?OpenDocument.*

[5] The metric used to determine whether areas meet or exceed the NAAQS is called a design value (DV). In the case of the primary NO_2 NAAQS, there are 2 types of DVs: the annual DV and the hourly DV. The annual DV for a particular year is the average of all hourly values within that calendar year. The hourly DV is the three-year average of the 98th percentiles of the annual distributions of daily maximum 1-hour NO_2 concentrations. These DVs are considered to be valid if the monitoring data used to calculate them meet completeness criteria described in 40 CFR 50.11 and Appendix S to Part 50.

[6] For more information on estimated DVs, see Section 2.3 of the NO_2 PA.

[7] Highway vehicles include all on-road vehicles, including light duty as well as heavy duty vehicles, both gasoline- and diesel-powered. Off-highway vehicles and engines include aircraft, commercial marine vessels, locomotives and non-road equipment. Fuel combustion sources includes electric power generating units (EGUs), which derive their power generation from all types of fuels.

[8] Reductions in ambient NO_2 concentrations could also result from the implementation of NAAQS for other pollutants (*e.g.,* ozone, PM), to the extent NO_X emissions are reduced as part of the implementation of those standards.

meeting more stringent NO_X standards will become an increasingly large fraction of in-use mobile sources, leading to large NO_X emission reductions.

NO_X emissions from stationary fuel combustion sources are primarily from electric utility sources, both coal and gas-fired. NO_X emissions from these sources, as well as for some large industrial combustion sources, are also expected to continue to decrease over the next decade as newer replacement units come on-line which will have to meet NSPS and SIP compliance limits, and as additional existing sources opt-in to NO_X trading programs to maintain state emissions budget programs.

C. Review of the Air Quality Criteria and Standards for Oxides of Nitrogen

In 1971, the EPA added oxides of nitrogen to the list of criteria pollutants under section 108(a)(1) of the CAA and issued the initial air quality criteria (36 FR 1515, January 30, 1971; U.S. EPA, 1971).[9] Based on these air quality criteria, the EPA promulgated the NO_2 NAAQS (36 FR 8186, April 30, 1971). Both primary and secondary standards were set at 53 ppb,[10] annual average. Since then, the Agency has completed multiple reviews of the air quality criteria and primary NO_2 standards. In the last review, the EPA made revisions to the primary NO_2 NAAQS in order to provide requisite protection of public health. Specifically, the EPA supplemented the existing primary annual NO_2 standard by establishing a new short-term standard with a level of 100 ppb, based on the 3-year average of the 98th percentile of the annual distribution of daily maximum 1-hour concentrations (75 FR 6474, February 9, 2010). In addition, revisions to the NAAQS were accompanied by revisions to the data handling procedures and the ambient air monitoring and reporting requirements, including requirements for states to locate monitors near heavily trafficked roadways in large urban areas and in other locations where maximum NO_2 concentrations can occur.

Industry groups filed petitions for judicial review of the 2010 rule in the U.S. Court of Appeals for the District of Columbia Circuit. *API* v. *EPA,* 684 F.3d 1342 (D.C. Cir. 2012). The court upheld the 2010 rule, denying the petitions' challenges to the adoption of the 1-hour NO_2 NAAQS and dismissing, for lack of jurisdiction, the challenges to statements regarding permitting in the preamble of the 2010 rule. *Id.* at 1354.

Subsequent to the 2010 rulemaking, the Agency revised the deadlines by which the near-road monitors were to be operational in order to implement a phased deployment approach (78 FR 16184, March 14, 2013), with a majority of the network becoming operational by 2015. In 2016, after analyzing available monitoring data, the Agency revised the size requirements of the near-road network, reducing the network to only operate in Core Based Statistical Areas (CBSAs) with populations of 1 million or more (81 FR 96381, December 30, 2016).

In February 2012, the EPA announced the initiation of the current periodic review of the air quality criteria for oxides of nitrogen and of the primary NO_2 NAAQS and issued a call for information in the **Federal Register** (77 FR 7149, February 10, 2012). A wide range of external experts as well as EPA staff representing a variety of areas of expertise (*e.g.,* epidemiology, human and animal toxicology, statistics, risk/exposure analysis, atmospheric science, and biology) participated in a workshop held by the EPA on February 29 to March 1, 2012 in Research Triangle Park, NC. The workshop provided an opportunity for a public discussion of the key policy-relevant issues around which the Agency would structure this primary NO_2 NAAQS review and the most meaningful new science that would be available to inform the EPA's understanding of these issues.

Based in part on the workshop discussions, the EPA developed a draft plan for the ISA and a draft Integrated Review Plan (IRP) outlining the schedule, process, and key policy-relevant questions that would guide the evaluation of the health-related air quality criteria for NO_2 and the review of the primary NO_2 NAAQS. The draft plan for the ISA was released in May 2013 (78 FR 26026) and was the subject of a consultation with the CASAC on June 5, 2013 (78 FR 27234). Comments from the CASAC and the public were considered in the preparation of the first draft ISA and the draft IRP. In addition, preliminary draft materials for the ISA were reviewed by subject matter experts at a public workshop hosted by the EPA's National Center for Environmental Assessment (NCEA) in May 2013 (78 FR 27374). The first draft ISA was released in November 2013 (78 FR 70040). During this time, the draft IRP was also in preparation and was released in February 2014 (79 FR 7184). Both the draft IRP and first draft ISA were reviewed by the CASAC at a public meeting held in March 2014 (79 FR 8701), and the first draft ISA was further discussed at an additional teleconference held in May 2014 (79 FR 17538). The CASAC finalized its recommendations on the first draft ISA and the draft IRP in letters dated June 10, 2014 (Frey, 2014a; Frey, 2014b), and the final IRP was released in June 2014 (79 FR 36801).

The EPA released the second draft ISA in January 2015 (80 FR 5110) and the Risk and Exposure Assessment (REA) Planning document in May 2015 (80 FR 27304). These documents were reviewed by the CASAC at a public meeting held in June 2015 (80 FR 22993). A follow-up teleconference with the CASAC was held in August 2015 (80 FR 43085) to finalize recommendations on the second draft ISA. The final ISA was released in January 2016 (81 FR 4910). The CASAC's recommendations on the second draft ISA and the draft REA Plan were provided to the EPA in letters dated September 9, 2015 (Diez Roux and Frey, 2015a; Diez Roux and Frey 2015b), and the final ISA was released in January, 2016 (81 FR 4910).

After considering CASAC's advice and public comments, the EPA prepared a draft Policy Assessment (PA), which was released on September 23, 2016 (81 FR 65353). The draft PA was reviewed by the CASAC on November 9–10, 2016 (81 FR 68414), and a follow-up teleconference was held on January 24, 2017 (81 FR 95137). The CASAC's recommendations, based on its review of the draft PA, were provided in a letter to the EPA Administrator dated March 7, 2017 (Diez Roux and Sheppard, 2017). The EPA staff took into account these recommendations, as well as public comments provided on the draft PA, when developing the final PA, which was released in April 2017.[11]

In addition, in July 2016, a lawsuit was filed against the EPA and included a claim that EPA had failed to complete its review of the primary NO_2 NAAQS within five years, as required by the CAA. *Center for Biological Diversity et al.* v. *McCarthy,* (No. 4:16–cv–03796–VC, N.D. Cal., July 7, 2016). Consistent with CAA section 113(g), a notice of a proposed consent decree to resolve this litigation was published in the **Federal Register** on January 17, 2017 (82 FR 4866). The EPA received two public comments on the proposed consent decree, neither of which disclosed facts or considerations indicating that the Department of Justice or EPA should withhold consent. The parties to the

[9] In the 1971 proposal, the EPA used the term nitrogen oxides.

[10] In 1971, primary and secondary NO_2 NAAQS were set at levels of 100 micrograms per cubic meter ($\mu g/m^3$), which equals 0.053 parts per million (ppm) or 53 ppb.

[11] This document may be found at: *https://www.epa.gov/naaqs/policy-assessment-review-primary-national-ambient-air-quality-standards-oxides-nitrogen.*

litigation filed a joint motion asking the court to enter the consent decree, and the court entered the consent decree as a consent judgment on April 28, 2017. The consent judgment established July 14, 2017, as the deadline for signature of a notice setting forth the proposed decision in this review, and April 6, 2018, as the deadline for signature of a notice setting forth the final decision.

Consistent with the review completed in 2010, this review is focused on health effects associated with gaseous oxides of nitrogen and the protection afforded by the primary NO_2 standards. The gaseous oxides of nitrogen include NO_2 and NO as well as their gaseous reaction products. Total oxides of nitrogen include these gaseous species as well as particulate species (*e.g.,* nitrates). Health effects and non-ecological welfare effects associated with the particulate species are addressed in the review of the NAAQS for PM (U.S. EPA, 2016b).[12] The EPA is separately reviewing the ecological welfare effects associated with oxides of nitrogen, oxides of sulfur, and PM, and the protection provided by the secondary NO_2, SO_2 and PM standards. (U.S. EPA, 2017a).[13]

II. Rationale for Proposed Decisions on the Primary NO_2 Standards

This section presents the rationale for the Administrator's proposed decision to retain the existing NO_2 primary standards. This rationale is based on a thorough review of the latest scientific information generally published through August 2014,[14] as presented in the ISA, on human health effects associated with NO_2 and pertaining to the presence of NO_2 in the ambient air. The Administrator's rationale also takes into account: (1) The EPA staff's consideration of the scientific evidence and technical information and staff's conclusions based on that evidence and information, presented in the PA; (2) the CASAC's advice and recommendations, as reflected in discussions at public meetings of drafts of the various documents that were prepared for this review, including the ISA and PA, and in the CASAC's letters to the Administrator; and (3) public input received during the development of these documents, either in connection with CASAC meetings or separately.[15]

In presenting the rationale for the Administrator's proposed decision and its foundations, Section II.A provides background on the general approach for review of the primary NO_2 NAAQS, including a summary of the approach used in the last review (Section II.A.1) and the general approach taken in the PA for the current review (Section II.A.2). Section II.B characterizes ambient NO_2 concentrations throughout the United States. Section II.C summarizes the body of available scientific evidence, focusing on consideration of key policy-relevant questions, and Section II.D summarizes the available information from quantitative analyses evaluating the potential for NO_2 exposures that could be of public health concern. Section II.E summarizes CASAC advice. Section II.F presents the Administrator's proposed conclusions on adequacy of the current standard, drawing on both evidence-based and exposure-/risk-based considerations (Sections II.F.1 and II.F.2, respectively), and advice from CASAC (Section II.F.3).

A. General Approach

The past and current approaches described below are both based, most fundamentally, on using the EPA's assessment of the current scientific evidence and associated quantitative analyses to inform the Administrator's judgment regarding primary NO_2 standards that protect public health with an adequate margin of safety. As noted in the PA (U.S. EPA, 2017a, section 1.4), in drawing conclusions with regard to the primary standards, the final decision on the adequacy of the current standards is largely a public health policy judgment to be made by the Administrator. The Administrator's decisions draw upon scientific information and analyses about health effects, population exposure and risks, as well as judgments about how to consider the range and magnitude of uncertainties that are inherent in the scientific evidence and analyses. The PA's approach to informing these judgments, discussed more fully below, is based on the recognition that the available health effects evidence generally reflects a continuum, consisting of higher concentrations at which scientists generally agree that health effects are likely to occur, through lower concentrations at which the likelihood and magnitude of the response become increasingly uncertain. This approach is consistent with the requirements of sections 108 and 109 of the Act and with how the EPA and the courts have historically interpreted the Act. These provisions require the establishment of primary standards that, in the judgment of the Administrator, are requisite to protect public health with an adequate margin of safety. In fulfilling this responsibility, the Administrator seeks to establish standards that are neither more nor less stringent than necessary for this purpose. The Act does not require that primary standards be set at a zero-risk level, but rather at a level that avoids unacceptable risks to public health including the health of sensitive groups. The four basic elements of the NAAQS (indicator, averaging time, level, and form) are considered collectively in evaluating the health protection afforded by the current standards.

1. Approach in the Last Review

The last review of the primary NO_2 NAAQS was completed in 2010 (75 FR 6474, February 9, 2010). In that review, the EPA established a new 1-hour standard to provide increased public health protection, including for people with asthma and other at-risk populations,[16] against an array of adverse respiratory health effects that had been linked to short-term NO_2 exposures (75 FR 6498 to 6502; U.S. EPA, 2008a, Sections 3.1.7 and 5.3.2.1; Table 5.3–1). Specifically, the EPA established a short-term standard defined by the 3-year average of the 98th percentile of the annual distribution of daily maximum 1-hour NO_2 concentrations, with a level of 100 ppb. In addition to setting the new 1-hour standard, the EPA retained the existing annual standard with its level of 53 ppb (75 FR 6502, February 9, 2010). The Administrator in that review concluded that, together, the two standards provide protection against adverse respiratory health effects associated with short-term exposures to NO_2 and effects potentially associated with long-term exposures. In conjunction with the revised primary NO_2 NAAQS, the EPA also established a multi-tiered monitoring network composed of (1) near-road monitors which would be placed near heavily trafficked roads in urban areas; (2) monitors located to characterize areas with the highest expected NO_2 concentrations at the neighborhood and

[12] Additional information on the PM NAAQS is available at: *https://www.epa.gov/naaqs/particulate-matter-pm-air-quality-standards.*

[13] Additional information on the ongoing and previous review of the secondary NO_2 and SO_2 NAAQS is available at: *https://www.epa.gov/naaqs/nitrogen-dioxide-no2-and-sulfur-dioxide-so2-secondary-air-quality-standards.*

[14] In addition to the review's opening ''call for information'' (77 FR 7149, February 10, 2012), ''the U.S. EPA routinely conducted literature searches to identify relevant peer-reviewed studies published since the previous ISA (*i.e.,* from January 2008 through August 2014)'' (U.S. EPA, 2016a p. 1–3). References that are cited in the ISA, the references that were considered for inclusion but not cited, and electronic links to bibliographic information and abstracts can be found at: *http://hero.epa.gov/oxides-of-nitrogen.*

[15] Public input during the review process, including on drafts of the ISA and PA, and CASAC's advice in light of that public input, were considered by the EPA staff in developing final documents.

larger spatial scales (also referred to as ''area-wide'' monitors); and (3) forty NO_2 monitors to characterize air quality for susceptible and vulnerable communities, nationwide (75 FR 6505 to 6511). Subsequent to the 2010 rulemaking, the Agency adopted a phased implementation schedule for the near-road monitoring network and removed the requirement for near-road NO_2 monitoring in CBSAs with population of less than 1 million (78 FR 16184, March 14, 2013; 81 FR 96381, December 30, 2016). Key aspects of the Administrator's approach in the last review to reaching these decisions are described below.

a. Approach to Considering the Need for Revision in the Last Review

The 2010 decision to revise the existing primary NO_2 standard was based largely on the body of scientific evidence published through early 2008 and assessed in the 2008 ISA (U.S. EPA, 2008a); the quantitative exposure and risk analyses and the assessment of the policy-relevant aspects of the evidence presented in the REA (U.S. EPA, 2008b);[17] the advice and recommendations of the CASAC (Samet, 2008); and public comments on the proposal.

As an initial consideration in reaching that decision, the Administrator noted that the evidence relating short-term (minutes to weeks) NO_2 exposures to respiratory morbidity was judged in the ISA to be ''sufficient to infer a likely causal relationship'' (75 FR 6489, February 9, 2010; U.S. EPA, 2008a, Sections 3.1.7 and 5.3.2.1).[18] The scientific evidence included controlled human exposure studies providing evidence of increases in airway responsiveness in people with asthma following short-term exposures to NO_2 concentrations as low as 100 ppb[19] and epidemiologic studies reporting associations between short-term NO_2 exposures and respiratory effects in locations that would have met the annual standard.

The quantitative analyses presented in the 2008 REA included exposure and risk estimates for air-quality adjusted to just meet the annual standard. The Administrator took note of the REA conclusion that risks estimated for air quality adjusted upward to simulate just meeting the current standard could reasonably be concluded to be important from a public health perspective, while additionally recognizing the uncertainties associated with adjusting air quality in such analyses (75 FR 6489, February 9, 2010). For air quality adjusted to just meet the existing annual standard, the REA findings given particular attention by the Administrator included the following: ''a large percentage (8 to 9%) of respiratory-related [emergency department] visits in Atlanta could be associated with short-term NO_2 exposures; most people with asthma in Atlanta could be exposed on multiple days per year to NO_2 concentrations at or above 300 ppb; and most locations evaluated could experience on-/near-road NO_2 concentrations above 100 ppb on more than half of the days in a given year'' (75 FR 6489, February 9, 2010; U.S. EPA, 2008b, Section 10.3.2).

In reaching the conclusion on adequacy of the annual standard alone, the Administrator also considered advice received from the CASAC. In its advice, the CASAC agreed that the primary concern in the review was to protect against health effects that have been associated with short-term NO_2 exposures. The CASAC also agreed that the annual standard alone was not sufficient to protect public health against the types of exposures that could lead to these health effects. As noted in its letter to the EPA Administrator, ''[The] CASAC concurs with EPA's judgment that the current NAAQS does not protect the public's health and that it should be revised'' (Samet, 2008, p. 2).

Based on the considerations summarized above, the Administrator concluded that the annual NO_2 NAAQS alone was not requisite to protect public health with an adequate margin of safety and that the standard should be revised in order to provide increased public health protection against respiratory effects associated with short-term exposures, particularly for at-risk populations and lifestages such as people with asthma, children, and older adults (75 FR 6490, February 9, 2010). Upon consideration of approaches to revising the standard, the Administrator concluded that it was appropriate to set a new short-term standard, in addition to the existing annual standard with its level of 53 ppb, as described below.

b. Approach to Considering the Elements of a Revised Standard in the Last Review

In considering appropriate revisions in the last review, each of the four basic elements of the NAAQS (indicator, averaging time, level, and form) were evaluated. The sections below summarize the approaches used by the Administrator, and her final decisions, on each of those elements.

i. Indicator

In the review completed in 2010, as well as in previous reviews, the EPA focused on NO_2 as the most appropriate indicator for oxides of nitrogen because the available scientific information regarding health effects was largely indexed by NO_2. Controlled human exposure studies and animal toxicological studies provided specific evidence for health effects following exposures to NO_2. In addition, epidemiologic studies typically reported effects associated with NO_2 concentrations[20] (75 FR 6490, February 9, 2010; U.S. EPA 2008a, Section 2.2.3). Based on the information available in the last review, and consistent with the views of the CASAC (Samet, 2008, p. 2; Samet, 2009, p. 2), the EPA concluded it was appropriate to continue to use NO_2 as the indicator for a standard that was intended to address effects associated with exposure to NO_2, alone or in combination with other gaseous oxides of nitrogen. In so doing, the EPA recognized that measures leading to reductions in population exposures to NO_2 will also reduce exposures to other oxides of nitrogen (75 FR 6490, February 9, 2010).

ii. Averaging Time

In considering the most appropriate averaging time(s) for the primary NO_2 NAAQS, the Administrator noted the available scientific evidence as assessed in the ISA, the air quality analyses presented in the REA, the conclusions of the policy assessment chapter of the REA, and recommendations from the CASAC.[21] Her key considerations are summarized below.

When considering averaging time, the Administrator first noted that the evidence relating short-term (minutes to weeks) NO_2 exposures to respiratory

[17] As discussed in the IRP for this review (U.S. EPA, 2014, Section 1.3), due to changes in the NAAQS process, the last review of the NO_2 NAAQS did not include a separate PA document. Rather, the REA for that review included a policy assessment chapter.

[18] In contrast, the evidence relating long-term (weeks to years) NO_2 exposures to health effects was judged to be either ''suggestive of but not sufficient to infer a causal relationship'' (respiratory morbidity) or ''inadequate to infer the presence or absence of a causal relationship'' (mortality, cancer, cardiovascular effects, reproductive/developmental effects) (75 FR 6478, February 9, 2010). The causal framework used in the ISA for the current review is discussed in Chapter 3 of the PA (U.S. EPA, 2017a).

[19] Transient increases in airway responsiveness have the potential to increase asthma symptoms and worsen asthma control (74 FR 34415, July 15, 2009; U.S. EPA, 2008a, sections 5.3.2.1 and 5.4).

[20] The degree to which monitored NO_2 reflected actual NO_2 concentrations, as opposed to NO_2 plus other gaseous oxides of nitrogen, was recognized as an uncertainty (75 FR 6490, February, 9, 2010; U.S. EPA 2008b, section 2.2.3).

[21] She also considered public comments received on the proposal (75 FR 6490, February, 9, 2010).

morbidity was judged in the ISA to be ''sufficient to infer a likely causal relationship'' (U.S. EPA, 2008a, section 5.3.2.1). The Administrator concluded that this strength of evidence most directly supported consideration of an averaging time that focused protection on effects associated with short-term exposures to NO_2. In considering the level of support available for specific short-term averaging times, the Administrator noted that the policy assessment chapter of the REA considered evidence from both experimental and epidemiologic studies. Controlled human exposure studies and animal toxicological studies provided evidence that NO_2 exposures from less than 1 hour up to 3 hours can result in respiratory effects such as increased AR and inflammation (U.S. EPA, 2008a, Section 5.3.2.7). The Administrator specifically noted the ISA conclusion that exposures of adults with asthma to 100 ppb NO_2 for 1-hour (or 200 to 300 ppb for 30 minutes) can result in small but statistically significant increases in nonspecific AR (U.S. EPA, 2008a, Section 5.3.2.1). In addition, the epidemiologic evidence provided support for short-term averaging times ranging from approximately 1 hour up to 24 hours (U.S. EPA, 2008a, Section 5.3.2.7). Based on this, the Administrator concluded that a primary concern with regard to averaging time is the degree of protection provided against effects associated with 1-hour NO_2 concentrations. Based on REA analyses of ratios between 1-hour and 24-hour NO_2 concentrations (U.S. EPA, 2008b, Section 10.4.2), she further concluded that a standard based on 1-hour daily maximum NO_2 concentrations could also be effective at protecting against effects associated with 24-hour NO_2 exposures (75 FR 6490).

Based on the above, the Administrator judged that it was appropriate to set a new NO_2 standard with a 1-hour averaging time. She concluded that such a standard would be expected to effectively limit short-term (*e.g.,* 1- to 24-hours) exposures that have been linked to adverse respiratory effects. She also retained the existing annual standard to continue to provide protection against effects potentially associated with long-term exposures to oxides of nitrogen (75 FR 6502, February 9, 2010). These decisions were consistent with CASAC advice to establish a short-term primary standard for oxides of nitrogen based on using 1-hour maximum NO_2 concentrations and to retain the current annual standard (Samet, 2008, p. 2; Samet, 2009, p. 2).

iii. Level

With consideration of the available health effects evidence, exposure and risk analyses, and air quality information, the Administrator set the level of the new 1-hour NO_2 standard at 100 ppb. This standard was focused on limiting the *maximum* 1-hour NO_2 concentrations in ambient air (75 FR 6474, February 9, 2010).[22] In establishing this new standard, the Administrator emphasized the importance of protecting against short-term exposures to peak concentrations of NO_2, such as those that can occur around major roadways. Available evidence and information suggested that roadways account for the majority of exposures to peak NO_2 concentrations and, therefore, are important contributors to NO_2-associated public health risks (U.S. EPA, 2008b, Figures 8–17 and 8–18).

In setting the level of the new 1-hour standard at 100 ppb, the Administrator noted that there is no bright line clearly directing the choice of level. Rather, the choice of what is appropriate is largely a public health policy judgment entrusted to the Administrator. This judgment must include consideration of the strengths and limitations of the evidence and the appropriate inferences to be drawn from the evidence and the exposure and risk assessments.

The Administrator judged that the existing evidence from controlled human exposure studies supported the conclusion that the NO_2-induced increase in AR at or above 100 ppb presented a potential risk of adverse effects for some people with asthma, especially those with more serious (*i.e.,* more than mild) asthma. The Administrator noted that the risks associated with increased AR could not be fully characterized based on available controlled human exposure studies. However, the Administrator concluded that people with asthma, particularly those suffering from more severe asthma, warrant protection from the risk of adverse effects associated with the NO_2-induced increase in AR. Therefore, the Administrator concluded that the controlled human exposure evidence supported setting a standard level no higher than 100 ppb to reflect a cautious approach to the uncertainty regarding the adversity of the effect. However, those uncertainties led her to also conclude that this evidence did not support setting a standard level lower than 100 ppb (75 FR 6500–6501, February 9, 2010).

The Administrator also considered the more serious health effects reported in NO_2 epidemiologic studies. She noted that a new standard focused on protecting against maximum 1-hour NO_2 concentrations in ambient air anywhere in an area, with a level of 100 ppb and an appropriate form (as discussed below), would be expected to limit area-wide[23] NO_2 concentrations to below 85 ppb, which was the lowest 98th percentile 1-hour daily maximum NO_2 concentration in the cluster of five key epidemiologic studies which reported associations with respiratory-related hospital admissions or emergency department visits and which the Administrator gave substantial weight. The Administrator also concluded that such a 1-hour standard would be consistent with the REA conclusions based on the NO_2 exposure and risk information (75 FR 6501, February 9, 2010).

Given the above considerations and the comments received on the proposal, and considering the entire body of evidence and information before her, as well as the related uncertainties, the Administrator judged it appropriate to set a 1-hour standard with a level of 100 ppb. Specifically, she concluded that such a standard, with an appropriate form as discussed below, would provide a substantial increase in public health protection compared to that provided by the annual standard alone and would be expected to protect against the respiratory effects that have been linked with NO_2 exposures in both controlled human exposure and epidemiologic studies. This includes limiting exposures at and above 100 ppb for the vast majority of people, including those in at-risk groups, and maintaining maximum area-wide NO_2 concentrations below those in locations where key U.S. epidemiologic studies had reported that ambient NO_2 was associated with clearly adverse respiratory health effects, as indicated by increased hospital admissions and emergency department visits. The Administrator also noted that a standard level of 100 ppb was consistent with the consensus recommendation of the CASAC. (75 FR 6501, February 9, 2010).

In setting the standard level at 100 ppb rather than at a lower level, the Administrator also acknowledged the

[22] In conjunction with this new standard, the Administrator established a multi-tiered monitoring network that included monitors sited to measure the maximum NO_2 concentrations near major roadways, as well as monitors sited to measure maximum area-wide NO_2 concentrations and for the characterization of NO_2 exposure for susceptible and vulnerable populations.

[23] Area-wide concentrations refer to those measured by monitors that have been sited to characterize ambient concentrations at the neighborhood and larger spatial scales.

uncertainties associated with the scientific evidence. She noted that a 1-hour standard with a level lower than 100 ppb would only result in significant further public health protection if, in fact, there is a continuum of serious, adverse health risks caused by exposure to NO_2 concentrations below 100 ppb and/or associated with area-wide NO_2 concentrations well below those in locations where key U.S. epidemiologic studies had reported associations with respiratory-related emergency department visits and hospital admissions. Based on the available evidence, the Administrator did not believe that such assumptions were warranted. Taking into account the uncertainties that remained in interpreting the evidence from available controlled human exposure and epidemiologic studies, the Administrator observed that the likelihood of obtaining benefits to public health with a standard set below 100 ppb decreased, while the likelihood of requiring reductions in ambient concentrations that go beyond those that are needed to protect public health increased. (75 FR 6501–02, February 9, 2010).

iv. Form

The ''form'' of a standard defines the air quality statistic that is to be compared to the level of the standard in determining whether an area attains the standard. The Administrator recognized that for short-term standards, concentration-based forms that reflect consideration of a statistical characterization of an entire distribution of air quality data, with a focus on a single statistical metric such as the 98th or 99th percentile, can better reflect pollutant-associated health risks than forms based on expected exceedances. This is the case because concentration-based forms give proportionally greater weight to days when pollutant concentrations are well above the level of the standard than to days when the concentrations are just above the level of the standard.[24] In addition, she recognized that it is desirable from a public health perspective to have a form that is reasonably stable and insulated from the impacts of extreme meteorological events, and concluded that when averaged over three years, these concentration-based forms provide an appropriate balance between limiting peak pollutant concentrations and providing a stable regulatory target (75 FR 6492, February 9, 2010).

In the last review, the EPA considered two specific concentration-based forms (*i.e.,* the 98th and 99th percentile concentrations), averaged over 3 years, for the new 1-hour NO_2 standard. The focus on the upper percentiles of the distribution was based, in part, on evidence of health effects associated with short-term NO_2 exposures from experimental studies which provided information on specific exposure concentrations that were linked to respiratory effects. In a letter to the Administrator following issuance of the Agency's proposed rule, the CASAC recommended a form based on the 3-year average of the 98th percentile of the distribution of 1-hour daily maximum NO_2 concentrations (Samet, 2009, p. 2). In making this recommendation, the CASAC noted the potential for instability in the higher percentile concentrations and the absence of data from the near-road monitoring network, which at that time had been proposed but was not yet established.

Given the limited available information on the variability in peak NO_2 concentrations near important sources of NO_2, primarily near major roadways, and given the recommendation from the CASAC regarding the potential for instability in the 99th percentile concentrations, the Administrator judged it appropriate to set the form based on the 3-year average of the 98th percentile of the annual distribution of daily maximum 1-hour NO_2 concentrations. In addition, consistent with the CASAC's advice (Samet, 2008, p. 2; Samet, 2009, p. 2), the EPA retained the form of the annual standard (75 FR 6502, February 9, 2010).

c. Areas of Uncertainty in Last Review

While the available scientific information informing the last review was stronger and more consistent than in previous reviews and provided a strong basis for decision making in that review, the Agency recognized that areas of uncertainty remained. These were generally related to the following: (1) Understanding the role of NO_2 in the complex ambient mixture which includes a range of co-occurring pollutants (*e.g.,* fine particulate matter ($PM_{2.5}$),[25] carbon monoxide (CO), and other traffic-related pollutants; ozone (O_3); and sulfur dioxide (SO_2)) (*e.g.,* 75 FR 6485 February 9, 2010); (2) understanding the extent to which monitored ambient NO_2 concentrations used in epidemiologic studies reflect exposures in study populations and the range of ambient concentrations over which the evidence indicates confidence in the health effects observed in the epidemiologic studies (*e.g.,* 75 FR 6501, February 9, 2010); (3) understanding the magnitude and potential adversity of NO_2-induced respiratory effects reported in controlled human exposure studies (*e.g.,* 75 FR 6500, February 9, 2010); and (4) understanding the NO_2 concentration gradients around important sources, such as major roads, and relating those gradients to broader ambient monitoring concentrations (*e.g.,* 75 FR 6479, February 9, 2010).

2. Approach for the Current Review

The approach in this review of the primary NO_2 NAAQS takes into consideration the approach used in the last review, and addresses key policy-relevant questions in light of the currently available scientific and technical information. To evaluate whether it is appropriate to consider retaining the current primary NO_2 standards, or whether consideration of revision is appropriate, the EPA has adopted an approach that builds upon the general approach used in the last review and reflects the body of evidence and information now available. As summarized above, the decisions in the last review were based on the integration of NO_2 health effects information with judgments on the adversity and public health significance of key health effects, policy judgments as to when the standard is requisite to protect public health with an adequate margin of safety, consideration of CASAC advice, and consideration of public comments.

In the current review, the EPA's approach recognizes that the available health effects evidence reflects a continuum from relatively higher NO_2 concentrations, at which scientists generally agree that health effects are likely to occur, through lower concentrations, at which the likelihood and magnitude of a response become increasingly uncertain. In reaching a final decision on the current primary NO_2 standards, the Administrator will draw upon the available scientific

[24] Compared to an exceedance-based form, a concentration-based form reflects the magnitude of the exceedance of a standard level not just the fact that such an exceedance occurred.

[25] In general terms, particulate matter with a nominal mean aerodynamic diameter less than or equal to 2.5 μm; a measurement of fine particles. In regulatory terms, particles with an upper 50% cut -point of 2.5 μm aerodynamic diameter (the 50% cut point diameter is the diameter at which the sampler collects 50% of the particles and rejects 50% of the particles) and a penetration curve as measured by a reference method based on Appendix L of 40 CFR part 50 and designated in accordance with 40 CFR part 53, by an equivalent method designated in accordance with 40 CFR part 53, or by an approved regional method designated in accordance with Appendix C of 40 CFR part 58.

evidence for NO_2-attributable health effects and upon information from available quantitative analyses, including judgments about the appropriate weight to assign the range of uncertainties inherent in the evidence and analyses. The Administrator will also consider advice from CASAC and public comments received in response to this proposed decision.

The final decision on the primary NO_2 standards is largely a public health policy judgment to be made by the EPA Administrator. The weight to be given to various elements of the evidence and the available quantitative analyses is part of the public health policy judgments that the Administrator will make in reaching decisions on the standards.

To inform the Administrator's judgments and decisions, the PA presents evidence-based and exposure/risk-based considerations. Evidence-based considerations focus on the findings of epidemiologic studies, controlled human exposure studies, and experimental animal studies evaluating health effects related to NO_2 exposures. The PA's consideration of such studies draws from the assessment of the evidence presented in the ISA (U.S. EPA, 2016a). Exposure/risk-based considerations draw upon the results of the PA's quantitative analyses of potential NO_2 exposures. The PA's consideration of the evidence and quantitative information is framed by a series of key policy-relevant questions (U.S. EPA, 2017a, Figure 1–1). These questions focus on the strength of the evidence for various NO_2-related health effects and for potential at-risk populations, the NO_2 exposure concentrations at which adverse effects occur, the potential for NO_2 exposures and health effects of public health concern with NO_2 concentrations that meet the current standards, and uncertainties in the available evidence and information. The PA's consideration of these issues is intended to inform the Administrator's decisions as to whether, and if so how, to revise the current NO_2 standards. These considerations are discussed below (II.C to II.F).

B. Characterization of NO_2 Air Quality

This section presents information on NO_2 atmospheric chemistry and ambient concentrations, with a focus on information that is most relevant for the review of the primary NO_2 standards. This section is drawn from the more detailed discussion of NO_2 air quality in the PA (U.S. EPA, 2017a, Chapter 2) and the ISA (U.S. EPA, 2016a, Chapter 2).[26] It presents a summary of NO_2 atmospheric chemistry (II.B.1), trends in ambient NO_2 concentrations (II.B.2), ambient NO_2 concentrations measured at monitors near roads (II.B.3), the relationships between hourly and annual ambient NO_2 concentrations (II.B.4), and background concentrations of NO_2 (II.B.5).

1. Atmospheric Chemistry

Ambient concentrations of NO_2 are influenced by both direct NO_2 emissions and by emissions of nitric oxide (NO), with the subsequent conversion of NO to NO_2 primarily though reaction with ozone (O_3). The initial reaction between NO and O_3 to form NO_2 occurs fairly quickly during the daytime, with reaction times on the order of minutes. However, NO_2 can also be photolyzed to regenerate NO, creating new O_3 in the process (U.S. EPA, 2016a, Section 2.2). A large number of oxidized nitrogen species in the atmosphere are formed from the oxidation of NO and NO_2. These include nitrate radicals (NO_3), nitrous acid (HONO), nitric acid (HNO_3), dinitrogen pentoxide (N_2O_5), nitryl chloride ($ClNO_2$), peroxynitric acid (HNO_4), peroxyacetyl nitrate and its homologues (PANs), other organic nitrates, such as alkyl nitrates (including isoprene nitrates), and pNO_3. The sum of these reactive oxidation products and NO plus NO_2 comprise the oxides of nitrogen.[27] [28]

Due to the close relationship between NO and NO_2, and their ready interconversion, these species are often grouped together and referred to as NO_X. The majority of NO_X emissions are in the form of NO. For example, 90% or more of tail-pipe NO_X emissions are in the form of NO, with only about 2% to 10% emitted as NO_2 (Itano et al., 2014; Kota et al., 2013; Jimenez et al., 2000; Richmond-Bryant et al., 2016). NO_X emissions require time and sufficient O_3 concentrations for the conversion of NO to NO_2. Higher temperatures and concentrations of reactants result in shorter conversion times (*e.g.,* less than one minute under some conditions), while dispersion and depletion of reactants result in longer conversion times. The time required to transport emissions away from a roadway can vary from less than one minute (*e.g.,* under open conditions) to about one hour (*e.g.,* for certain urban street canyons) (Düring et al., 2011; Richmond-Bryant and Reff, 2012). These factors can affect the locations where the highest NO_2 concentrations occur. In particular, while ambient NO_2 concentrations are often elevated near important sources of NO_X emissions, such as major roadways, the highest measured ambient concentrations in a given urban area may not always occur immediately adjacent to those sources.[29]

2. National Trends in NO_X Emissions and Ambient NO_2 Concentrations

Ambient concentrations of NO_2 in the U.S. are due largely to NO_X emissions from anthropogenic sources. Background NO_2 is estimated to make up only a small fraction of current ambient concentrations (U.S. EPA, 2016a, Section 2.5.6; U.S. EPA, 2017, Section 2.3.4).[30] Nationwide estimates indicate that there has been a 61% reduction in total NO_X emissions from 1980 to 2016 (U.S. EPA, 2017a, Section 2.1.2, Figure 2–2). These reductions have been driven primarily by decreases in emissions from mobile sources and fuel combustion (U.S., EPA, 2017, Section 2.1.2, Figure 2–3).

Long-term trends in NO_2 DVs across the U.S. show that ambient concentrations of NO_2 have been declining, on average, since 1980 (U.S. EPA, 2017a, Figure 2–4). Data have been collected for at least some part of the period since 1980 at 2099 sites in the U.S., with individual sites having a wide range in duration and continuity of operations across multiple decades. Overall, the majority of sampling sites have observed statistically significant downward trends in ambient NO_2 concentrations (U.S. EPA, 2017a, Figure 2–5).[31] The annual and hourly DVs

[26] The focus is on NO_2 in this notice, as this is the indicator for the current standards and is most relevant to the evaluation of health evidence. Characterization of air quality for the broader category of oxides of nitrogen is provided in the ISA (U.S. EPA, 2016a, Chapter 2).

[27] This follows usages in the Clean Air Act Section 108(c): ''Such criteria [for oxides of nitrogen] shall include a discussion of nitric and nitrous acids, nitrites, nitrates, nitrosamines, and other carcinogenic and potentially carcinogenic derivatives of oxides of nitrogen.'' By contrast, within air pollution research and control communities, the terms ''nitrogen oxides'' and NO_X are often restricted to refer only to the sum of NO and NO_2.

[28] See Figure 2–1 of the NO_2 PA for additional information (U.S. EPA, 2017a).

[29] Ambient NO_2 concentrations around stationary sources of NO_X emissions are similarly impacted by the availability of O_3 and by meteorological conditions, although surface-level NO_2 concentrations can be less impacted in cases where stationary source NO_X emissions are emitted from locations elevated substantially above ground level.

[30] Background concentrations of a pollutant can be defined in various ways, depending on context and circumstances. Background concentrations of NO_2 are discussed in the ISA (U.S. EPA, 2016a, Section 2.5.6) and the PA (U.S. EPA, 2017, Section 2.3.4).

[31] Based on an analysis of data from sampling sites with sufficient data to produce at least five valid DVs.

trended upward in less than 4% of the sites.[32] Even considering the fact that there are a handful of sites where upward trends in NO_2 concentrations have occurred, the maximum DVs in 2015 across the whole monitoring network were well-below the NAAQS, with the highest values being 30 ppb (annual) and 72 ppb (hourly) (U.S. EPA, 2017a, Section 2.3.1).

3. Near-Road NO_2 Air Quality

The largest single source of NO_X emissions is on-road vehicles, and emissions are primarily in the form of NO, with NO_2 formation requiring both time and sufficient O_3 concentrations. Depending on local meteorological conditions and O_3 concentrations, ambient NO_2 concentrations can be higher near roadways than at sites in the same area but farther removed from the road (and from other sources of NO_X emissions).

When considering the historical relationships between NO_2 concentrations at monitors near roadways, and monitors further away from roads, NO_2 DVs are generally highest at sampling sites nearest to the road (less than 50 meters) and decrease as distance from the road increases (U.S. EPA, 2017a, Section 2.3.2, Figure 2–6). This relationship is more pronounced for annual DVs than for hourly DVs. The general pattern of decreasing DVs with increasing distance from the road has persisted over time, though the absolute difference (in terms of ppb) between NO_2 concentrations close to roads and those farther from roads has generally decreased over time (U.S. EPA, 2017a, Section 2.3.2, Figure 2–6).

In addition, data from the recently deployed network [33] of dedicated near-road NO_2 monitors indicate that daily maximum 1-hour NO_2 concentrations are generally higher at near-road monitors than at non-near-road monitors in the same CBSA (U.S. EPA, 2017a, Figures 2–7 to 2–10). The 98th percentiles of 1-hour daily maximum concentrations (the statistic most relevant to the 2010 standard) were highest at near-road monitors (*i.e.,* higher than all non-near-road monitors in the same CBSA) in 58% to 77% of the CBSAs evaluated, depending on the year (U.S. EPA, 2017a, Section 2.3.2, Figures 2–7 to 2–10).[34]

4. Relationships Between Hourly and Annual NO_2 Concentrations

Control programs have resulted in substantial reductions in NO_X emissions since the 1980s. These reductions in NO_X emissions have decreased both short-term peak NO_2 concentrations and annual average concentrations (U.S. EPA, 2017a, Section 2.3.1). When considering the change in NO_2 DVs since the 1980s, the median annual DV has decreased by about 65% and the median 1-hour DV has decreased by about 50% (U.S. EPA, 2017a, Section 2.3.3, Figure 2–10). These DVs were measured predominantly by NO_2 monitors located at area-wide monitoring sites and data from the new near-road monitoring network were not included in the analysis due to the limited amount of data available.[35] At various times in the past, a number of these area-wide sites would have violated the 1-hour standard without violating the annual standard; however, no sites would have violated the annual standard without also violating the 1-hour standard (U.S. EPA, 2017a p.2–21). Furthermore, examination of historical data indicate that 1-hour DVs at or below 100 ppb generally correspond to annual DVs below 35 ppb (U.S. EPA, 2017a p.2–21). Based on this, meeting the 1-hour standard with its level of 100 ppb would be expected to maintain annual average NO_2 concentrations well-below the 53 ppb level of the annual standard (U.S. EPA, 2017a, Figure 2–11). It will be important to reevaluate this relationship as more data become available from recently deployed near-road monitors.

C. Health Effects Information

This section summarizes the available scientific evidence on the health effects of NO_2 exposures. These summaries are based primarily on the assessment of the evidence in the ISA (U.S. EPA, 2016a) and on the PA's consideration of that evidence in evaluating the public health protection provided by the current primary NO_2 standards (U.S. EPA, 2017a).

In the current review of the primary NO_2 NAAQS, the ISA uses frameworks to characterize the strength of the available scientific evidence for health effects attributable to NO_2 exposures and to classify the evidence for factors that may increase risk in some populations [36] or lifestages (U.S. EPA, 2015, Preamble, Section 6). These frameworks provide the basis for robust, consistent, and transparent evaluation of the scientific evidence, including uncertainties in the evidence, and for drawing conclusions on air pollution-related health effects and at-risk populations.

With regard to characterization of the health effects evidence, the ISA uses a five-level hierarchy to classify the overall weight of evidence into one of the following categories: causal relationship; likely to be a causal relationship; suggestive of, but not sufficient to infer, a causal relationship; inadequate to infer a causal relationship; and not likely to be a causal relationship (U.S. EPA, 2015, Preamble Table II). The PA considers the full body of health evidence addressed in the ISA, placing the greatest emphasis on the effects for which the evidence has been judged in the ISA to demonstrate a ''causal'' or a ''likely to be a causal'' relationship with NO_2 exposures (U.S. EPA, 2017a).[37] In the ISA, a ''causal'' relationship is supported when, ''the consistency and coherence of evidence integrated across scientific disciplines and related health outcomes are sufficient to rule out chance, confounding, and other biases with reasonable confidence'' (U.S. EPA, 2016a, p. 1–5). A ''likely to be a causal'' relationship is supported when ''there are studies where results are not explained by chance, confounding, or other biases, but uncertainties remain in the evidence overall. For example, the influence of other pollutants is difficult to address, or evidence among scientific disciplines may be limited or inconsistent'' (U.S. EPA, 2016a, p. 1–5). Many of the health effects evaluated in the ISA, have complex etiologies. For instance, diseases such as asthma are typically initiated by multiple agents. For example, outcomes depend on a variety of factors such as age, genetic background, nutritional status, immune competence, and social factors (U.S.

[32] It is not clear whether specific sources may be responsible for these upward trends in ambient NO_2 concentrations. As discussed in the PA (U.S. EPA, 2017a, Section 2.1.2), since 1980 increases in NO_X emissions have been observed for several types of sources, including oil and gas production, agricultural field burning, prescribed fires and mining. Though relatively small contributors nationally, emissions from these sources can be substantial in some areas (*e.g.,* see U.S. EPA, 2016a, Section 2.3.5).

[33] Prior to the 2010 rulemaking, monitors were ''not sited to measure peak roadway-associated NO_2 concentrations. . . .'' (75 FR 6479).

[34] The upper end of this range (*i.e.,* 77%) reflects more recent years during which most near-road monitors were in operation. The lower end of this range (*i.e.,* 58%) reflects the smaller number of near-road monitors in operation during the early years of the deployment of the near-road network.

[35] As noted above (II.A.1), area-wide sites are intended to characterize ambient NO_2 concentrations at the neighborhood and larger spatial scales.

[36] The term ''population'' refers to people having a quality or characteristic in common, including a specific pre-existing illness or a specific age or lifestage.

[37] In this review, as in past reviews, there were causal determination changes for different endpoint categories. For more information on changes in causal determinations from the previous review, see below and Table 1–1 of the ISA (U.S. EPA, 2016a).

EPA, 2017a Preamble, Section 5.b). Thus, exposure to NO_2 is likely one of several contributors to the health effects evaluated in the ISA.

With regard to identifying specific populations or lifestages that may be at increased risk of health effects related to NO_2 exposures, the ISA characterizes the evidence for a number of ''factors'', including both intrinsic (*i.e.,* biologic, such as pre-existing disease or lifestage) and extrinsic (*i.e.,* non-biologic, such as diet or socioeconomic status) factors. The categories considered in classifying the evidence for these potential at-risk factors are ''adequate evidence,'' ''suggestive evidence,'' ''inadequate evidence,'' and ''evidence of no effect'' (U.S. EPA, 2016a, Section 5.c, Table II). Within the PA, the focus is on the consideration of potential at-risk populations and lifestages for which the ISA judges there is ''adequate'' evidence (U.S. EPA, 2016a, Table 7–27).

Section II.C.1 summarizes the evidence for effects related to short-term NO_2 exposures (*e.g.,* minutes to weeks). Section II.C.2 summarizes the evidence for effects related to long-term NO_2 exposures (*e.g.,* months to years). Section II.C.3 discusses the potential public health implications of NO_2 exposures, based on the evidence for populations and lifestages at increased risk of NO_2-related effects.

1. Health Effects With Short-Term Exposure to NO_2

This section discusses the evidence for health effects following short-term NO_2 exposures. Section II.C.1.a discusses the nature of the health effects that have been shown to occur following short-term NO_2 exposures and the strength of the evidence supporting various effects, based on the assessment of that evidence in the ISA. Section II.C.1.b discusses the NO_2 concentrations at which health effects have been demonstrated to occur, based on the considerations and analyses included in the PA.[38]

a. Nature of Effects

Across previous reviews of the primary NO_2 NAAQS (U.S. EPA, 1993; U.S. EPA, 2008a), evidence has consistently demonstrated respiratory effects attributable to short-term NO_2 exposures. In the last review, the 2008 ISA concluded that evidence was ''sufficient to infer a likely causal relationship between short-term NO_2 exposure and adverse effects on the respiratory system'' based on the large body of epidemiologic evidence demonstrating positive associations with respiratory symptoms and hospitalization or emergency department (ED) visits as well as supporting evidence from controlled human exposure and animal studies (U.S. EPA, 2008a, p. 5–6). Evidence for cardiovascular effects and mortality attributable to short-term NO_2 exposures was weaker and was judged ''inadequate to infer the presence or absence of a causal relationship'' and ''suggestive of, but not sufficient to infer, a causal relationship,'' respectively. The 2008 ISA noted an overarching uncertainty in determining the extent to which NO_2 is independently associated with effects or if NO_2 is a marker for the effects of another traffic-related pollutant or mix of pollutants (U.S. EPA, 2008a, Section 5.3.2.2 to 5.3.2.6).

For the current review, there is newly available evidence for both respiratory effects and other health effects critically evaluated in the ISA as part of the full body of evidence informing the nature of the relationship between health effects and short-term exposures to NO_2 (U.S. EPA, 2016a).[39] In considering the available evidence and the causal determinations presented in the ISA, consistent with the PA (U.S. EPA, 2017a), this proposal focuses on respiratory effects (II.C.1.a.i), cardiovascular effects (II.C.1.a.ii), and mortality (II.C.1.a.iii).

i. Respiratory Effects

The ISA concludes that evidence supports a causal relationship between respiratory effects and short-term NO_2 exposures, primarily based on evidence for asthma exacerbation. In reaching this conclusion, the ISA notes that ''epidemiologic, controlled human exposure, and animal toxicological evidence together can be linked in a coherent and biologically plausible pathway to explain how NO_2 exposure can trigger an asthma exacerbation'' (U.S. EPA, 2016a, p. 1–17). In the last review, the 2008 ISA described much of the same evidence and determined it was ''sufficient to infer a likely causal relationship'' with respiratory effects, citing uncertainty as to whether the epidemiologic results for NO_2 could be disentangled from effects related to other traffic-related pollutants. In contrast to the current review, the 2008 ISA evaluated evidence for the broad category of respiratory effects and did not explicitly evaluate the extent to which various lines of evidence supported effects on more specific endpoints such as asthma exacerbation (*i.e.,* asthma attacks). In the current review, the ISA states that ''the determination of a causal relationship is not based on new evidence as much as it is on the integrated findings for asthma attacks with due weight given to experimental studies'' (U.S. EPA, 2016a, p. 1xxxiii).[40]

Strong evidence supporting this causal determination in the ISA comes from a meta-analysis of controlled human exposure studies that evaluate the potential for increased AR[41] following 20-minute to 1-hour NO_2 exposures (Brown, 2015).[42] While individual controlled human exposure studies can lack statistical power to identify effects, the meta-analysis of individual-level data combined from multiple studies has greater statistical power due to increased sample size.[43] AR has been the key respiratory outcome from controlled human exposures in the previous and current reviews of the primary NO_2 NAAQS, and the ISA specifically notes that ''airway hyperresponsiveness can lead to poorer control of symptoms and is a hallmark of asthma'' (U.S. EPA, 2016a, p. 1–18). Brown (2015) examined the relationship between AR and NO_2 exposures in subjects with asthma across the large body of controlled human exposure studies,[44] most of which were available in the last review (U.S. EPA, 2017a, Tables 3–2 and 3–3). More specifically, the meta-analysis

[38] When considering the NO_2 concentrations at which health effects have been demonstrated to occur, the EPA places the greatest emphasis on evidence supporting health endpoints that the ISA has determined to have a ''causal'' or ''likely to be a causal'' relationship with NO_2 exposure.

[39] A list of the causal determinations from the ISA for the current review, and those from the previous review, for respiratory effects, cardiovascular effects, and mortality is presented in Table 3–1 of the NO_2 PA (U.S. EPA, 2017a).

[40] Experimental studies, such as controlled human exposure studies, provide support for effects of exposures to NO_2 itself, and generally do not reflect the complex atmospheres to which people are exposed. Thus, unlike epidemiologic studies, experimental studies that evaluate exposures to NO_2 itself are not subject to uncertainties related to the potential for copollutant confounding.

[41] The ISA states that airway responsiveness is ''inherent responsiveness of the airways to challenge by bronchoconstricting agents'' (U.S. EPA, 2016a, p. 5–9). More specifically, airway hyperresponsiveness refers to increased sensitivity of the airways to an inhaled bronchoconstricting agent. This is often quantified as the dose of challenge agent that results in a 20% reduction in forced expiratory volume for 1 second (FEV_1), but some studies report the change in FEV_1 for a specified dose of challenge agent. The change in specific airways resistance (sRaw) is also used to quantify AR.

[42] These studies evaluate the effect of inhaled NO_2 on the inherent responsiveness of the airways to challenge by bronchoconstricting agents.

[43] A meta-analyses synthesizes data from multiple studies using statistical analyses.

[44] These controlled human exposure studies were conducted in people with asthma, a group at increased risk for NO_2-related effects. The severity of asthma varied across studies, ranging from inactive asthma up to severe asthma. (Brown, 2015).

identified the fraction of individuals having an increase in AR following NO_2 exposure, compared to the fraction having a decrease, across studies.[45] The meta-analysis also stratified the data to consider the influence of factors that may affect results including exercise versus rest and non-specific versus specific challenge agents.[46]

The results from the meta-analysis demonstrate that the majority of study volunteers with asthma experienced increased AR following resting exposure to NO_2 concentrations ranging from 100 to 530 ppb, relative to filtered air. Limitations in this evidence result from the lack of an apparent dose-response relationship, uncertainty in the potential adversity of responses, and the general focus of available studies on people with mild asthma, rather than more severe cases of the disease. These controlled human exposure studies, the meta-analysis, and uncertainties in this body of evidence are discussed in greater detail below (II.C.1.b.i).

The ISA further characterizes the clinical relevance of these increases in AR, using an approach that is based on guidelines from the American Thoracic Society (ATS) and the European Respiratory Society (ERS) for the assessment of therapeutic agents (Reddel et al., 2009). Specifically, based on individual-level responses reported in a subset of studies, the ISA considered a halving of the provocative dose (PD) to indicate responses that may be clinically relevant.[47] [48] With regard to this approach, the ISA notes that ''in a joint statement of the [ATS] and [ERS], one doubling dose change in PD is recognized as a potential indicator, although not a validated estimate, of clinically relevant changes in AR (Reddel et al., 2009)'' (U.S. EPA, 2016a, p. 5–12).

Based on a subset of the controlled human exposure studies considered in the ISA, Brown (2015) shows that NO_2 exposures from 100 to 530 ppb resulted in a halving of the dose of a challenge agent required to increase AR (*i.e.,* a halving of the PD) for about a quarter of study volunteers. While these results support the potential for clinically relevant increases in AR in some individuals with asthma following NO_2 exposures within the range of 100 to 530 ppb, uncertainty remains given that this analysis is limited to a small subset of the studies included in the broader Brown et al. (2015) meta-analysis and given the lack of an apparent dose-response relationship.[49] In addition, compared to conclusions based on the entire range of NO_2 exposure concentrations evaluated (*i.e.,* 100 to 530 ppb), there is greater uncertainty in reaching conclusions about the potential for clinically relevant effects at any particular NO_2 exposure concentration within this range.

Controlled human exposure studies discussed in the ISA also evaluated a range of other respiratory effects, including lung function decrements, respiratory symptoms, and pulmonary inflammation. The evidence does not consistently demonstrate these effects following exposures to NO_2 concentrations at or near those found in the ambient air in the U.S. However, a subset of studies using NO_2 exposures to 260 ppb for 15–30 min or 400 ppb for up to 6 hours provide evidence that study volunteers with asthma and allergy can experience increased inflammatory responses following allergen challenge. Evidence for pulmonary inflammation was more mixed across studies that did not use an allergen challenge following NO_2 exposures ranging from 300–1,000 ppb (U.S. EPA, 2016a, Section 5.2.2.5).

In addition to this evidence for NO_2-induced increases in AR and allergic inflammation in controlled human exposure studies, the ISA also describes consistent evidence from epidemiologic studies for positive associations between short-term NO_2 exposures and an array of respiratory outcomes related to asthma. Thus, coherence and biological plausibility is demonstrated in the evidence integrated between controlled human exposure studies and the various asthma-related outcomes examined in epidemiologic studies. The ISA indicates that epidemiologic studies consistently demonstrate NO_2-health effect associations with asthma hospital admissions and ED visits among subjects of all ages and children, and with asthma symptoms in children (U.S. EPA, 2016a, Sections 5.2.2.4 and 5.2.2.3). The robustness of the evidence is demonstrated by associations found in studies conducted in diverse locations in the U.S., Canada, and Asia, including several multicity studies. The evidence for asthma exacerbation is substantiated by several recent studies with strong exposure assessment characterized by measuring NO_2 concentrations in subjects' location(s). Epidemiologic studies also demonstrated associations between short-term NO_2 exposures and respiratory symptoms, lung function decrements, and pulmonary inflammation, particularly for measures of personal total and ambient NO_2 exposures and NO_2 measured outside schools. This is important because there is considerable spatial variability in NO_2 concentrations, and measurements in subjects' locations may better represent variability in ambient NO_2 exposures, compared to measurements at central site monitors (U.S. EPA, 2016a, Sections 2.5.3 and 3.4.4). Epidemiologic studies also consistently indicate ambient or personal NO_2-associated increases in exhaled nitric oxide (eNO, a marker of airway inflammation), which is coherent with experimental findings for allergic inflammation (U.S. EPA, 2016a, Section 5.2.2.6).

In assessing the evidence from epidemiologic studies, the ISA not only considers the consistency of effects across studies, but also evaluates other study attributes that affect study quality, including potential confounding and exposure assignment. Regarding potential confounding, the ISA notes that NO_2 associations with asthma-related effects persist with adjustment for temperature; humidity; season; long-term time trends; and PM_{10}, SO_2, or O_3. Recent studies also add findings for NO_2 associations that generally persist with adjustment for a key copollutant, including $PM_{2.5}$ and traffic-related copollutants such as elemental carbon (EC) or black carbon (BC), ultra-fine particles (UFPs), or carbon monoxide (CO) (U.S. EPA, 2016a, Figures 5–16 and 5–17, Table 5–38). Confounding by organic carbon (OC), PM metal species, or volatile organic compounds (VOCs) is poorly studied, but NO_2 associations

[45] More information on the distribution of study subjects across NO_2 concentrations can be found below (II.C.1.b.i). Information on the fraction of individuals who experienced an increase versus a decrease stratified by concentration can also be found in this section.

[46] ''Bronchial challenge agents can be classified as nonspecific (*e.g.,* histamine; SO_2; cold air) or specific (*i.e.,* an allergen). Nonspecific agents can be differentiated between 'direct' stimuli (*e.g.,* histamine, carbachol, and methacholine) which act on airway smooth muscle receptors and 'indirect' stimuli (*e.g.,* exercise, cold air) which act on smooth muscle through intermediate pathways, especially via inflammatory mediators. Specific allergen challenges (*e.g.,* house dust mite, cat allergen) also act 'indirectly' via inflammatory mediators to initiate smooth muscle contraction and bronchoconstriction'' (U.S. EPA, 2016a, p. 5–8).

[47] PD is the dose of challenge agent required to elicit a specified change in a measure of lung function, typically a 20% decrease in FEV_1 or a 100% increase in specific airway resistance (sRaw).

[48] The ISA's characterization of a clinically relevant response is based on evidence from controlled human exposure studies evaluating the efficacy of inhaled corticosteroids that are used to prevent bronchoconstriction and airway responsiveness as described by Reddel et al. (2009). Generally, a change of at least one doubling dose is considered to be an indication of clinical relevance. Based on this, a halving of the PD is taken in the ISA to represent an increase in AR that indicates a clinically relevant response.

[49] Section 3.2.2.1 of the PA (U.S. EPA, 2017a) includes additional discussion of these uncertainties.

with asthma exacerbation tend to persist in the few available copollutant models. The ISA recognizes, however, that copollutant models have inherent limitations and cannot conclusively rule out confounding (U.S. EPA, 2015, Preamble, Section 4.b).

The ISA also notes that results based on personal exposures or pollutants measured at people's locations provide support for NO_2 associations that are independent of $PM_{2.5}$, EC/BC, organic carbon (OC), or UFPs. Compared to ambient NO_2 concentrations measured at central-site monitors, personal NO_2 exposure concentrations and indoor NO_2 concentrations exhibit lower correlations with many traffic-related copollutants (*e.g.,* r = −0.37 to 0.31). Thus, these health effect associations with personal and indoor NO_2 may be less prone to confounding by these traffic-related copollutants (U.S. EPA, 2016a, Section 1.4.3).

Overall, the strongest evidence supporting the conclusion of the causal relationship determined in the ISA comes from controlled human exposure studies demonstrating NO_2-induced increases in AR in individuals with asthma, with supporting evidence for a range of respiratory effects from epidemiologic studies. The conclusion of a causal relationship in the ISA is based on this evidence, and its explicit integration within the context of effects related to asthma exacerbation. Most of the controlled human exposure studies assessed in the ISA were available in the last review, particularly studies of non-specific AR, and thus, do not themselves provide substantively new information. However, by pooling data from a subset of studies, the newly available meta-analysis (Brown, 2015) has partially addressed an uncertainty from the last review by demonstrating the potential for clinically relevant increases in AR following exposures to NO_2 concentrations in the range of 100 to 530 ppb. Similarly, the epidemiologic evidence that is newly available in the current review is consistent with evidence from the last review and does not alter the understanding of respiratory effects related to ambient NO_2 exposures. New epidemiologic evidence does, however, reduce some uncertainty from the last review regarding the extent to which effects may be independently related to NO_2 as there is more evidence from studies using measures that may better capture personal exposure as well as a more robust evidence base examining copollutant confounding. Some uncertainty remains in the epidemiologic evidence regarding confounding by the most relevant copollutants as it can be difficult to disentangle the independent effects of highly correlated pollutants (*i.e.,* NO_2 and traffic-related pollutants).

ii. Cardiovascular Effects

The evidence for cardiovascular health effects and short-term NO_2 exposures in the 2016 ISA was judged ''suggestive of, but not sufficient to infer, a causal relationship'' (U.S. EPA, 2016a, Section 5.3.11), which is stronger than the conclusion in the last review that the evidence was ''inadequate to infer the presence or absence of a causal relationship.'' The more recent causal determination was primarily supported by consistent epidemiologic evidence from multiple new studies indicating associations for triggering of a myocardial infarction. However, further evaluation and integration of evidence points to uncertainty related to exposure measurement error and potential confounding by traffic-related pollutants. There is consistent evidence demonstrating NO_2-associated hospital admissions and ED visits for ischemic heart disease, myocardial infarction, and angina as well as all cardiovascular diseases combined, which is coherent with evidence from other studies indicating NO_2-associated repolarization abnormalities and cardiovascular mortality. There are experimental studies that provide some evidence for effects on key events in the proposed mode of action (*e.g.,* systemic inflammation), but these studies do not provide evidence that is sufficiently coherent with the epidemiologic studies to help rule out chance, confounding, and other biases. In particular, the ISA concludes that ''[t]here continues to be a lack of experimental evidence that is coherent with the epidemiologic studies to strengthen the inference of causality for NO_2-related cardiovascular effects, including [myocardial infarction]'' (U.S. EPA, 2016a, p. 5–335). Beyond evidence for myocardial infarction, there were studies examining other cardiovascular health effects, but results across these outcomes are inconsistent. Thus, while the evidence is stronger in the current review than in the last review, important uncertainties remain regarding the independent effects of NO_2.

iii. Mortality

The ISA concludes that the evidence for short-term NO_2 exposures and total mortality is ''suggestive of, but not sufficient to infer, a causal relationship'' (U.S. EPA, 2016a, Section 5.4.8), which is the same conclusion reached in the last review (U.S. EPA, 2008a). Several recent multicity studies add to the evidence base for the current review and demonstrate associations that are robust in copollutant models with PM_{10}, O_3, or SO_2. However, confounding by traffic-related copollutants, which is of greatest concern, is not examined in the available copollutant models for NO_2-associated mortality. Overall, the recent evidence assessed in the ISA builds upon and supports conclusions in the last review, but key limitations across the evidence include a lack of biological plausibility as experimental studies and epidemiologic studies on cardiovascular morbidity, a major cause of mortality, do not clearly provide a mechanism by which NO_2-related effects could lead to mortality. In addition, important uncertainties remain regarding the independent effect of NO_2 (*i.e.,* independent of other traffic-related pollutants).

b. Short-Term NO_2 Concentrations in Health Studies

In evaluating what the available health evidence indicates with regard to the degree of public health protection provided by the current standards, it is appropriate to consider the short-term NO_2 concentrations that have been associated with various effects. The PA explicitly considers these NO_2 concentrations within the context of evaluating the public health protection provided by the current standards (U.S. EPA, 2017a, Section 3.2). This section summarizes those considerations from the PA.

In evaluating the NO_2 exposure concentrations associated with health effects within the context of considering the adequacy of the current standards, the PA focuses on the evidence for asthma-related effects (*i.e.,* the strongest evidence supporting a causal relationship, as discussed above). The PA specifically considers to what extent the evidence indicates adverse asthma-related effects attributable to short-term exposures to NO_2 concentrations lower than previously identified or below the existing standards (U.S. EPA, 2017a p. 3–11). In addressing this issue, the PA considers the extent to which NO_2-induced adverse effects have been reported over the ranges of NO_2 exposure concentrations evaluated in controlled human exposure studies and the extent to which NO_2-associated effects have been reported for distributions of ambient NO_2 concentrations in epidemiologic study locations meeting existing standards. These considerations are discussed below for controlled human exposure studies (II.C.1.b.i) and epidemiologic studies (II.C.1.b.ii).

i. NO_2 Concentrations in Controlled Human Exposure Studies

Controlled human exposure studies, most of which were available and considered in the last review, have evaluated various respiratory effects following short-term NO_2 exposures. These include AR, inflammation and oxidative stress, respiratory symptoms, and lung function decrements. Generally, when considering respiratory effects from controlled human exposure studies in healthy adults without asthma, evidence does not indicate respiratory symptoms or lung function decrements following NO_2 exposures below 4,000 ppb and limited evidence indicates airway inflammation following exposures below 1,500 ppb (U.S. EPA, 2016a, Section 5.2.7).[50] There is a substantial body of evidence demonstrating increased AR in healthy adults with exposures in the range of 1,500–3,000 ppb.

Evidence for respiratory effects following exposures to NO_2 concentrations at or near those found in the ambient air is strongest for AR in individuals with asthma (U.S. EPA, 2016a, Section 5.2.2 p. 5–7). As discussed above, increased AR has been reported in people with asthma following exposures to NO_2 concentrations as low as 100 ppb. In contrast, controlled human exposure studies evaluated in the ISA do not provide consistent evidence for respiratory symptoms, lung function decrements, or pulmonary inflammation in adults with asthma following exposures to NO_2 concentrations at or near those in ambient air (*i.e.,* <1,000 ppb; U.S. EPA, 2016a, Section 5.2.2). There is some indication of allergic inflammation in adults with allergy and asthma following exposures to 260–1,000 ppb. However, the generally high exposure concentrations make it difficult to interpret the likelihood that these effects could potentially occur following NO_2 exposures at or below the level of the current standard.

Thus, in considering the exposure concentrations evaluated in controlled human exposure studies, the PA focuses on the body of evidence for NO_2-induced increases AR in adults with asthma. In evaluating the NO_2 exposure concentrations at which increased AR is observed, the PA considers both the group mean results reported in individual studies and the results evaluated across studies in the meta-analysis by Brown (2015; U.S. EPA, 2016a, Section 5.2.2.1). Group mean responses in individual studies, and the variability in those responses, can provide insight into the extent to which observed changes in AR are due to NO_2 exposures, rather than to chance alone, and have the advantage of being based on the same exposure conditions. The meta-analysis by Brown (2015) aids in identifying trends in individual-level responses across studies and has the advantage of increased power to detect effects, even in the absence of statistically significant effects in individual studies.[51]

Consideration of Group Mean Results From Individual Studies

In first considering controlled human exposure studies conducted at rest, the PA notes that the lowest NO_2 concentration to which individuals with asthma have been exposed is 100 ppb, with an exposure duration of 60 minutes in all studies. Of the five studies conducted at 100 ppb, a statistically significant increase in AR following exposure to NO_2 was only observed in the study by Orehek et al. (1976) (N=20). Of the four studies that did not report statistically significant increases in AR following exposures to 100 ppb NO_2, three reported weak trends towards decreased AR (n = 20, Ahmed et al., 1983b; n=15, Hazucha et al., 1983; n=8, Tunnicliffe et al., 1994), and one reported a trend towards increased AR (n=20, Ahmed et al., 1983a). Resting exposures to 140 ppb NO_2 resulted in increases in AR that reached marginal statistical significance (n=20; Bylin et al., 1988). In addition, the one study conducted at 200 ppb demonstrated a trend towards increased AR, but this study was small and results were not statistically significant (n=4; Orehek et al., 1976). Thus, individual controlled human exposure studies have generally not reported statistically significant increases in AR following resting exposures to NO_2 concentrations from 100 to 200 ppb. Group mean responses in these studies suggest a trend towards increased AR following exposures to 140 and 200 ppb NO_2, while trends in the direction of group mean responses were inconsistent following exposures to 100 ppb NO_2.

In next considering studies in individuals with asthma conducted with exercise, the PA notes that three studies evaluated NO_2 exposure concentrations between 150 and 200 ppb (n=19, Roger et al., 1990; n=31, Kleinman et al., 1983; n=11, Jenkins et al., 1999). Of these studies, only Kleinman et al. (1983) reported a statistically significant increase in AR following NO_2 exposure (*i.e.,* at 200 ppb). Roger et al. (1990) and Jenkins et al. (1999) did not report statistically significant increases, but showed weak trends for increases in AR following exposures to 150 ppb and 200 ppb NO_2, respectively. Thus, as with studies of resting exposures, studies that evaluated exposures to 150 to 200 ppb NO_2 with exercise report trends toward increased AR, though results are generally not statistically significant.

Several studies evaluated exposures of individuals with asthma to NO_2 concentrations above 200 ppb. Of the five studies that evaluated 30-minute resting exposures to NO_2 concentrations from 250 to 270 ppb, NO_2-induced increases in AR were statistically significant in three (n=14, Jörres et al., 1990; n=18, Strand et al., 1988; n=20, Bylin et al., 1988). Statistically significant increases in AR are also more consistently reported across studies that evaluated resting exposures to 400–530 ppb NO_2, with three of four studies reporting a statistically significant increase in AR following such exposures. However, studies conducted with exercise do not indicate consistent increases in AR following exposures to NO_2 concentrations from 300 to 600 ppb (U.S. EPA, 2017a, Table 3–3).[52]

Consideration of Results From the Meta-Analysis

As discussed above, the ISA assessment of the evidence for AR in individuals with asthma also focuses on a recently published meta-analysis (Brown, 2015) investigating individual-level data from controlled human exposure studies. While individual controlled human exposure studies can lack statistical power to identify effects, the meta-analysis of individual-level data combined from multiple studies (Brown, 2015) has greater statistical

[50] Exposure durations were from one to three hours in studies evaluating AR and respiratory symptoms, and up to five hours in studies evaluating lung function decrements.

[51] Tables 3–2 and 3–3 in the NO_2 PA (adapted from the ISA; U.S. EPA, 2016a, Tables 5–1 and 5–2) provide details for the studies examining AR in individuals with asthma at rest and with exercise, respectively. These tables note various study details including the exposure concentration, duration of exposure, type of challenge (nonspecific or specific), number of study subjects, number of subjects having an increase or decrease in AR following NO_2 exposure, average provocative dose (PD; dose of challenge agent required to elicit a particular magnitude of change in FEV_1 or other measure of lung function) across subjects, and the statistical significance of the change in AR following NO_2 exposures.

[52] There are eight additional studies with exercising exposures to 300-350 ppb NO_2 as presented in Table 3-3 of the NO_2 PA, with exposure durations ranging from 30-240 minutes. Results across these studies are inconsistent, with only two of eight reporting significant results. Only one of four studies with exercising exposures of 400 or 600 ppb reported statistically significant increases in airway responsiveness.

power due to increased sample size. The meta-analysis considered individual-level responses, specifically whether individual study subjects experienced an increase or decrease in AR following NO_2 exposure compared to air exposure.[53] Evidence was evaluated together across all studies and also stratified for exposures conducted with exercise and at rest, and for measures of specific and non-specific AR. The ISA notes that these methodological differences may have important implications with regard to results (U.S. EPA, 2016a (discussing Brown, 2015; Goodman et al., 2009)), contributing to the ISA's emphasis on studies of resting exposures and non-specific challenge agents. Overall, the meta-analysis presents the fraction of individuals having an increase in AR following exposure to various NO_2 concentrations (*i.e.,* 100 ppb, 100 ppb to <200 ppb, 200 ppb up to and including 300 ppb, and above 300 ppb) (U.S. EPA, 2016a, Section 5.2.2.1).[54] [55]

When evaluating results from the meta-analysis, first the PA considers results across all exposure conditions (*i.e.,* resting, exercising, non-specific challenge, and specific challenge). For 100 ppb NO_2 exposures, Brown (2015) reported that, of the study participants who experienced either an increase or decrease in AR following NO_2 exposures, 61% experienced an increase (p=0.08). For 100 to <200 ppb NO_2 exposures, 62% of study subjects experienced an increase in AR following NO_2 exposures (p=0.014). For 200 to 300 ppb NO_2 exposures, 58% of study subjects experienced an increase in AR following NO_2 exposures (p=0.008). For exposures above 300 ppb NO_2, 57% of study subjects experienced an increase in AR following NO_2 exposures, though this fraction was not statistically different than the fraction experiencing a decrease.

The PA also considers the results of Brown (2015) for various subsets of the available studies, based on the exposure conditions evaluated (*i.e.,* resting, exercising) and the type of challenge agent used (specific, non-specific). For exposures conducted at rest, across all exposure concentrations (*i.e.,* 100–530 ppb NO_2, n=139; U.S. EPA, 2017a, Table 3–2), Brown (2015) reported that a statistically significant fraction of study participants (71%, p <0.001) experienced an increase in AR following NO_2 exposures, compared to the fraction that experienced a decrease in AR. The meta-analysis also presented results for various concentrations or ranges of concentrations. Following resting exposure to 100 ppb NO_2, 66% of study participants experienced increased non-specific AR. For exposures to concentrations of 100 ppb to <200 ppb, 200 ppb up to and including 300 ppb, and above 300 ppb, increased non-specific AR was reported in 67%, 78%, and 73% of study participants, respectively.[56] For non-specific challenge agents, the differences between the fractions of individuals who experienced increased AR following resting NO_2 exposures and the fraction who experienced decreased AR reached statistical significance for all of the ranges of exposures concentrations evaluated (p <0.05).

In contrast to the results from studies conducted at rest, the fraction of individuals having an increase in AR following NO_2 exposures with exercise was not consistently greater than 50%, and none of the results were statistically significant (Brown, 2015). Across all NO_2 exposures with exercise, measures of non-specific AR were available for 241 individuals, 54% of whom experienced an increase in AR following NO_2 exposures relative to air controls. There were no studies in this group conducted at 100 ppb, and for exercising exposures to 150–200 ppb, 250–300 ppb, and 350–600 ppb, the fraction of individuals with increased AR was 59%, 55%, and 49%, respectively.

In addition to examining results from studies of non-specific AR, the meta-analysis also considered results from studies that evaluated changes in specific AR (*i.e.,* AR following an allergen challenge; n=130; U.S. EPA, 2017a, Table 3–3) following NO_2 exposures. The results do not indicate statistically significant fractions of individuals having an increase in specific AR following exposure to NO_2 at concentrations below 400 ppb, even when considering resting and exercising exposures separately (Brown, 2015). Of the three studies that evaluated specific AR at concentrations of 400 ppb, one was conducted at rest (Tunnicliffe et al., 1994). This study reported that all individuals experienced increased AR following 400 ppb NO_2 exposures (Brown, 2015, Table 4). In contrast, for exposures during exercise, most study subjects did not experience NO_2-induced increases in specific AR.[57] Overall, results across studies are less consistent for increases in specific AR following NO_2 exposures.

Uncertainties in Evidence for AR

When considering the evidence for NO_2-induced increases in AR in individuals with asthma, there are important uncertainties that should be considered. One uncertainty is that available studies of NO_2 and AR have generally evaluated adults with mild asthma, while people with more severe cases could experience more serious effects and/or effects following exposures to lower NO_2 concentrations.[58] Additional uncertainties include the lack of an apparent dose-response relationship and uncertainty in the potential adversity of the reported effects. Each of these is discussed below.

Both the meta-analysis by Brown (2015) and an additional meta-analysis and meta-regression by Goodman et al. (2009) conclude that there is no indication of a dose-response relationship for exposures between 100 and 500 ppb NO_2 and increased AR in individuals with asthma. A dose-response relationship generally increases confidence that observed effects are due to pollutant exposures rather than to chance; however, the lack of a dose-response relationship does not necessarily indicate that there is no relationship between the exposure and effect, particularly in these analyses based on between-subject comparisons (*i.e.,* as opposed to comparisons within the same subject exposed to multiple concentrations). As discussed in the ISA, there are a number of methodological differences across studies that could contribute to between-subject differences and that could obscure a dose-response relationship between NO_2 and AR. These include subject activity level (rest versus exercise) during NO_2 exposure, asthma medication usage, choice of airway challenge agent, method of administering the bronchoconstricting agents, and physiological endpoint used to assess AR. Such methodological

[53] The meta-analysis combined information from the studies presented in Tables 3–2 and 3–3 of the PA.

[54] Brown et al. (2015) compared the number of study participants who experienced an increase in AR following NO_2 exposures to the number who experienced a decrease in AR. Study participants who experienced no change in AR were not included in comparisons. *P*-value refers to the significance level of a two-tailed sign test.

[55] The number of participants in each study and the number having an increase or decrease in AR is indicated in Tables 3–2 and 3–3 of the NO_2 PA.

[56] For the exposure category of ''above 300 ppb'', exposures included 400, 480, 500, and 530 ppb. No studies conducted at rest used concentrations between 300 and 400 ppb.

[57] Forty-eight percent experienced increased AR and 52% experienced decreased AR, based on individual-level data for study participants exposed to 350 ppb (Riedl et al., 2012) or 400 ppb (Jenkins et al., 1999; Witten et al., 2005) NO_2.

[58] Brown (2015) notes, however, that disease status varied, ranging from ''inactive asthma up to severe asthma in a few studies.''

differences across studies likely contribute to the variability and uncertainty in results across studies and complicate interpretation of the overall body of evidence for NO_2-induced AR. Thus, while the lack of an apparent dose-response relationship adds uncertainty to the interpretation of controlled human exposure studies of AR, it does not necessarily indicate the lack of an NO_2 effect.

An additional uncertainty in interpreting these studies within the context of considering the adequacy of the protection provided by the NO_2 NAAQS is the potential adversity of the reported NO_2-induced increases in AR. As discussed above, the meta-analysis by Brown (2015) used an approach that is consistent with guidelines from the ATS and the ERS for the assessment of therapeutic agents (Reddel et al., 2009) to assess the potential for clinical relevance of these responses. Specifically, based on individual-level responses reported in a subset of studies, Brown (2015) considered a halving of the PD to indicate responses that may be clinically relevant. With regard to this approach, the ISA notes that ''one doubling dose change in PD is recognized as a potential indicator, although not a validated estimate, of clinically relevant changes in AR (Reddel et al., 2009)'' (U.S. EPA, 2016a, p. 5–12). While there is uncertainty in using this approach to characterize whether a particular response in an individual is ''adverse,'' it can provide insight into the potential for adversity, particularly when applied to a population of exposed individuals.[59]

Five studies provided data for each individual's provocative dose. These five studies provided individual-level data for a total of 72 study participants (116 AR measurements) and eight NO_2 exposure concentrations, for resting exposures and non-specific bronchial challenge agents. Across exposures to 100, 140, 200, 250, 270, 480, 500, and 530 ppb NO_2, 24% of study participants experienced a halving of the provocative dose (indicating increased AR) while 8% showed a doubling of the provocative dose (indicating decreased AR). The relative distributions of the provocative doses at different concentrations were similar, with no dose-response relationship indicated (Brown, 2015). While these results support the potential for clinically relevant increases in AR in some individuals with asthma following NO_2 exposures within the range of 100 to 530 ppb, uncertainty remains given that this analysis is limited to a small subset of studies and given the lack of an apparent dose-response relationship. In addition, compared to conclusions based on the entire range of NO_2 exposure concentrations evaluated (*i.e.,* 100 to 530 ppb), there is greater uncertainty in reaching conclusions about the potential for clinically relevant effects at any particular NO_2 exposure concentration within this range.

PA Conclusions on Short-Term NO_2 Concentrations in Controlled Human Exposure Studies

As in the last review, a meta-analysis of individual-level data supports the potential for increased AR in individuals with generally mild asthma following 30 minute to 1 hour exposures to NO_2 concentrations from 100 to 530 ppb, particularly for resting exposures and measures of non-specific AR (N = 33 to 70 for various ranges of NO_2 exposure concentrations). In about a quarter of these individuals, increases were large enough to be of potential clinical relevance. Individual studies most consistently report statistically significant NO_2-induced increases in AR following exposures to NO_2 concentrations at or above 250 ppb. Individual studies (N = 4 to 20) generally do not report statistically significant increases in AR following exposures to NO_2 concentrations at or below 200 ppb, though the evidence suggests a trend toward increased AR following NO_2 exposures from 140 to 200 ppb. In contrast, individual studies do not indicate a consistent trend towards increased AR following 1-hour exposures to 100 ppb NO_2. Important limitations in this evidence include the lack of a dose-response relationship between NO_2 and AR and uncertainty in the adversity of the reported increases in AR. These limitations become increasingly important at the lower NO_2 exposure concentrations (*i.e.,* at or near 100 ppb), where the evidence for NO_2-induced increases in AR is not consistent across studies.

ii. Consideration of NO_2 Concentrations in Locations of Epidemiologic Studies

In addition to considering the exposure concentrations evaluated in the controlled human exposure studies, the PA also considers distributions of ambient NO_2 concentrations in locations where epidemiologic studies have examined NO_2 associations with asthma-related hospital admissions or ED visits. These outcomes are clearly adverse and study results comprise a key line of epidemiologic evidence in the determination of a causal relationship in the ISA (U.S. EPA, 2016a, Section 5.2.9). As in other NAAQS reviews (U.S. EPA, 2014; U.S. EPA, 2011), when considering epidemiologic studies within the context of evaluating the adequacy of the current standard, the PA emphasizes those studies conducted in the U.S. and Canada.[60] For short-term exposures to NO_2, the PA emphasizes studies reporting associations with effects judged in the ISA to be robust to confounding by other factors, including exposure to co-occurring air pollutants. In addition, the PA considers the statistical precision of study results, and the inclusion of at-risk populations for which the NO_2-health effect associations may be larger. These considerations help inform the range of ambient NO_2 concentrations over which the evidence indicates the most confidence in NO_2-associated health effects and the range of concentrations over which confidence in such effects is appreciably lower. In consideration of these issues, the PA specifically focuses on the following question: To what extent have U.S. and Canadian epidemiologic studies reported associations between asthma-related hospital admissions or ED visits and short-term NO_2 concentrations in study areas that would have met the current 1-hour NO_2 standard during the study period?

Addressing this question can provide important insights into the extent to which NO_2- associated health effect associations are present for distributions of ambient NO_2 concentrations that would be allowed by the current primary standards. The presence of such associations would support the potential for the current standards to allow the NO_2-associated effects indicated by epidemiologic studies. To the degree studies have not reported associations in locations meeting the current NO_2 standards, there is greater uncertainty regarding the potential for the reported effects to occur following the NO_2 exposures associated with air quality meeting those standards.

In addressing the question above, the PA places the greatest emphasis on studies reporting positive, and relatively precise (*i.e.,* relatively narrow 95% confidence intervals), health effect

[59] As noted above, the degree to which populations in U.S. urban areas have the potential for such NO_2 exposures is evaluated in Chapter 4 of the PA and described in Section II.D below.

[60] Such studies are likely to reflect air quality and exposure patterns that are generally applicable to the U.S. In addition, air quality data corresponding to study locations and study time periods is often readily available for studies conducted in the U.S. and Canada. Nonetheless, the PA recognizes the importance of all studies, including other international studies, in the ISA's assessment of the weight of the evidence that informs the causal determinations.

associations. In evaluating whether such associations are likely to reflect NO_2 concentrations meeting the existing 1-hour standard, the PA considers the 1-hour ambient NO_2 concentrations measured at monitors in study locations during study periods. The PA also considers what additional information is available regarding the ambient NO_2 concentrations that could have been present in the study locations during the study periods (*e.g.,* around major roads). When considered together, this information can provide important insights into the extent to which NO_2 health effect associations have been reported for NO_2 air quality concentrations that likely would have met the current 1-hour NO_2 standard.

The PA evaluates U.S. and Canadian studies of respiratory-related hospital admissions and ED visits, with a focus on studies of asthma-related effects (studies identified from Table 5–10 in U.S. EPA, 2016a).[61] For each NO_2 monitor in the locations included in these studies, and for the ranges of years encompassed by studies, the PA identifies the 3-year averages of the 98th percentiles of the annual distributions of daily maximum 1-hour NO_2 concentrations.[62] These concentrations approximate the DVs that are used when determining whether an area meets the primary NO_2 NAAQS.[63] Thus, these estimated DVs can provide perspective on whether study areas would likely have met or exceeded the primary 1-hour NO_2 NAAQS during the study periods. Based on this approach, study locations would likely have met the current 1-hour standard over the entire study period if all of the hourly DV estimates were at or below 100 ppb.

A key limitation in these analyses of NO_2 DV estimates is that currently required near-road NO_2 monitors were not in place during study periods. The studies evaluated were based on air quality from 1980–2006, with most studies spanning the 1990s to early 2000s. There were no specific near-road monitoring network requirements during these years, and most areas did not have monitors sited to measure NO_2 concentrations near the most heavily-trafficked roadways. In addition, mobile source NO_X emissions were considerably higher during the time periods of the available epidemiologic studies than in more recent years (U.S. EPA, 2017a, section 2.1.2), suggesting that the NO_2 concentration gradients around major roads could have been more pronounced than indicated by data from recently deployed near-road monitors.[64] This information suggests that if the current near-road monitoring network had been in operation during study periods, NO_2 concentrations measured at near-road monitors would likely have been higher than those identified in the PA (U.S. EPA, 2017a, Figure 3–1). This uncertainty particularly limits the degree to which strong conclusions can be reached based on study areas with DV estimates that are at or just below 100 ppb.[65]

With this key limitation in mind, the PA considers what the available epidemiologic evidence indicates with regard to the adequacy of the public health protection provided by the current 1-hour standard against short-term NO_2 exposures. To this end, the PA highlights the epidemiologic studies examining associations between asthma hospitalizations or ED visits and short-term exposures to ambient NO_2 that were conducted in the U.S. and Canada (U.S. EPA, 2017a, Figure 3–1). These studies were identified and evaluated in the ISA and include both the few recently published studies and the studies that were available in the previous review.

In considering the epidemiologic information presented in the U.S. and Canadian studies, the PA notes that multi-city studies tend to have greater power to detect associations. The one multi-city study that has become available since the last review (Stieb et al., 2009) reported a null association with asthma ED visits, based on study locations with maximum estimated DVs ranging from 67–242 ppb (six of seven study cities had maximum estimated DVs at or above 85 ppb). Of the single city studies identified, those reporting positive and relatively precise associations were conducted in locations with maximum, and often mean, estimated DVs at or above 100 ppb (*i.e.,* Linn et al., 2000; Peel et al., 2005; Ito et al., 2007; Villeneuve et al., 2007; Burnett et al., 1999; Strickland et al., 2010). Maximum estimated DVs from these study locations ranged from 100 to 242 ppb (U.S. EPA, Figure 3–1). For the other single city studies, two reported more mixed results in locations with maximum estimated DVs around 90 ppb (Jaffe et al., 2003; ATSDR, 2006).[66] Associations in these studies were generally not statistically significant, were less precise (*i.e.,* wider 95% confidence intervals), and included a negative association (Manhattan, NY). One single city study was conducted in a location with 1-hour estimated DVs well-below 100 ppb (Li et al., 2011), though the reported associations were not statistically significant and were relatively imprecise. Thus, of the U.S. and Canadian studies that can most clearly inform consideration of the adequacy of the current NO_2 standards, the lone multicity study did not report a positive health effect association and the single-city studies reporting positive, and relatively precise, associations were generally conducted in locations with maximum 1-hour estimated DVs at or above 100 ppb (*i.e.,* up to 242 ppb). The evidence for associations in locations with maximum estimated DVs below 100 ppb is more mixed, and reported associations are generally less precise.

An uncertainty in this body of evidence is the potential for copollutant confounding. Copollutant (two-pollutant) models can be used in epidemiologic studies in an effort to disentangle the independent pollutant effects, though there can be limitations in these models due to differential exposure measurement error and high correlations with traffic-related copollutants. For NO_2, the copollutants that are most relevant to consider are those from traffic sources such as CO, EC/BC, UFP, and VOCs such as benzene as well as $PM_{2.5}$ and PM_{10} (U.S. EPA, 2016a, Section 3.5). Of the studies

[61] Strong support was also provided by epidemiologic studies for respiratory symptoms, but the majority of studies on respiratory symptoms were only conducted over part of a year, complicating the evaluation of a DV based on data from 3 years of monitoring data relative to the respective health effect estimates. For more information on these studies and the estimated DVs in the study locations, see Appendix A of the PA (U.S. EPA, 2017a).

[62] All study locations had maximum annual DVs below 53 ppb (U.S. EPA, 2017a, Appendix A).

[63] As described in I.B.2., a DV is a statistic that describes the air quality status of a given area relative to the NAAQS and that is typically used to classify nonattainment areas, assess progress towards meeting the NAAQS, and develop control strategies. For the 1-hour NO_2 standard, the DV is calculated at individual monitors and based on 3 consecutive years of data collected from that site. In the case of the 1-hour NO_2 standard, the design value for a monitor is based on the 3-year average of the 98th percentile of the annual distribution of daily maximum 1-hour NO_2 concentrations. For more information on these studies and the calculation of the study area DVs estimates see Appendix A of the NO_2 PA (U.S. EPA, 2017a).

[64] Recent data indicate that, for most near-road monitors, measured 1-hour NO_2 concentrations are higher than those measured at all of the non-near-road monitors in the same CBSA (Section II.B.3).

[65] Epidemiologic studies that evaluate potential NO_2 health effect associations during time periods when near-road monitors are operational could reduce this uncertainty in future reviews.

[66] The study by the U.S. Agency for Toxic Substances and Disease Registry (ATSDR) was not published in a peer-review journal. Rather, it was a report prepared by New York State Department of Health's Center for Environmental Health, the New York State Department of Environmental Conservation and Columbia University in the course of performing work contracted for and sponsored by the New York State Energy Research and Development Authority and the ATSDR.

examining asthma-related hospital admissions and ED visits in the U.S. and Canada, three examined copollutant models (Ito et al., 2007; Villeneuve et al., 2007; Strickland et al., 2010). Ito et al. (2007) found that in copollutant models with $PM_{2.5}$, SO_2, CO, or O_3, NO_2 consistently had the strongest effect estimates that were robust to the inclusion of other pollutants. Villeneuve et al. (2007) utilized a model including NO_2 and CO (r = 0.74) for ED visits in the warm season and reported that associations for NO_2 were robust to CO. Strickland et al. (2010) found that the relationship between ambient NO_2 and asthma ED visits in Atlanta, GA was robust in models including O_3, but copollutant models were not analyzed for other pollutants and the correlations between NO_2 and other pollutants were not reported. Taken together, these studies provide some evidence for independent effects of NO_2 for asthma ED visits, but some important traffic-related copollutants (*e.g.* EC/BC, VOCs) have not been examined in this body of evidence and the limitations of copollutant models in demonstrating an independent association are noted (U.S. EPA, 2016a).

Considering this evidence together, the PA notes the following observations. First, the only recent multicity study evaluated, which had maximum estimated DVs ranging from 67 to 242 ppb, did not report a positive association between NO_2 and ED visits (Stieb et al., 2009). In addition, of the single-city studies reporting positive and relatively precise associations between NO_2 and asthma hospital admissions and ED visits, most locations likely had NO_2 concentrations above the current 1-hour NO_2 standard over at least part of the study period. Although maximum estimated DVs for the studies conducted in Atlanta were 100 ppb, it is likely that those DVs would have been higher than 100 ppb if currently required near-road monitors had been in place. For the study locations with maximum estimated DVs below 100 ppb, mixed results are reported with associations that are generally not statistically significant and imprecise, indicating that associations between NO_2 concentrations and asthma-related ED visits are more uncertain in locations that could have met the current standards. Given that near-road monitors were not in operation during study periods, it is not clear that these DVs below 100 ppb indicate study areas that would have met the current 1-hour standard.

Thus, while epidemiologic studies provide support for NO_2-associated hospital admissions and ED visits at ambient NO_2 concentrations likely to have been above those allowed by the current 1-hour standard, the PA reaches the conclusion that available U.S. and Canadian epidemiologic studies do not provide support for such NO_2-associated outcomes in locations with NO_2 concentrations that would have clearly met that standard.

2. Health Effects With Long-Term Exposure to NO_2

This section discusses the evidence for health effects associated with long-term NO_2 exposures. Section II.C.2.a discusses the nature of the health effects that have been shown to be associated with long-term NO_2 exposures and the strength of the evidence supporting various effects, based on the assessment of that evidence in the ISA. Section II.C.2.b discusses the NO_2 concentrations at which health effects have been demonstrated to occur, based on the considerations and analyses included in the PA.

a. Nature of Effects

In the last review of the primary NO_2 NAAQS, evidence for health effects related to long-term ambient NO_2 exposure was judged ''suggestive of, but not sufficient to infer a causal relationship'' for respiratory effects and ''inadequate to infer the presence or absence of a causal relationship'' for several other health effect categories. These included cardiovascular, and reproductive and developmental effects as well as cancer and total mortality. In the current review, new epidemiologic evidence, in conjunction with explicit integration of evidence across related outcomes, has resulted in strengthening of some of the causal determinations. Though the evidence of health effects associated with long-term exposure to NO_2 is more robust than in previous reviews, there are still a number of uncertainties limiting understanding of the role of long-term NO_2 exposures in causing health effects.

Chapter 6 of the ISA presents a detailed assessment of the evidence for health effects associated with long-term NO_2 exposures (U.S. EPA, 2016a). This evidence is summarized briefly below for respiratory effects (II.C.2.a.i), cardiovascular effects and diabetes (II.C.2.a.ii), reproductive and developmental effects (II.C.2.a. iii), premature mortality (II.C.2.a.iv), and cancer (II.C.2.a.v).

i. Respiratory Effects

The 2016 ISA concluded that there is ''likely to be a causal relationship'' between long-term NO_2 exposure and respiratory effects, based primarily on evidence integrated across disciplines for a relationship with asthma development in children.[67] Evidence for other respiratory outcomes integrated across epidemiologic and experimental studies, including decrements in lung function and partially irreversible decrements in lung development, respiratory disease severity, chronic bronchitis/asthma incidence in adults, chronic obstructive pulmonary disease (COPD) hospital admissions, and respiratory infections, is less consistent and has larger uncertainty as to whether there is an independent effect of long-term NO_2 exposure (U.S. EPA, 2016a, Section 6.2.9). As noted above, NO_2 is only one of many etiologic agents that may contribute to respiratory health effects such as the development of asthma in children.

The conclusion of a ''likely to be a causal relationship'' in the current review represents a change from 2008 ISA conclusion that the evidence was ''suggestive of, but not sufficient to infer, a causal relationship'' (U.S. EPA, 2008a, Section 5.3.2.4). This strengthening of the causal determination is due to the epidemiologic evidence base, which has expanded since the last review and biological plausibility from some experimental studies (U.S. EPA, 2016 Table 1–1). This expanded evidence includes several recently published longitudinal studies that indicate positive associations between asthma incidence in children and long-term NO_2 exposures, with improved exposure assessment in some studies based on NO_2 modeled estimates for children's homes or NO_2 measured near children's homes or schools. Associations were observed across various periods of exposure, including first year of life, year prior to asthma diagnosis, and cumulative exposure. In addition, the ISA notes several other strengths of the evidence base including the general timing of asthma diagnosis and relative confidence that the NO_2 exposure preceded asthma development in longitudinal studies, more reliable estimates of asthma incidence based on physician-diagnosis in children older than 5 years of age from parental report or clinical assessment, as well as residential NO_2 concentrations estimated from land use regression (LUR) models with good NO_2 prediction in some studies.

While the causal determination has been strengthened in this review,

[67] Asthma development is also referred to as ''asthma incidence'' in this notice and elsewhere. Both asthma development and asthma incidence refer to the onset of the disease rather than the exacerbation of existing disease.

important uncertainties remain. For example, the ISA notes that as in the last review, a ''key uncertainty that remains when examining the epidemiologic evidence alone is the inability to determine whether NO_2 exposure has an independent effect from that of other pollutants in the ambient mixture'' (U.S. EPA, 2016a, Section 6.2.2.1, p. 6–21). While a few studies have included copollutant models for respiratory effects other than asthma development, the ISA states that ''[e]pidemiologic studies of asthma development in children have not clearly characterized potential confounding by $PM_{2.5}$ or traffic-related pollutants [*e.g.,* CO, BC/EC, volatile organic compounds (VOCs)]'' (U.S. EPA, 2016a, p. 6–64). The ISA further notes that ''[i]n the longitudinal studies, correlations with $PM_{2.5}$ and BC were often high (*e.g.,* r = 0.7–0.96), and no studies of asthma incidence evaluated models to address copollutant confounding, making it difficult to evaluate the independent effect of NO_2'' (U.S. EPA, 2016a, p. 6–64). High correlations between NO_2 and other traffic-related pollutants were based on modeling, and studies of asthma incidence that used monitored NO_2 concentrations as an exposure surrogate did not report such correlations (U.S. EPA, 2016a, Table 6–1). This uncertainty is important to consider when interpreting the epidemiologic evidence regarding the extent to which NO_2 is independently related to asthma development.

The ISA also evaluated copollutant confounding in long-term exposure studies beyond asthma incidence to examine whether studies of other respiratory effects could provide information on the potential for confounding by traffic-related copollutants. Several studies examined correlations between NO_2 and traffic-related copollutants and found them to be relatively high in many cases, ranging from 0.54–0.95 for $PM_{2.5}$, 0.54–0.93 for BC/EC, 0.2–0.95 for PM_{10}, and 0.64–0.86 for OC (U.S. EPA, 2016a, Tables 6–1 and 6–3). While these correlations are often based on model estimates, some are based on monitored pollutant concentrations (*i.e.,* McConnell et al. (2003) reported correlations of 0.54 with $PM_{2.5}$ and EC) (U.S. EPA, 2016a, Table 6–3). Additionally, three studies (McConnell et al., 2003; MacIntyre et al., 2014; Gehring et al., 2013) [68] evaluated copollutant models with NO_2 and $PM_{2.5}$, and some findings suggest that associations for NO_2 with bronchitic symptoms, lung function, and respiratory infection are not robust because effect estimates decreased in magnitude and became imprecise when a copollutant was added in the model. Overall, examination of evidence from studies of other respiratory effects indicates moderate to high correlations between long-term NO_2 concentrations and traffic-related copollutants, with very limited evaluation of the potential for confounding. Thus, when considering the collective evidence, it is difficult to disentangle the independent effect of NO_2 from other traffic-related pollutants or mixtures in epidemiologic studies (U.S. EPA, 2016a, Sections 3.4.4 and 6.2.9.5).

While this uncertainty continues to apply to the epidemiologic evidence for asthma incidence in children, the ISA describes that the uncertainty is partly reduced by the coherence of findings from experimental studies and epidemiologic studies. Experimental studies demonstrate effects on key events in the mode of action proposed for the development of asthma and provide biological plausibility for the epidemiologic evidence. For example, one study demonstrated that airway hyperresponsiveness was induced in guinea pigs after long-term exposure to NO_2 [1,000–4,000 ppb; (Kobayashi and Miura, 1995)]. Other experimental studies examining oxidative stress report mixed results, but some evidence from short-term studies supports a relationship between NO_2 exposure and increased pulmonary inflammation in healthy humans. The ISA also points to supporting evidence from studies demonstrating that short-term exposure repeated over several days (260–1,000 ppb) and long-term NO_2 exposure (2,000–4,000 ppb) can induce T helper (Th)2 skewing/allergic sensitization in healthy humans and animal models by showing increased Th2 cytokines, airway eosinophils, and immunoglobulin E (IgE)-mediated responses (U.S. EPA, 2016a, Sections 4.3.5 and 6.2.2.3). Epidemiologic studies also provide some supporting evidence for these key events in the mode of action. Some evidence from epidemiologic studies demonstrates associations between short-term ambient NO_2 concentrations and increases in pulmonary inflammation in healthy children and adults, giving a possible mechanistic understanding of this effect (U.S. EPA, 2016a, Section 5.2.2.5). Overall, evidence from experimental and epidemiologic studies provide support for a role of NO_2 in asthma development by describing a potential role for repeated exposures to lead to recurrent inflammation and allergic responses.

Overall, the ISA notes that there is new evidence available that strengthens conclusions from the last review regarding respiratory health effects attributable to long-term ambient NO_2-exposure. The majority of new evidence is from epidemiologic studies of asthma incidence in children with improved exposure assessment (*i.e.,* measured or modeled at or near children's homes or schools), which builds upon previous evidence for associations of long-term NO_2 and asthma incidence and also partly reduces uncertainties related to measurement error. Explicit integration of evidence for individual outcome categories (*e.g.,* asthma incidence, respiratory infection) provides improved characterization of biological plausibility and mode of action, including some new evidence from studies of short-term exposure supporting an effect on asthma development. Although this partly reduces the uncertainty regarding independent effects of NO_2, the potential for confounding remains a concern when interpreting these epidemiologic studies as a result of the high correlation with other traffic-related copollutants and the general lack of copollutant models including these pollutants. In particular, it remains unclear the degree to which NO_2 itself may be causing the development of asthma versus serving as a surrogate for the broader traffic-pollutant mix.

ii. Cardiovascular Effects and Diabetes

In the previous review, the 2008 ISA stated that the evidence for cardiovascular effects attributable to long-term ambient NO_2 exposure was ''inadequate to infer the presence or absence of a causal relationship.'' The epidemiologic and experimental evidence was limited, with uncertainties related to traffic-related copollutant confounding (U.S. EPA, 2008a). For the current review, the body of epidemiologic evidence available is substantially larger than that in the last review and includes evidence for diabetes. The conclusion on causality is stronger in the current review with regard to the relationship between long-term exposure to NO_2 and cardiovascular effects and diabetes, as the ISA judged the evidence to be

[68] In single-pollutant models for various health endpoints, the studies reported the following effect estimates (95% CI): McConnell et al., 2003 (Bronchitic symptoms) 1.97 (1.22, 3.18); MacIntyre et al., 2014 (Pneumonia) 1.30 (1.02, 1.65), (Otitis Media) 1.09 (1.02, 1.16), (Croup) 0.96 (0.83, 1.12); Gehring et al., 2013 (FEV1) –0.98 (–1.70, –0.26), (FVC) –2.14 (–4.20, –0.04), (PEF) –1.04 (–1.94, –0.13).

''suggestive, but not sufficient to infer'' a causal relationship (U.S. EPA, 2016a, Section 6.3). The strongest evidence comes from recent epidemiologic studies reporting positive associations of NO_2 with heart disease and diabetes with improved exposure assessment (*i.e.,* residential estimates from models that well predict NO_2 concentrations in the study areas), but the evidence across experimental studies remains limited and inconsistent and does not provide sufficient biological plausibility for effects observed in epidemiologic studies. Specifically, the ISA concludes that ''[e]pidemiologic studies have not adequately accounted for confounding by $PM_{2.5}$, noise, or traffic-related copollutants, and there is limited coherence and biological plausibility for NO_2-related development of heart disease'' (U.S. EPA, 2016a, p. 6–98) or ''for NO_2-related development of diabetes'' (U.S. EPA, 2016a, p. 6–99). Thus, substantial uncertainty exists regarding the independent effect of NO_2 and the total evidence is ''suggestive of, but not sufficient to infer, a causal relationship'' between long-term NO_2 exposure and cardiovascular effects and diabetes (U.S. EPA, 2016a, Section 6.3.9).

iii. Reproductive and Developmental Effects

In the previous review, a limited number of epidemiologic and toxicological studies had assessed the relationship between long-term NO_2 exposure and reproductive and developmental effects. The 2008 ISA concluded that there was not consistent evidence for an association between NO_2 and birth outcomes and that evidence was ''inadequate to infer the presence or absence of a causal relationship'' with reproductive and developmental effects overall (U.S. EPA, 2008a). In the ISA for the current review, a number of recent studies added to the evidence base, and reproductive effects were considered as three separate categories: birth outcomes; fertility, reproduction, and pregnancy; and postnatal development (U.S. EPA, 2016a, Section 6.4). Overall, the ISA found the evidence to be ''suggestive of, but not sufficient to infer, a causal relationship'' between long-term exposure to NO_2 and birth outcomes and ''inadequate to infer the presence or absence of a causal relationship'' between long-term exposure to NO_2 and fertility, reproduction and pregnancy as well as postnatal development. Evidence for effects on fertility, reproduction, and pregnancy and for effects on postnatal development is inconsistent across both epidemiologic and toxicological studies. Additionally, there are few toxicological studies available. The ISA concludes the change in the causal determination for birth outcomes reflects the large number of studies that generally observed associations with fetal growth restriction and the improved outcome assessment (*e.g.,* measurements throughout pregnancy via ultrasound) and exposure assessment (*e.g.,* well-validated LUR models) employed by many of these studies (U.S. EPA, 2016a, Section 6.4.5). For birth outcomes, there is uncertainty in whether the epidemiologic findings reflect an independent effect of NO_2 exposure.

iv. Total Mortality

In the 2008 ISA, a limited number of epidemiologic studies assessed the relationship between long-term exposure to NO_2 and mortality in adults. The 2008 ISA concluded that the scarce amount of evidence was ''inadequate to infer the presence or absence of a causal relationship'' (U.S. EPA, 2008a). The ISA for the current review concludes that evidence is ''suggestive of, but not sufficient to infer, a causal relationship'' between long-term exposure to NO_2 and mortality among adults (U.S. EPA, 2016a, Section 6.5.3). This causal determination is based on evidence from recent studies demonstrating generally positive associations between long-term exposure to NO_2 and total mortality from extended analyses of existing cohorts as well as original results from new cohorts. In addition, there is evidence for associations between long-term NO_2 exposures and mortality due to respiratory and cardiovascular causes. However, there were several studies that did not observe an association between long-term exposure to NO_2 and mortality.

Some recent studies examined the potential for copollutant confounding by $PM_{2.5}$, BC, or measures of traffic proximity or density in copollutant models with results from these models generally showing attenuation of the NO_2 effect on total mortality with the adjustment for $PM_{2.5}$ or BC. It remains difficult to disentangle the independent effect of NO_2 from the potential effect of the traffic-related pollution mixture or other components of that mixture. Further, as described above, there is large uncertainty whether long-term NO_2 exposure has an independent effect on the cardiovascular and respiratory morbidity outcomes that are major underlying causes of mortality. Thus, it is not clear by what biological pathways NO_2 exposure could lead to mortality. Considering the generally positive epidemiologic evidence together with the uncertainty regarding an independent NO_2 effect, the ISA judged the evidence to be ''suggestive of, but not sufficient to infer, a causal relationship'' between long-term exposure to NO_2 and total mortality (U.S. EPA, 2016a, 6.5.3).

v. Cancer

The evidence evaluated in the 2008 ISA was judged ''inadequate to infer the presence or absence of a causal relationship'' (U.S. EPA, 2008a) based on a few epidemiologic studies indicating associations between long-term NO_2 exposure and lung cancer incidence but lack of toxicological evidence demonstrating that NO_2 induces tumors. In the current review, the integration of recent and older studies on long-term NO_2 exposure and cancer yielded an evidence base judged ''suggestive of, but not sufficient to infer, a causal relationship'' (U.S. EPA, 2016a, Section 6.6.9). This conclusion is based primarily on recent epidemiologic evidence, some of which shows NO_2-associated lung cancer incidence and mortality but does not address confounding by traffic-related copollutants, and is also based on some previous toxicological evidence that implicates NO_2 in tumor promotion (U.S. EPA, 2016a, Section 6.6.9).

b. Long-Term NO_2 Concentrations in Health Studies

In evaluating what the available health evidence indicates with regard to the degree of public health protection provided by the current standards, it is appropriate to consider the long-term NO_2 concentrations that have been associated with various effects. The PA explicitly considers these NO_2 concentrations within the context of evaluating the public health protection provided by the current standards (U.S. EPA, 2017a, Section 3.2). This section summarizes those considerations from the PA.

In evaluating the long-term NO_2 concentrations associated with health effects within the context of considering the adequacy of the current standards, the PA focuses on the evidence for asthma incidence (*i.e.,* the strongest evidence supporting a likely to be causal relationship, as discussed above). The PA specifically considers (1) the extent to which epidemiologic studies indicate associations between long-term NO_2 exposures and asthma development for distributions of ambient NO_2 concentrations that would likely have met the existing standards and (2) the extent to which effects related to asthma development have been reported following the range of NO_2 exposure

concentrations examined in experimental studies. These considerations are discussed below for epidemiologic studies (II.C.2.b.i) and experimental studies (II.C.2.b.ii).

i. Ambient NO_2 Concentrations in Locations of Epidemiologic Studies

As discussed above for short-term exposures (Section II.C.1), when considering epidemiologic studies of long term NO_2 exposures within the context of evaluating the adequacy of the current NO_2 standards, the PA emphasizes studies conducted in the U.S. and Canada. The PA considers the extent to which these studies report positive and relatively precise associations with long-term NO_2 exposures, and the extent to which important uncertainties could impact the emphasis placed on particular studies. For the studies with potential to inform conclusions on adequacy, the PA also evaluates available air quality information in study locations, focusing on estimated DVs over the course of study periods.

The epidemiologic studies available in the current review that evaluate associations between long-term NO_2 exposures and asthma incidence are summarized in Table 6–1 of the ISA (U.S. EPA, 2016a, pp. 6–7). There are six longitudinal epidemiologic studies conducted in the U.S. or Canada that vary in terms of the populations examined and methods used. Of the six studies, the ISA identifies three as key studies supporting the causal determination (Carlsten et al., 2011; Clougherty et al., 2007; Jerrett et al., 2008). The other three studies, not identified as key studies in the ISA causality determination, had a greater degree of uncertainty inherent in their characterizations of NO_2 exposures (Clark et al., 2010; McConnell et al., 2010, Nishimura et al., 2013). In evaluating the adequacy of the current NO_2 standards, the PA places the greatest emphasis on the three U.S. and Canadian studies identified in the ISA as providing key supporting evidence for the causal determination. However, the PA also considers what the additional three U.S. and Canadian studies can indicate about the adequacy of the current standards, while noting the increased uncertainty in these studies.

Effect estimates in U.S. and Canadian studies are generally positive and, in some cases, statistically significant and relatively precise (U.S. EPA, 2016a, Table 6–1; U.S. EPA, 2017a, Figure). However, there are important uncertainties in this body of evidence for asthma incidence, limiting the extent to which these studies can inform consideration of the adequacy of the current NO_2 standards to protect against long-term NO_2 exposures. For example, there is uncertainty in the degree to which reported associations are specific to NO_2, rather than reflecting associations with another traffic-related copollutant or the broader mix of pollutants. Overall, the potential for copollutant confounding has not been well studied in this body of evidence, as described above (Section II.C.2.a). Of the U.S. and Canadian studies, Carlsten et al. (2011) reported correlations between NO_2 and traffic-related pollutants (0.7 for $PM_{2.5}$, 0.5 for BC based on land use regression). Other U.S. and Canadian studies did not report quantitative results, but generally reported ''moderate'' to ''high'' correlations between NO_2 and other pollutants (U.S. EPA, 2016a, Table 6–1). Given the relatively high correlations for NO_2 with co-occurring pollutants, study authors often interpreted associations with NO_2 as reflecting associations with traffic-related pollution more broadly (*e.g.,* Jerrett et al., 2008; McConnell et al., 2010).

Another important uncertainty is the potential for exposure measurement error in these epidemiologic studies. The ISA states that ''a key issue in evaluating the strength of inference about NO_2-related asthma development from epidemiologic studies is the extent to which the NO_2 exposure assessment method used in a study captured the variability in exposure among study subjects'' (U.S. EPA, 2016a, pp. 6–16). The ISA conclusion of a ''likely to be a causal relationship'' is based on the total body of evidence, with the strongest basis for inferring associations of NO_2 with asthma incidence coming from studies that ''estimated residential NO_2 from LUR models that were demonstrated to predict well the variability in NO_2 in study locations or examined NO_2 measured at locations [within] 1–2 km of subjects' school or home'' (U.S. EPA, 2016a, pp. 6–21). The studies that meet this criterion were mostly conducted outside of the U.S. or Canada, with the exception of Carlsten et al. (2011), which used a LUR model with good predictive capacity. The other U.S. and Canadian studies employed LUR models with unknown validation, or central-site measurements that have well-recognized limitations in reflecting variability in ambient NO_2 concentrations in a community and may not well represent variability in NO_2 exposure among subjects. Thus, the extent to which these U.S. and Canadian studies provide reliable estimates of asthma incidence for particular NO_2 concentrations is unclear.

Overall, in revisiting the first question posed above, the PA notes that U.S. and Canadian epidemiologic studies report positive, and in some cases relatively precise, associations between long-term NO_2 exposure and asthma incidence in children. While it is appropriate to consider what these studies can tell us with regard to the adequacy of the existing primary NO_2 standards (see below), the emphasis that is placed on these considerations will reflect important uncertainties related to the potential for confounding by traffic-related copollutants and for exposure measurement error.

While keeping in mind these uncertainties, the PA next considers the ambient NO_2 concentrations present at monitoring sites in locations and time periods of U.S. and Canadian epidemiologic studies. Specifically, the PA considers the following question: To what extent do U.S. and Canadian epidemiologic studies report associations with long-term NO_2 in locations likely to have met the current primary NO_2 standards?

As discussed above for short-term exposures (Section II.C.1), addressing this question can provide important insights into the extent to which NO_2-health effect associations are present for distributions of ambient NO_2 concentrations that would be allowed by the current primary standards. The presence of such associations would support the potential for the current standards to allow the NO_2-associated asthma development indicated by epidemiologic studies. To the degree studies have not reported associations in locations meeting the current primary NO_2 standards, there is greater uncertainty regarding the potential for the development of asthma to result from the NO_2 exposures associated with air quality meeting those standards.

To evaluate this issue, the PA compares NO_2 estimated DVs in study areas to the levels of the current primary NO_2 standards. In addition to comparing annual DVs to the level of the annual standard, support for consideration of 1-hour DVs comes from the ISA's integrated mode of action information describing the biological plausibility for development of asthma (Section B.II.2., above). In particular, studies demonstrate the potential for repeated short-term NO_2 exposures to induce pulmonary inflammation and development of allergic responses. The ISA states that ''findings for short-term NO_2 exposure support an effect on asthma development by describing a potential role for repeated exposures to

lead to recurrent inflammation and allergic responses,'' which are ''identified as key early events in the proposed mode of action for asthma development'' (U.S. EPA, 2016a, p. 6–66 and p. 6–64). More specifically, the ISA states the following (U.S. EPA, 2016a, p. 4–64):

The initiating events in the development of respiratory effects due to long-term NO_2 exposure are recurrent and/or chronic respiratory tract inflammation and oxidative stress. These are the driving factors for potential downstream key events, allergic sensitization, airway inflammation, and airway remodeling, that may lead to the endpoint [airway hyperresponsiveness]. The resulting outcome may be new asthma onset, which presents as an asthma exacerbation that leads to physician-diagnosed asthma.

Thus, when considering the protection provided by the current standards against NO_2-associated asthma development, the PA considers the combined protection afforded by the 1-hour and annual standards.[69]

To inform consideration of whether a study area's air quality could have met the current primary NO_2 standards during study periods, the PA presents DV estimates based on the NO_2 concentrations measured at existing monitors during the years over which the epidemiologic studies of long-term NO_2 exposures were conducted.[70] [71]

In interpreting these comparisons of DV estimates with the NO_2 standards, the PA also considers uncertainty in the extent to which identified DV estimates represent the higher NO_2 concentrations likely to have been present near major roads during study periods (II.B.3, above). In particular, as discussed above for short-term exposures, study area DV estimates are based on NO_2 concentrations from the generally area-wide NO_2 monitors that were present during study periods. Calculated DV estimates could have been higher if the near-road monitors that are now required in major U.S. urban areas had been in place. On this issue, the PA notes that the published scientific literature supports the occurrence of higher NO_2 concentrations near roadways and that recent air quality information from the new near-road NO_2 monitoring network generally indicates higher NO_2 concentrations at near-road monitoring sites than at non-near road monitors in the same CBSA (Section II.B.3). In addition, mobile source NO_X emissions were substantially higher during the majority of study periods (1986–2006) than they are today (Section II.B.2), and NO_2 concentration gradients around roadways were generally more pronounced during study periods than indicated by recent air quality information. Thus, even in cases where DV estimates during study periods are at or somewhat below the levels of current primary standards, it is not clear that study areas would have met the standards if the currently required near-road monitors had been in place.[72]

In considering the epidemiologic studies looking at long-term NO_2 exposure and asthma development (U.S. EPA, 2017a, Figure 3–2), the PA first notes the information from the key studies as identified in the ISA (Jerrett et al., 2008; Carlsten et al., 2011, Clougherty et al., 2007). Jerrett et al. (2008) reported positive and relatively precise associations with asthma incidence, based on analyses across several communities in Southern California. Of the 11 study communities evaluated by Jerrett et al. (2008), most (*i.e.,* seven) had maximum annual estimated DVs that were near (*i.e.,* 46 ppb for the four communities represented by the Riverside estimated DVs) or above (*i.e.,* 60 ppb for the three communities represented by the Los Angeles estimated DVs) 53 ppb.[73] These seven communities also had 1-hour estimated DVs (max and mean) that were well-above 100 ppb. The other key studies (*i.e.,* Carlsten et al., 2011; Clougherty et al., 2007), conducted in single cities, reported positive but statistically imprecise associations. The annual estimated DVs in locations of these studies during study years were below 53 ppb, but maximum 1-hour estimated DVs were near (Clougherty)[74] or above (Carlsten) 100 ppb.

The PA also considers the information from the other U.S. and Canadian studies available that, due to additional uncertainties, were not identified as key studies in the ISA (Clark et al., 2010; McConnell et al., 2010; Nishimura et al., 2013). The multi-city study by Nishimura et al. (2013) reports a positive and relatively precise association with asthma incidence, based on five U.S. cities and Puerto Rico (see ''combined'' estimate in Figure 3–2 of the NO_2 PA). Annual estimated DVs in all study cities were below 53 ppb, while maximum 1-hour estimated DVs were above 100 ppb in four of the five study cities (mean 1-hour estimated DVs were also near or above 100 ppb in most study cities). Nishimura et al. (2013) also reported mixed results in city-specific effects estimates. McConnell et al. (2010) also conducted a multi-community study in Southern California and reported a positive and relatively precise association between asthma incidence and long-term NO_2 exposures based on central-site measurements. This study encompasses some of the same communities as Jerrett et al. (2008), and while the annual DV estimates for these study years are more mixed, the 1-hour DV estimates representing 10 of 13 communities are near or above 100 ppb. Finally, Clark et al. (2010) reported a relatively precise and statistically significant association in a study conducted over a two-year period in British Columbia, with annual and hourly DV estimates of 32 ppb and 67 ppb, respectively. However, this result was based on central-site NO_2 measurements that have well-recognized limitations in reflecting variability in ambient NO_2 concentrations in a community and variability in NO_2 exposure among subjects.

PA Conclusions on Ambient NO_2 Concentrations in Locations of Epidemiologic Studies

Based on the information discussed above, while epidemiologic studies provide support for NO_2-associated asthma development at ambient NO_2 concentrations likely to have been above those allowed by the current standards,

[69] It is also the case that broad changes in NO_2 concentrations will affect both hourly and annual metrics. This is discussed in more detail in Section II.B.4. above, and in CASAC's letter to the Administrator (Diez Roux and Sheppard, 2017). Thus, as in the recent review of the O_3 NAAQS (80 FR 65292, October 26, 2015), it is appropriate to consider the extent to which a short-term standard could provide protection against longer-term pollutant exposures.

[70] As discussed above for short-term exposures, the DVs estimates reported here are meant to approximate the values that are used when determining whether an area meets the primary NO_2 NAAQS (U.S. EPA, 2017a, Appendix A).

[71] The DV estimates for the epidemiologic studies of asthma incidence conducted in the U.S. and Canada are presented in Figure 3–2 of the NO_2 PA (U.S. EPA, 2017a).

[72] As noted above for studies of short-term NO_2 exposures (II.C.1.b.ii), epidemiologic studies that evaluate potential NO_2 health effect associations during time periods when near-road monitors are operational could reduce this uncertainty in future reviews.

[73] For the studies by Jerrett et al. (2008) and McConnell et al. (2010), the majority of communities were located within the Los Angeles and Riverside CBSAs. Because of this, and because community-specific NO_2 monitoring data were often not available in these areas (U.S. EPA, 2017a, Appendix A), DV estimates for the Los Angeles and Riverside CBSAs were used to represent multiple study communities.

[74] As noted above, even in cases where DV estimates during study periods are at or somewhat below the levels of current standards, it is not clear that study areas would have met the standards if the currently required near-road monitors had been in place.

these studies do not report such associations at ambient NO_2 concentrations that would have clearly met the current standards. Thus, in evaluating the adequacy of the public health protection provided by the current 1-hour and annual NO_2 standards, the PA concludes that epidemiologic studies do not provide a clear basis for concluding that ambient NO_2 concentrations allowed by the current standards are independently (*i.e.,* independent of co-occurring roadway pollutants) associated with the development of asthma (U.S. EPA, 2017, section 3.3.2). This conclusion stems from consideration of the available evidence from U.S. and Canadian studies for NO_2-associated asthma incidence, the ambient NO_2 concentrations present in study locations during study periods, and the uncertainties and limitations inherent in the evidence and in the analysis of study area DV estimates.

With regard to uncertainties in the evidence, the PA particularly notes the potential for confounding by co-occurring pollutants, as described above, given the following: (1) The relatively high correlations observed between long-term concentrations of NO_2 and long-term concentrations of other roadway-associated pollutants; (2) the general lack of information from copollutant models on the potential for NO_2 associations that are independent of another traffic-related pollutant or mix of pollutants. This uncertainty is an important consideration in evaluating the potential support for adverse effects occurring below the levels of the current primary NO_2 standards.

Furthermore, the analysis of study area estimated DVs does not provide support for the occurrence of NO_2-associated asthma incidence in locations with ambient NO_2 concentrations clearly meeting the current NAAQS. In particular, for most of the study locations evaluated in the lone key U.S. multi-community study (Jerrett et al., 2008), 1-hour estimated DV were above 100 ppb and annual DVs were near or above 53 ppb. In addition, the two key single-city studies evaluated reported positive, but relatively imprecise, associations in locations with 1-hour estimated DVs near (Clougherty et al., 2007 in Boston) or above (Carlsten et al., 2011 in Vancouver) 100 ppb. Had currently required near-road monitors been in operation during study periods, estimated DVs in U.S. study locations would likely have been higher. Other U.S. and Canadian studies evaluated were subject to greater uncertainties in the characterization of NO_2 exposures. Given this information and consideration of these uncertainties, the degree to which these epidemiologic studies can inform whether adverse NO_2-associated effects are occurring below the levels of the current primary NO_2 standards is limited.

ii. NO_2 Concentrations in Experimental Studies of Long-Term Exposure

In addition to the evidence from epidemiologic studies, the PA also considers evidence from experimental studies in animals and humans.[75] Experimental studies examining asthma-related effects attributable to long-term NO_2 exposures are largely limited to animals exposed to NO_2 concentrations well-above those found in the ambient air (*i.e.,* ≥ 1,000 ppb). As discussed above, the ISA indicates evidence from these animal studies supports the causal determination by characterizing ''a potential mode of action linking NO_2 exposure with asthma development'' (U.S. EPA, 2016a, p. 1–20). In particular, there is limited evidence for increased airway responsiveness in guinea pigs with exposures to 1,000–4,000 ppb for 6–12 weeks. There is inconsistent evidence for pulmonary inflammation across all studies, though effects were reported following NO_2 exposures of 500–2,000 ppb for 12 weeks. Despite providing support for the ''likely to be a causal'' relationship, evidence from these experimental studies, by themselves, does not provide insight into the occurrence of adverse health effects following exposures below the levels of the existing primary NO_2 standards.[76]

iii. Overall Conclusions

Taking all of the evidence and information together, including important uncertainties, the PA revisits the extent to which the evidence supports the occurrence of NO_2-attributable asthma development in children at NO_2 concentrations below the existing standards. Based on the considerations discussed above, the PA concludes that the available evidence does not provide support for asthma development attributable to long-term exposures to NO_2 concentrations that would clearly meet the existing annual and 1-hour primary NO_2 standards. This conclusion recognizes the NO_2 air quality relationships, which indicate that meeting the 1-hour NO_2 standard would be expected to limit annual NO_2 concentrations to well-below the level of the current annual standard (Section II.B.4, above). This conclusion also recognizes the uncertainties in interpreting the epidemiologic evidence within the context of evaluating the existing standards due to the lack of near-road monitors during study periods and due to the potential for confounding by co-occurring pollutants. Thus, the PA concludes that epidemiologic studies of long-term NO_2 exposures and asthma development do not provide a clear basis for concluding that ambient NO_2 concentrations allowed by the current primary NO_2 standards are independently (*i.e.,* independent of co-occurring roadway pollutants) associated with the development of asthma. In addition, while experimental studies provide support for NO_2-attributable effects that are plausibly related to asthma development, the relatively high NO_2 exposure concentrations used in these studies do not provide insight into whether such effects would occur at NO_2 exposure concentrations that would be allowed by the current standards.

3. Potential Public Health Implications

Evaluation of the public health protection provided against ambient NO_2 exposures requires consideration of populations and lifestages that may be at greater risk of experiencing NO_2-attributable health effects. In the last review, the 2008 ISA for Oxides of Nitrogen noted that a considerable fraction of the U.S. population lives, works, or attends school near major roadways, where ambient NO_2 concentrations are often elevated (U.S. EPA, 2008a, Section 4.3). Of this population, the 2008 ISA concluded that ''those with physiological susceptibility will have even greater risks of health effects related to NO_2'' (U.S. EPA, 2008a, p. 4–12). With regard to susceptibility, the 2008 ISA concluded that ''[p]ersons with preexisting respiratory disease, children, and older adults may be more susceptible to the effects of NO_2 exposure'' (U.S. EPA, 2008a, p. 4–12).

In the current review, the 2016 ISA again notes because of the large populations attending school, living, working, and commuting on or near roads, where ambient NO_2 concentrations can be higher than in many other locations (U.S. EPA, 2016a,

[75] While there are not controlled human exposure studies for long-term exposures, the ISA and the PA consider the extent to which evidence from short-term studies can provide support for effects observed in long-term exposure studies.

[76] In addition, the ISA draws from experimental evidence for short-term exposures to support the biological plausibility of asthma development. Consideration of the NO_2 exposure concentrations evaluated in these studies is discussed in Section II.C.1 above.

Section 7.5.6),[77] there is widespread potential for elevated ambient NO_2 exposures. For example, Rowangould et al. (2013) found that over 19% of the U.S. population lives within 100 m of roads with an annual average daily traffic (AADT) of 25,000 vehicles, and 1.3% lives near roads with AADT greater than 200,000. The proportion is much larger in certain parts of the country, mostly coinciding with urban areas. Among California residents, 40% live within 100 m of roads with AADT of 25,000 (Rowangould, 2013). In addition, 7% of U.S. schools serving a total of 3,152,000 school children are located within 100 m of a major roadway, and 15% of U.S. schools serving a total of 6,357,000 school children are located within 250 m of a major roadway (Kingsley et al., 2014). Thus, as in the last review, the available information indicates that large proportions of the U.S. population potentially have elevated NO_2 exposures as a result of living, working, attending school, or commuting on or near roadways.

The impacts of exposures to elevated NO_2 concentrations, such as those that can occur around roadways, are of particular concern for populations at increased risk of experiencing adverse effects. In the current review, the PA's consideration of potential at-risk populations draws from the 2016 ISA's assessment of the evidence (U.S. EPA, 2016a, Chapter 7). The ISA uses a systematic approach to evaluate factors that may increase risks in a particular population or during a particular lifestage, noting that increased risk could be due to ''intrinsic or extrinsic factors, differences in internal dose, or differences in exposure'' (U.S. EPA, 2016a, p. 7–1).

The ISA evaluates the evidence for a number of potential at-risk factors, including pre-existing diseases like asthma (U.S. EPA, 2016a, Section 7.3), genetic factors (U.S. EPA, 2016a, Section 7.4), sociodemographic factors (U.S. EPA, 2016a, Section 7.5), and behavioral and other factors (U.S. EPA, 2016a, Section 7.6). The ISA then uses a systematic approach for classifying the evidence for each potential at-risk factor (U.S. EPA, 2015, Preamble, Section 6.a, Table III). The categories considered are ''adequate evidence,'' ''suggestive evidence,'' ''inadequate evidence,'' and ''evidence of no effect'' (U.S. EPA, 2016a, Table 7–1). Consistent with other recent NAAQS reviews (*e.g.,* 80 FR 65292, October 26, 2015), the PA focuses the consideration of potential at-risk populations on those factors for which the ISA determines there is ''adequate'' evidence (U.S. EPA, 2016a, Table 7–27). In the case of NO_2, this includes people with asthma, children and older adults (U.S. EPA, 2016a, Table 7–27), based primarily on evidence for asthma exacerbation or asthma development as evidence for an independent relationship of NO_2 exposure with other health effects is more uncertain.

The PA's consideration of the evidence supporting these at-risk populations specifically focuses on the following question: To what extent does the currently available scientific evidence expand the understanding of populations and/or lifestages that may be at greater risk for NO_2-related health effects?

In addressing this question, the PA considers the evidence for effects in people with asthma, children, and older adults (U.S. EPA, 2016a, Chapter 7, Table 7–27). This section presents the PA's overall conclusions regarding the populations at increased risk of NO_2-related effects.

a. People With Asthma

Approximately 8.0% of adults and 9.3% of children (age <18 years) in the U.S. currently have asthma (Blackwell et al., 2014; Bloom et al., 2013), and it is the leading chronic illness affecting children (U.S. EPA, 2016a, Section 7.3.1). Individuals with pre-existing diseases like asthma may be at greater risk for some air pollution-related health effects if they are in a compromised biological state.

As in the last review, controlled human exposure studies demonstrating NO_2-induced increases in AR provide key evidence that people with asthma are more sensitive than people without asthma to the effects of short-term NO_2 exposures. In particular, a meta-analysis conducted by Folinsbee et al. (1992) demonstrated that NO_2 exposures from 100 to 300 ppb increased AR in the majority of adults with asthma, while AR in adults without asthma was increased only for NO_2 exposure concentrations greater than 1,000 ppb (U.S. EPA, 2016a, Section 7.3.1). Brown (2015) showed that following resting exposures to NO_2 concentrations in the range of 100 to 530 ppb, about a quarter of individuals with asthma experience clinically relevant increases in AR to non-specific bronchial challenge. Results of epidemiologic studies are less clear regarding potential differences between populations with and without asthma (U.S. EPA, 2016a, Section 7.3.1). Additionally, studies of activity patterns do not clearly indicate difference in time spent outdoors to suggest differences in NO_2 exposure. However, the meta-analysis of information from controlled human exposure studies, which supported the ISA's determination of a causal relationship between short-term exposures and respiratory effects, clearly demonstrates increased sensitivity of adults with asthma compared to healthy adults.[78] Thus, consistent with observations made in the 2008 ISA (U.S. EPA, 2008a), in the current review the ISA determines that the ''evidence is adequate to conclude that people with asthma are at increased risk for NO_2-related health effects'' (U.S. EPA, 2016a, p. 7–7).

b. Children

According to the 2010 census, 24% of the U.S. population is less than 18 years of age, with 6.5% less than age 6 years (Howden and Meyer, 2011). The National Human Activity Pattern Survey shows that children spend more time than adults outdoors (Klepeis et al., 1996), and a longitudinal study in California showed a larger proportion of children reported spending time engaged in moderate or vigorous outdoor physical activity (Wu et al., 2011b). In addition, children have a higher propensity than adults for oronasal breathing (U.S. EPA, 2016a, Section 4.2.2.3) and the human respiratory system is not fully developed until 18–20 years of age (U.S. EPA, 2016a, Section 7.5.1). All of these factors could contribute to children being at higher risk than adults for effects attributable to ambient NO_2 exposures (U.S. EPA, 2016a, Section 7.5.1.1).

Epidemiologic evidence across diverse locations (U.S., Canada, Europe, Asia, Australia) consistently demonstrates adverse effects of both short- and long-term NO_2 exposures in children. In particular, short-term increases in ambient NO_2 concentrations are consistently associated with larger increases in asthma-related hospital admissions, ED visits or outpatient visits in children than in adults (U.S. EPA, 2016a, Section 7.5.1.1, Table 7–13). These results seem to indicate NO_2-associated impacts that are 1.8 to 3.4-fold larger in children (Son et al., 2013; Ko et al., 2007; Atkinson et al., 1999; Anderson et al., 1998). In addition, asthma development

[77] The ISA specifically notes that a zone of elevated NO_2 concentrations typically extends 200 to 500 m from roads with heavy traffic (U.S. EPA, 2016A, Section 2.5.3).

[78] Though, as discussed above (Section II.C.1), there is uncertainty in the extent to which increases in AR following exposures to NO_2 concentrations near those found in the ambient air (*i.e.,* around 100 ppb) would be clearly adverse.

in children has been reported to be associated with long-term NO_2 exposures, based on exposure periods spanning infancy to adolescence (U.S. EPA, 2016a, Section 6.2.2.1). Given the consistent epidemiologic evidence for associations between ambient NO_2 and asthma-related outcomes, including the larger associations with short-term exposures observed in children, the ISA concludes the evidence ''is adequate to conclude that children are at increased risk for NO_2-related health effects'' (U.S. EPA, 2016a, p. 7–32).

c. Older Adults

According to the 2012 National Population Projections issued by the U.S. Census Bureau, 13% of the U.S. population was age 65 years or older in 2010, and by 2030, this fraction is estimated to grow to 20% (Ortman et al., 2014). Recent epidemiologic findings expand on evidence available in the 2008 ISA that older adults may be at increased risk for NO_2-related health effects. (U.S. EPA, 2016a Table 7–15). While it is not clear that older adults experience greater NO_2 exposures or doses, epidemiologic evidence generally indicates greater risk of NO_2-related health effects in older adults compared with younger adults. For example, comparisons of older and younger adults with respect to NO_2-related asthma exacerbation generally show larger (one to threefold) effects in adults ages 65 years or older than among individuals ages 15–64 years or 15–65 years (Ko et al., 2007; Villeneuve et al., 2007; Migliaretti et al., 2005; Anderson et al., 1998). Results for all respiratory hospital admissions combined also tend to show larger associations with NO_2 among older adults ages 65 years or older (Arbex et al., 2009; Wong et al., 2009; Hinwood et al., 2006; Atkinson et al., 1999). The ISA determined that, overall, the consistent epidemiologic evidence for asthma-related hospital admissions and ED visits ''is adequate to conclude that older adults are at increased risk for NO_2-related health effects'' (U.S. EPA, 2016a, p. 7–37).

d. PA Conclusions on At-Risk Populations

As described in the PA, and consistent with the last review, the ISA determined that the available evidence is adequate to conclude that people with asthma, children, and older adults are at increased risk for NO_2-related health effects. The large proportions of the U.S. population that encompass each of these groups and lifestages (*i.e.,* 8% adults and 9.3% children with asthma, 24% children, 13% older adults) underscores the potential for important public health impacts attributable to NO_2 exposures. These impacts are of particular concern for members of these populations and lifestages who live, work, attend school or otherwise spend a large amount of time in locations of elevated ambient NO_2, including near heavily trafficked roadways.

D. Human Exposure and Health Risk Characterization

Beyond the consideration of the scientific evidence, discussed above in Section II.C, the EPA also considers the extent to which new or updated quantitative analyses of NO_2 air quality, exposures or health risks could inform conclusions on the adequacy of the public health protection provided by the current primary NO_2 standards. Conducting such quantitative analyses, if appropriate, could inform judgments about the public health impacts of NO_2-related health effects and could help to place the evidence for specific effects into a broader public health context. To this end, in the REA Planning document (U.S. EPA, 2015) and in the PA, the staff evaluated the extent to which the available evidence and information provide support for conducting new or updated analyses of NO_2 exposures and/or health risks, beyond the analyses conducted in the 2008 REA (U.S. EPA, 2008b). In doing so, staff carefully considered the assessments developed as part of the last review of the primary NO_2 NAAQS (U.S. EPA, 2008b) and the newly available scientific and technical information, particularly considering the degree to which updated analyses in the current review are likely to substantially add to the understanding of NO_2 exposures and/or health risks. The final PA also considers the CASAC advice and public input received on the REA Planning document (U.S. EPA, 2017a, Chapter 4), and on the draft PA (Diez Roux and Sheppard, 2017). Based on these considerations, the PA included updated analyses examining the occurrence of NO_2 air quality concentrations (*i.e.,* as surrogates for potential NO_2 exposures) that may be of public health concern (see below and Appendix B of U.S. EPA, 2017a). These analyses, summarized below and discussed in more detail in Chapter 4 of the PA (U.S. EPA, 2017a), have been informed by advice from the CASAC and input from the public on the REA Planning document (Diez Roux and Frey, 2015b) and on the draft PA (Diez Roux and Sheppard, 2017). Updated risk estimates based on information from epidemiology studies were not conducted in the current review given that these analyses would be subject to the same uncertainties identified in the 2008 REA (U.S. EPA, 2017a, Section 4–1). The CASAC agreed with this conclusion in its review of the REA Planning document (Diez Roux and Frey, 2015b, p. 5).

1. Overview of Approach to Estimating Potential NO_2 Exposures

To provide insight into the potential occurrence of NO_2 air quality concentrations that may be of public health concern, the PA included analyses comparing NO_2 air quality to health-based benchmarks in 23 study areas (U.S. EPA, 2017a Table 4–1). The selection of study areas focused on CBSAs with near-road monitors in operation,[79] CBSAs with the highest NO_2 design values, and CBSAs with a relatively large number of NO_2 monitors overall (*i.e.,* providing improved spatial characterization).[80]

Air quality-benchmark comparisons were conducted in study areas with unadjusted air quality and with air quality adjusted upward to just meet the existing 1-hour standard.[81] Upward adjustment was required because all locations in the U.S. meet the current NO_2 NAAQS.

In identifying the range of NO_2 health-based benchmarks to evaluate, and the weight to place on specific benchmarks within this range, the PA considered both the group mean responses reported in individual studies of AR and the results of a meta-analysis that combined individual-level data from multiple studies (Brown, 2015; U.S. EPA, 2016a, Section 5.2.2.1). When taken together, the results of controlled human exposure studies and of the meta-analysis by Brown (2015) support consideration of NO_2 benchmarks from

[79] As discussed above (Sections I.C and II.B.3), the regulations require near-road monitors were required within 50 m of major roads in large urban areas that met certain criteria for population size or traffic volume. Most near-road monitors are sited within about 30 m of the road, and in some cases they are sited almost at the roadside (*i.e.,* as close as 2 m from the road; *http://www3.epa.gov/ttn/amtic/nearroad.html*) (U.S. EPA, 2017a, Section 2.2.2).

[80] Based on these criteria, a total of 23 CBSAs from across the U.S. were selected as study areas (U.S. EPA, 2017a, Appendix B, Figure B2–1). Further evaluation indicates that these 23 study areas are among the most populated CBSAs in the U.S.; they have among the highest total NO_X emissions and mobile source NO_X emissions in the U.S.; and they include a wide range of stationary source NO_X emissions (U.S. EPA, 2017a, Appendix B, Figures B2–2 to B2–8).

[81] In all study areas, ambient NO_2 concentrations required smaller upward adjustments to just meet the 1-hour standard than to just meet the annual standard. Therefore, when adjusting air quality to just meet the current primary NO_2 NAAQS, the PA applied the adjustment needed to just meet the 1-hour standard. For additional information on the air quality adjustment approach see Appendix B, Section B2.4.1 in the PA (U.S. EPA, 2017a).

100 to 300 ppb, based largely on studies of non-specific AR in study participants exposed at rest.[82] Given uncertainties in the evidence, including the lack of an apparent dose-response relationship and uncertainty in the potential adversity of reported increases in AR, caution is appropriate when interpreting the potential public health implications of 1-hour NO_2 concentrations at or above these benchmarks. This is particularly the case for the 100 ppb benchmark, given the less consistent results across individual studies at this exposure concentration (see Section II.C.1 above and U.S. EPA, 2017a, Section 4.2.1).

2. Results of Updated Analyses

In considering the results of these updated analyses, the EPA focuses on the number of days per year that such 1-hour NO_2 concentrations could occur at each monitoring site in each study area.

Based on the results of these analyses (U.S. EPA, 2017a, Tables 4–1 and 4–2), the EPA makes the following key observations for study areas when air quality was unadjusted (''as-is'') and when air quality was adjusted to just meet the current 1-hour NO_2 standard [83] (U.S. EPA, 2017a, Section 4.2.1.2).

For unadjusted air quality:

- One-hour ambient NO_2 concentrations in study areas, including those near major roadways, were always below 200 ppb, and were virtually always below 150 ppb.
  - Even in the worst-case years (*i.e.,* the years with the largest number of days at or above benchmarks), no study areas had any days with 1-hour NO_2 concentrations at or above 200 ppb, and only one area had any days (*i.e.,* one day) with 1-hour concentrations at or above 150 ppb.
- One-hour ambient NO_2 concentrations in study areas, including those near major roadways, only rarely reached or exceeded 100 ppb. On average in all study areas, 1-hour NO_2 concentrations at or above 100 ppb occurred on less than one day per year.
  - Even in the worst-case years, most study areas had either zero or one day with 1-hour NO_2 concentrations at or above 100 ppb (7 days in the single worst-case location and worst-case year).

For air quality adjusted to just meet the current primary 1-hour NO_2 standard:

- The current standard is estimated to allow no days in study areas with 1-hour ambient NO_2 concentrations at or above 200 ppb. This is true for both area-wide and near-road monitoring sites, even in the worst-case years.
- The current standard is estimated to allow almost no days with 1-hour ambient NO_2 concentrations at or above 150 ppb, based on both area-wide and near-road monitoring sites (*i.e.,* zero to one day per year, on average).
  - In the worst-case years in most study areas, the current standard is estimated to allow either zero or one day with 1-hour ambient NO_2 concentrations at or above 150 ppb. In the single worst-case year and location, the current standard is estimated to allow eight such days.
- At area-wide monitoring sites in most of the study areas, the current standard is estimated to allow from one to seven days per year, on average, with 1-hour ambient NO_2 concentrations at or above 100 ppb. At near-road monitoring sites in most of the study areas, the current standard is estimated to allow from about one to 10 days per year with such 1-hour concentrations.
  - In the worst-case years in most of the study areas, the current standard is estimated to allow from about 5 to 20 days with 1-hour NO_2 concentrations at or above 100 ppb (30 days in the single worst-case location and year).

3. Uncertainties

There are a variety of limitations and uncertainties in these comparisons of NO_2 air quality with health-based benchmarks. In particular, there are uncertainties in the evidence underlying the benchmarks themselves, as well as uncertainties in the upward adjustment of NO_2 air quality concentrations, and uncertainty in the degree to which monitored NO_2 concentrations reflect the highest potential NO_2 concentrations. Each of these is discussed below.

a. Health-Based Benchmarks

The primary goal of this analysis is to inform conclusions regarding the potential for the existing primary NO_2 standards to allow exposures to ambient NO_2 concentrations that may be of concern for public health. As discussed in detail above (Sections II.C.1), the meta-analysis by Brown (2015) indicates the potential for increased AR in some people with asthma following NO_2 exposures from 100 to 530 ppb. While it is possible that certain individuals could be more severely affected by NO_2 exposures than indicated by existing studies, which have generally evaluated adults with mild asthma,[84] there remains uncertainty in the degree to which the effects identified in these studies would be of public health concern. In particular, both the lack of an apparent dose-response relationship between NO_2 exposure and AR and the uncertainties in the magnitude and potential adversity of the increase in AR following NO_2 exposures complicate the interpretation of comparisons between ambient NO_2 concentrations and health-based benchmarks. When considered in the context of the less consistent results observed across individual studies following exposures to 100 ppb NO_2, in comparison to the more consistent results at higher exposure concentrations,[85] these uncertainties have the potential to be of particular importance for interpreting the public health implications of ambient NO_2 concentrations at or above the 100 ppb benchmark.[86]

With regard to the magnitude and clinical relevance of the NO_2-induced increase in AR in particular, the meta-analysis by Brown (2015) attempts to address this uncertainty and inconsistency across individual studies. Specifically, as discussed above (Section II.C.1), the meta-analysis evaluates the available individual-level data on the magnitude of the change in AR following resting NO_2 exposures. Brown (2015) reports that the magnitude of the increases in AR observed following resting NO_2 exposures from 100 to 530 ppb were large enough to be of potential clinical relevance in about a quarter of the 72 study volunteers with available data. This is based on the fraction of exposed individuals who

[82] Benchmarks from the upper end of this range are supported by the results of individual studies, the majority of which most consistently reported statistically significant increases in AR following NO_2 exposures at or above 250 ppb, and by the results of the meta-analysis by Brown (2015). Benchmarks from the lower end of this range are supported by the results of the meta-analysis, even though individual studies generally do not report statistically significant NO_2-induced increases in AR following exposures below 200 ppb.

[83] As discussed in the PA (U.S. EPA, 2017a, Section 4.2.1), in all study areas, ambient NO_2 concentrations required smaller upward adjustments to just meet the 1-hour standard than to just meet the annual standard. Therefore, when adjusting air quality to just meet the current NO_2 NAAQS, the adjustment needed to just meet the 1-hour standard was applied.

[84] Brown (2015, p. 3) notes, however, that one study included in the meta-analysis (Avol et al., 1989) evaluated children aged 8 to 16 years and that disease status varied across studies, ranging from ''inactive asthma up to severe asthma in a few studies.''

[85] As discussed previously, while the meta-analysis indicates that the majority of study volunteers experienced increased non-specific AR following exposures to 100 ppb NO_2, results were marginally significant when specific AR was also included in the analysis. In addition, individual studies do not consistently indicate increases in AR following exposures to 100 ppb NO_2.

[86] Sensitivity analyses included in Appendix B of the PA (U.S. EPA, 2017a, Section 3.2, table B3–1) also evaluated 1-hour NO_2 benchmarks below 100 ppb (*i.e.,* 85, 90, 95 ppb), though the available health evidence does not provide a clear a basis for determining what exposures to such NO_2 concentrations might mean for public health.

experienced a halving of the provocative dose of challenge agent following NO_2 exposures. This magnitude of change has been recognized by the American Thoracic Society (ATS) and the European Respiratory Society as a ''potential indicator, although not a validated estimate, of clinically relevant changes in [AR]'' (Reddel et al., 2009) (U.S. EPA, 2016a, p. 5–12). Although there is uncertainty in using this approach to characterize whether a particular response in an individual is ''adverse,'' it can provide insight into the potential for adversity, particularly when applied to a population of exposed individuals. While this analysis by Brown (2015) indicates the potential for some people with asthma to experience effects of clinical relevance following resting NO_2 exposures from 100 to 530 ppb, it is based on a relatively small subset of volunteers and the interpretation of these results for any specific exposure concentration within the range of 100 to 530 ppb is uncertain (see section II.C.1, above).

b. Approach to Adjusting Ambient NO_2 Concentrations

These analyses use historical air quality relationships as the basis for adjusting ambient NO_2 concentrations to just meet the current 1-hour standard (U.S. EPA, 2017a, Appendix B). The adjusted air quality is meant to illustrate a hypothetical scenario, and does not represent expectations regarding future air quality trends. If ambient NO_2 concentrations were to increase in some locations to the point of just meeting the current standards, it is not clear that the spatial and temporal relationships reflected in the historical data would persist. In particular, as discussed in Section 2.1.2 of the PA (U.S. EPA, 2017a), ongoing implementation of existing regulations is expected to result in continued reductions in ambient NO_2 concentrations over much of the U.S. (*i.e.,* reductions beyond the ''unadjusted'' air quality used in these analyses). Thus, if ambient NO_2 concentrations were to increase to the point of just meeting the existing 1-hour NO_2 standard in some areas, the resulting air quality patterns may not be similar to those estimated in the PA's air quality adjustments.

There is also uncertainty in the upward adjustment of NO_2 air quality because three years of data are not yet available from most near-road monitors. In most study areas, estimated DVs were not calculated at near-road monitors and, therefore, near-road monitors were generally not used as the basis for identifying adjustment factors for just meeting the existing standard.[87] In locations where near-road monitors measure the highest NO_2 DVs, reliance on those near-road monitors to identify air quality adjustment factors would result in smaller adjustments being applied to monitors in the study area. Thus, monitors in such study areas would be adjusted upward by smaller increments, potentially reducing the number of days on which the current standard is estimated to allow 1-hour NO_2 concentrations at or above benchmarks. Given that near-road monitors in most areas measure higher 1-hour NO_2 concentrations than the area-wide monitors in the same CBSA (U.S. EPA, 2017a, Figures 2–7 to 2–10), this uncertainty has the potential to impact results in many of the study areas. While the magnitude of the impact is unknown at present, the inclusion of additional years of near-road monitoring information in the determination of air quality adjustments could result in fewer estimated 1-hour NO_2 concentrations at or above benchmarks in some study areas.

c. Degree to Which Monitored NO_2 Concentrations Reflect the Highest Potential NO_2 Exposures

To the extent there are unmonitored locations where ambient NO_2 concentrations exceed those measured by monitors in the current network, the potential for NO_2 exposures at or above benchmarks could be underestimated. In the last review, this uncertainty was determined to be particularly important for potential exposures around roads. The 2008 REA estimated that the large majority of modeled exposures to ambient NO_2 concentrations at or above benchmarks occurred on or near roads (U.S. EPA, 2008b, Figures 8–17 and 8–18). When characterizing ambient NO_2 concentrations, the 2008 REA attempted to address this uncertainty by estimating the elevated NO_2 concentrations that can occur on or near the road. These estimates were generated by applying literature-derived adjustment factors to NO_2 concentrations at monitoring sites located away from the road.[88]

In the current review, given that the 23 selected study areas have among the highest NO_X emissions in the U.S., and given the siting characteristics of existing NO_2 monitors, this uncertainty likely has only a limited impact on the results of the air quality-benchmark comparisons. In particular, as described above, mobile sources tend to dominate NO_X emissions within most CBSAs, and the 23 study areas evaluated have among the highest mobile source NO_X emissions in the U.S. (U.S. EPA, 2017a, Appendix B, Section B2.3.2). Most study areas have near-road NO_2 monitors in operation, which are required within 50 m of the most heavily trafficked roadways in large urban areas. The majority of these near-road monitors are sited within 30 m of the road, and several are sited within 10 m (see Atlanta, Cincinnati, Denver, Detroit, Los Angeles in EPA's database of metadata for near-road monitors[89]). Thus, as explained in the PA, even though the location of highest NO_2 concentrations around roads can vary (U.S. EPA, 2017a, Section 2.1), the near-road NO_2 monitoring network, with monitors sited from 2 to 50 m away from heavily trafficked roads, are likely to effectively capture the types of locations around roads where the highest NO_2 concentrations can occur.[90]

This conclusion is consistent with the ISA's analysis of available data from near-road NO_2 monitors, which indicates that near-road monitors with target roads having the highest traffic counts also had among the highest 98th percentiles of 1-hour daily maximum NO_2 concentrations (U.S. EPA, 2016a, Section 2.5.3.2). The ISA concludes that ''[o]verall, the very highest 98th percentile 1-hour maximum concentrations were generally observed at the monitors adjacent to roads with the highest traffic counts'' (U.S. EPA, 2016a, p. 2–66).

It is also important to consider the degree to which air quality-benchmark comparisons appropriately characterize the potential for NO_2 exposures near non-roadway sources of NO_X emissions. As noted in the PA, the 23 selected study areas include CBSAs with large non-roadway sources of NO_X emissions. This includes study areas with among the highest NO_X emissions from electric

[87] Though in a few study locations, near-road monitors did contribute to the calculation of air quality adjustments, as described in Appendix B of the PA (U.S. EPA, 2017a, Table B2–7).

[88] Sensitivity analyses included in Appendix B of the PA use updated data from the scientific literature (Richmond-Bryant et al., 2016) to estimate ''on-road'' NO_2 concentrations based on monitored concentrations around a roadway in Las Vegas (Appendix B, Section B2.4.2). However, there remains considerable uncertainty in the relationship between on-road and near-road NO_2 concentrations, and in the degree to which they may differ. Therefore, in evaluating the potential for roadway-associated NO_2 exposures, the PA focuses on the concentrations at locations of near-road monitors (U.S. EPA, 2017a, Chapter 4).

[89] This database is found at *http://www3.epa.gov/ttn/amtic/nearroad.html*.

[90] However, it remains possible that some areas (*e.g.,* street canyons in urban environments) could have higher ambient NO_2 concentrations than indicated by near-road monitors. Sensitivity analyses estimating the potential for on-road NO_2 exposures are described in Appendix B of the PA (U.S. EPA, 2017a).

power generation facilities (EGUs) and airports, the two types of non-roadway sources that emit the most NO_X in the U.S. (U.S. EPA, 2017a, Appendix B, Section B2.3.2). As discussed below, several study areas have non-near-road NO_2 monitors sited to determine the impacts of such sources.

Table 2-12 in the ISA (U.S. EPA, 2016a) summarizes NO_2 concentrations at selected monitoring sites that are likely to be influenced by non-road sources, including ports, airports, border crossings, petroleum refining, or oil and gas drilling. For example, the Los Angeles, CA CBSA includes one of the busiest ports and one of the busiest airports in the U.S. Out of 18 monitors in the Los Angeles CBSA, three of the five highest 98th percentile 1-hour maximum concentrations were observed at the near-road site, the site nearest the port, and the site adjacent to the airport (U.S. EPA, 2016a, section 2.5.3.2). In the Chicago, IL CBSA, the highest hourly NO_2 concentration measured in 2014 (105 ppb) occurred at the Schiller Park, IL monitoring site, located adjacent to O'Hare International airport, a four-lane arterial (U.S. 12 and U.S. 45), and very close to a major rail yard (*i.e.,* Bedford Park Rail Yard) (U.S. EPA, 2016a, Section 2.5.3.2).[91] In addition, one of the highest 1-hour daily maximum NO_2 concentrations recorded in recent years (136 ppb) was observed at a Denver, CO non-near-road site. This concentration was observed at a monitor located one block from high-rise buildings that form the edge of the high-density central business district. This monitor is likely influenced by local traffic, as well as by commercial heating and other activities (U.S. EPA, 2016a, Section 2.5.3.2).[92] Thus, beyond the NO_2 near-road monitors, some NO_2 monitors in study areas are also sited to capture high ambient NO_2 concentrations around important non-roadway sources of NO_X emissions.

4. Conclusions

As discussed above and in the REA Planning document (U.S. EPA, 2015, Section 2.1.1), an important uncertainty identified in the 2008 REA was the characterization of 1-hour NO_2 concentrations around major roadways. In the current review, data from recently deployed near-road NO_2 monitors improves understanding of such ambient NO_2 concentrations.

As discussed in Section II.B.2, recent NO_2 concentrations measured in all U.S. locations meet the existing primary NO_2 NAAQS. Based on these recent (*i.e.,* unadjusted) ambient measurements, analyses estimate almost no potential for 1-hour exposures to NO_2 concentrations at or above benchmarks, even at the lowest benchmark examined (*i.e.,* 100 ppb).

Analyses of air quality adjusted upwards to just meet the current 1-hour standard estimate no days with 1-hour NO_2 concentrations at or above the 200 ppb benchmark, and virtually none for exposures at or above 150 ppb. This is the case for both average and worst-case years, including in study areas with near-road monitors sited within a few meters of heavily trafficked roads. With respect to the lowest benchmark evaluated, analyses estimate that the current 1-hour standard allows the potential for exposures to 1-hour NO_2 concentrations at or above 100 ppb on some days (*e.g.,* in most study areas, about one to 10 days per year, on average).[93]

These results are consistent with expectations, given that the current 1-hour standard, with its 98th percentile form, is anticipated to limit, but not eliminate, exposures to 1-hour NO_2 concentrations at or above 100 ppb.[94] These results are similar to the results presented in the REA from the last review, based on NO_2 concentrations at the locations of area-wide ambient monitors (U.S. EPA, 2017a, Appendix B, Section B5.9, Table B5–66). In contrast, compared to the on/near road simulations in the last review, these results indicate substantially less potential for 1-hour exposures to NO_2 concentrations at or above these benchmarks (U.S. EPA, 2017a, Appendix B, Section B5.9, Table B5–66).[95]

When these results and associated uncertainties are taken together, the current 1-hour NO_2 standard is expected to allow virtually no potential for exposures to the NO_2 concentrations that have been shown most consistently to increase AR in people with asthma (*i.e.,* above 200 ppb), even under worst-case conditions across a variety of study areas with among the highest NO_X emissions in the U.S. Such NO_2 concentrations were not estimated to occur, even at monitoring sites adjacent to some of the most heavily trafficked roadways. In addition, the current standard is expected to limit, though not eliminate, exposures to 1-hour concentrations at or above 100 ppb. Though the current standard is estimated to allow 1-hour NO_2 concentrations at or above 100 ppb on some days, there is uncertainty regarding the potential public health implications of exposures to 100 ppb NO_2. However, in limiting exposures to NO_2 concentrations at or above 100 ppb, the current standard provides protection against exposures to higher NO_2 concentrations, for which the evidence of adverse NO_2-attributable effects is more certain, as well as against exposures to NO_2 concentrations at 100 ppb, for which the evidence of adverse NO_2-attributable effects is less certain.

Given the results of these analyses, and the uncertainties inherent in their interpretation, the PA concludes that there is little potential for exposures to ambient NO_2 concentrations that would be of clear public health concern in locations meeting the current 1-hour standard. Additionally, while a lower standard level (*i.e.,* lower than 100 ppb) would be expected to further limit the potential for exposures to 100 ppb NO_2, the public health implications of such reductions are unclear, particularly given that no additional protection would be expected against exposures to NO_2 concentrations at or above the higher benchmarks (*i.e.,* 200 ppb and above). Thus, the PA concludes that these analyses comparing ambient NO_2 concentrations to health-based benchmarks do not provide support for considering potential alternative standards to increase public health protection, beyond the protection provided by the current standards.

E. Summary of CASAC Advice

In the current review of the primary NO_2 standards the CASAC has provided advice and recommendations based on its review of drafts of the ISA (Diez Roux and Frey, 2015a), of the REA Planning document (Diez Roux and Frey, 2015b), and of the draft PA (Diez Roux and Sheppard, 2017). This section summarizes key CASAC advice regarding the strength of the evidence for respiratory effects, the quantitative analyses conducted and presented in

[91] Sections B5.1 and B5.2 of Appendix B in the PA (U.S. EPA, 2017a) provide data on the large sources of NO_X emissions in study areas.

[92] Recent traffic counts on the nearest streets were 44,850 (in 2014) and 23,389 (in 2013) vehicles per day, respectively. Traffic counts on other streets within one block of this monitor were 22,000, 13,000, 5,000, and 2,490 vehicles per day. Together, this adds up to more than 100,000 vehicles per day on streets within one block of this non-near-road monitor (U.S. EPA, 2016A, Section 2.5.3.2).

[93] Because the results show almost no days with 1-hour ambient NO_2 concentrations above 150 ppb, the results for the 100 ppb benchmark are due primarily to 1-hour NO_2 concentrations that are closer to 100 ppb than 200 ppb.

[94] The 98th percentile generally corresponds to the 7th or 8th highest 1-hour concentration in a year.

[95] On-/near-road simulations in the last review estimated that a 1-hour NO_2 standard with a 98th percentile form and a 100 ppb level could allow about 20 to 70 days per year with 1-hour NO_2 concentrations at or above the 200 ppb benchmark and about 50 to 150 days per year with 1-hour concentrations at or above the 100 ppb benchmark (U.S. EPA, 2017a, Appendix B, Table B5–56).

the PA, and the adequacy of the current primary NO_2 standards to protect the public health.

Briefly, with regard to the strength of the evidence for respiratory effects, the CASAC agreed with the ISA conclusions. In particular, the CASAC concurred ''with the finding that short-term exposures to NO_2 are causal for respiratory effects based on evidence for asthma exacerbation'' (Diez Roux and Sheppard 2017, p. 7). It further noted that ''[t]he strongest evidence is for an increase in airway responsiveness based on controlled human exposure studies, with supporting evidence from epidemiologic studies'' (Diez Roux and Sheppard 2017, p. 7). The CASAC also agreed with the ISA conclusions on long-term exposures and respiratory effects, specifically stating the following (Diez Roux and Sheppard 2017, p. 7):

> Long-term exposures to NO_2 are likely to be causal for respiratory effects, based on asthma development. The strongest evidence is for asthma incidence in children in epidemiologic studies, with supporting evidence from experimental animal studies. Current scientific evidence for respiratory effects related to long-term exposures is stronger since the last review, although uncertainties remain related to the influence of copollutants on the association between NO_2 and asthma incidence.

With regard to support for the updated quantitative analyses conducted in the current review, the CASAC agreed with the conclusions in the PA.[96] In particular, the CASAC noted that it was ''satisfied with the short-term exposure health-based benchmark analysis presented in the Draft PA and agree[d] with the decision to not conduct any new model-based or epidemiologic-based analyses'' (Diez Roux and Sheppard, 2017, p. 5). The CASAC further supported ''the decision not to conduct any new or updated quantitative risk analyses related to long-term exposure to NO_2'' noting ''that existing uncertainties in the epidemiologic literature limit the ability to properly estimate and interpret population risk associated with NO_2, specifically within a formal risk assessment framework'' (Diez Roux and Sheppard, 2017, p. 5).

In addition, in its review of the draft PA, the CASAC concurred with staff's overall preliminary conclusions that it is appropriate to consider retaining the current primary NO_2 standards without revision, stating that, ''the CASAC recommends retaining, and not changing the existing suite of standards'' (Diez Roux and Sheppard, 2017). The CASAC's advice on the current standards is discussed in more detail below (Section II.F.3).

F. Proposed Conclusions on the Adequacy of the Current Primary NO_2 Standards

In evaluating whether, in view of the advances in scientific knowledge and additional information now available, it is appropriate to retain or revise the current primary NO_2 standards, the Administrator builds upon the last review and reflects upon the body of evidence and information now available. The Administrator has taken into account evidence-based and quantitative exposure- and risk-based considerations, as well as advice from the CASAC, and his own public health policy judgements in developing proposed conclusions on the adequacy of the current primary NO_2 standards. Evidence-based considerations draw upon the ISA's assessment and integrated synthesis of the scientific evidence from epidemiologic studies, controlled human exposure studies, and experimental animal studies evaluating health effects related to exposures to NO_2, with a focus on policy-relevant considerations. The exposure-/risk-based considerations draw from the comparisons of NO_2 air quality with health-based benchmarks presented in the PA. Together with careful consideration of advice from CASAC, these evidence-based and exposure-/risk-based considerations have informed the Administrator's proposed conclusions related to the adequacy of the current NO_2 standards.

The following sections summarize these evidence-based (Section II.F.1) and exposure-/risk-based (Section II.F.2) considerations and the advice received from CASAC (Section II.F.3). Section II.F.4 presents the Administrator's proposed conclusions regarding the adequacy of the current primary NO_2 standards.

1. Evidence-Based Considerations

As discussed in Section II.C, in considering the evidence available in the current review with regard to adequacy of the current 1-hour and annual NO_2 standards, the first topic of consideration is the nature of the health effects attributable to NO_2 exposures, drawing upon the integrated synthesis of the health evidence in the ISA and the evaluations in the PA (Sections II.C.1 and II.C.2). The following questions guide those considerations: (1) To what extent does the currently available scientific evidence alter or strengthen conclusions from the last review regarding health effects attributable to ambient NO_2 exposures? (2) Are previously identified uncertainties reduced or do important uncertainties remain? (3) Have new uncertainties been identified? These questions are addressed for both short-term and long-term NO_2 exposures, with a focus on health endpoints for which the ISA concludes that the evidence indicates there is a ''causal'' or ''likely to be a causal'' relationship.

With regard to short-term NO_2 exposures, as in the last review, the strongest evidence continues to come from studies examining respiratory effects. In particular, the ISA concludes that evidence indicates a ''causal'' relationship between short-term NO_2 exposure and respiratory effects, based on evidence related to asthma exacerbation. While this conclusion reflects a strengthening of the causal determination, compared to the last review, this strengthening is based largely on a more specific integration of the evidence related to asthma exacerbations rather than on the availability of new, stronger evidence. Additional evidence has become available since the last review, as summarized below; however, this evidence has not fundamentally altered the understanding of the relationship between short-term NO_2 exposures and respiratory effects.

The strongest evidence supporting this ISA causal determination comes from controlled human exposure studies demonstrating NO_2-induced increases in AR in individuals with asthma. A meta-analysis of data from these studies indicates the majority of exposed individuals, generally with mild asthma, experienced increased AR following exposures to NO_2 concentrations as low as 100 ppb, while individual studies most consistently report such increases following exposures to NO_2 concentrations at or above 250 ppb. Most of the controlled human exposure studies assessed in the ISA were available in the last review, particularly studies of non-specific AR. As in the last review, there remains uncertainty due to the lack of an apparent dose-response relationship between NO_2 exposures and AR and uncertainty in the potential adversity of NO_2-induced increases in AR.

Supporting evidence for a range of NO_2-associated respiratory effects also comes from epidemiologic studies. While some recent epidemiologic studies provide new evidence based on improved exposure characterizations and copollutant modeling, these studies are consistent with the evidence from the last review and do not

[96] The PA conclusions build upon the preliminary conclusions presented in the REA Planning document, which was also reviewed by the CASAC (Diez Roux and Frey, 2015b).

fundamentally alter the understanding of the respiratory effects associated with ambient NO_2 exposures. Due to limitations in the available epidemiologic methods, uncertainty remains in the current review regarding the extent to which findings for NO_2 are confounded by traffic-related copollutants (*e.g.,* $PM_{2.5}$, EC/BC, CO).

Thus, while some new evidence is available in this review, that new evidence has not substantially altered the understanding of the respiratory effects that occur following short-term NO_2 exposures. This evidence is summarized in Section II.C.1 above, and is discussed in detail in the ISA (U.S. EPA, 2016a, section 5.2.2).

With regard to long-term NO_2 exposures, the ISA concludes that there is ''likely to be a causal relationship'' between long-term NO_2 exposure and respiratory effects, based largely on the evidence for asthma development in children. New epidemiologic studies of asthma development have increasingly utilized improved exposure assessment methods (*i.e.,* measured or modeled concentrations at or near children's homes and followed for many years), which partly reduces uncertainties from the last review related to exposure measurement error. Explicit integration of evidence for individual outcome categories (*e.g.,* asthma incidence, respiratory infection) provides an improved characterization of biological plausibility and mode of action. This improved characterization includes the assessment of new evidence supporting a potential role for repeated short-term NO_2 exposures in the development of asthma. High correlations between long-term average ambient concentrations of NO_2 and long-term concentrations of other traffic-related pollutants, together with the general lack of epidemiologic studies evaluating copollutant models that include traffic-related pollutants, remains a concern in interpreting associations with asthma development. Specifically, the extent to which NO_2 may be serving primarily as a surrogate for the broader traffic-related pollutant mix remains unclear. Thus, while the evidence for respiratory effects related to long-term NO_2 exposures has become stronger since the last review, there remain important uncertainties to consider in evaluating this evidence within the context of the adequacy of the current standards. This evidence is summarized in Section II.C.2 above, and is discussed in detail in the ISA (U.S. EPA, 2016a, section 6.2.2).

Given the evaluation of the evidence in the ISA, and the ISA's causal determinations, the EPA's further consideration of the evidence focuses on studies of asthma exacerbation (short-term exposures) and asthma development (long-term exposures), and on what these bodies of evidence indicate with regard to the basic elements of the current primary NO_2 standards. In particular, the EPA considers the following question: To what extent does the available evidence for respiratory effects attributable to either short- or long-term NO_2 exposures support or call into question the basic elements of the current primary NO_2 standards? In addressing this question, the sections below summarize the PA's consideration of the evidence in the context of the indicator, averaging times, levels, and forms of the current standards.

a. Indicator

The indicator for both the current annual and 1-hour NAAQS for oxides of nitrogen is NO_2. While the presence of gaseous species other than NO_2 has long been recognized (discussed in Section II.B.1, above), no alternative to NO_2 has been advanced as being a more appropriate surrogate for ambient gaseous oxides of nitrogen. Both previous and recent controlled human exposure studies and animal toxicology studies provide specific evidence for health effects following exposure to NO_2. Similarly, the large majority of epidemiologic studies report health effect associations with NO_2, as opposed to other gaseous oxides of nitrogen. In addition, because emissions that lead to the formation of NO_2 generally also lead to the formation of other NO_X oxidation products, measures leading to reductions in population exposures to NO_2 can generally be expected to lead to reductions in population exposures to other gaseous oxides of nitrogen. Therefore, an NO_2 standard can also be expected to provide some degree of protection against potential health effects that may be independently associated with other gaseous oxides of nitrogen even though such effects are not discernable from currently available studies. Given these considerations, the PA reached the conclusion that it is appropriate in the current review to consider retaining the NO_2 indicator for standards meant to protect against exposures to gaseous oxides of nitrogen. In its review of the draft PA, CASAC agreed with this conclusion (Diez Roux and Sheppard, 2017).

b. Averaging Time

The current primary NO_2 standards are based on 1-hour and annual averaging times. Together, these standards can provide protection against short- and long-term NO_2 exposures.

In establishing the 1-hour standard in the last review, the Administrator considered evidence from both experimental and epidemiologic studies. She noted that controlled human exposure studies and animal toxicological studies provided evidence that NO_2 exposures from less than one hour up to three hours can result in respiratory effects such as increased AR and inflammation. These included five controlled human exposure studies that evaluated the potential for increased AR following 1-hour exposures to 100 ppb NO_2 in people with asthma. In addition, epidemiologic studies had reported health effect associations with both 1-hour and 24-hour NO_2 concentrations, without indicating that either of these averaging periods was more closely linked with reported effects. Thus, the available experimental evidence provided support for considering an averaging time of shorter duration than 24 hours while the epidemiologic evidence provided support for considering both 1-hour and 24-hour averaging times. Given this evidence, the Administrator concluded that, at a minimum, a primary concern with regard to averaging time was the level of protection provided against 1-hour NO_2 exposures. Based on available analyses of NO_2 air quality, she further concluded that a standard with a 1-hour averaging time could also be effective at protecting against effects associated with 24-hour NO_2 exposures (75 FR 6502, February 9, 2010).

Based on the considerations summarized above, the Administrator judged in the last review that it was appropriate to set a new NO_2 standard with a 1-hour averaging time. She concluded that such a standard would be expected to effectively limit short-term (*e.g.,* 1- to 24-hours) NO_2 exposures that had been linked to adverse respiratory effects. She also retained the existing annual standard to continue to provide protection against effects potentially associated with long-term exposures to oxides of nitrogen (75 FR 6502, February 9, 2010). These decisions were consistent with CASAC advice to establish a short-term primary standard for oxides of nitrogen based on using 1-hour maximum NO_2 concentrations and to retain the current annual standard (Samet, 2008, p. 2; Samet, 2009, p. 2).

As in the last review, support for a standard with a 1-hour averaging time comes from both the experimental and epidemiologic evidence. Controlled human exposure studies evaluated in the ISA continue to provide evidence that NO_2 exposures from less than 1-hour up to three hours can result in

increased AR in individuals with asthma (U.S. EPA, 2016a, Tables 5–1 and 5–2). These controlled human exposure studies provide key evidence supporting the ISA's determination that ''[a] causal relationship exists between short-term NO_2 exposure and respiratory effects based on evidence for asthma exacerbation'' (U.S. EPA, 2016a, p. 1–17). In addition, the epidemiologic literature assessed in the ISA provides support for short-term averaging times ranging from 1-hour up to 24-hours (*e.g.,* U.S. EPA, 2016a Figures 5–3, 5–4 and Table 5–12). Consistent with the evidence in the last review, the ISA concludes that there is no indication of a stronger association for any particular short-term duration of NO_2 exposure (U.S. EPA, 2016a, section 1.6.1). Thus, a 1-hour averaging time reasonably reflects the exposure durations used in the controlled human exposure studies that provide the strongest support for the ISA's determination of a causal relationship. In addition, a standard with a 1-hour averaging time is expected to provide protection against the range of short-term exposure durations that have been associated with respiratory effects in epidemiologic studies (*i.e.,* 1-hour to 24-hours). In the PA, staff reached the conclusion that when taken together, the combined evidence from experimental and epidemiologic studies continues to support an NO_2 standard with a 1-hour averaging time to protect against health effects related to short-term NO_2 exposures. In its review of the draft PA, the CASAC found that there continued to be scientific support for the 1-hour averaging time (Diez Roux and Sheppard, 2017, p. 7).

With regard to protecting against long-term exposures, the evidence supports considering the overall protection provided by the combination of the annual and 1-hour standards. The current annual standard was originally promulgated in 1971 (36 FR 8186, April 30, 1971), based on epidemiologic studies reporting associations between respiratory disease and long-term exposure to NO_2. The annual standard was retained in subsequent reviews, in part to provide a margin of safety against the serious effects reported in animal studies using long-term exposures to high NO_2 concentrations (*e.g.,* above 8,000 ppb) (U.S. EPA, 1995).

As described above, evidence newly available in the current review demonstrates associations between long-term NO_2 exposures and asthma development in children, based on NO_2 concentrations averaged over year of birth, year of diagnosis, or entire lifetime. Supporting evidence indicates that repeated short-term NO_2 exposures could contribute to this asthma development. In particular, the ISA states that ''findings for short-term NO_2 exposure support an effect on asthma development by describing a potential role for repeated exposures to lead to recurrent inflammation and allergic responses,'' which are ''identified as key early events in the proposed mode of action for asthma development'' (U.S. EPA, 2016a, p. 6–64 and p. 6–65). Taken together, the evidence supports the potential for recurrent short-term NO_2 exposures to contribute to the asthma development that has been reported in epidemiologic studies to be associated with long-term exposures. For these reasons, the PA reached the conclusion that, in establishing standards to protect against adverse health effects related to long-term NO_2 exposures, the evidence supports the consideration of both 1-hour and annual averaging times. In its review of the draft PA, CASAC supported this approach to considering the protection provided against long-term NO_2 exposures by considering the combination of the annual and 1-hour NO_2 standards. With reference to the current annual standard, CASAC specifically noted that ''it is the suite of the current 1-hour and annual standards, together, that provide protection against adverse effects'' (Diez Roux and Sheppard, 2017, p. 9).

c. Level and Form

In evaluating the extent to which evidence supports or calls into question the levels or forms of the current NO_2 standards, the EPA considers the following question: To what extent does the evidence indicate adverse respiratory effects attributable to short- or long-term NO_2 exposures lower than previously identified or below the existing standards? In addressing this question, it is useful to consider the range of NO_2 exposure concentrations that have been evaluated in experimental studies (controlled human exposure and animal toxicology) and the ambient NO_2 concentrations in locations where epidemiologic studies have reported associations with adverse outcomes. The PA's consideration of these issues is discussed below for short-term (II.F.1.c.i) and long-term (II.F.1.c.ii) NO_2 exposures.

i. Short-Term

Controlled human exposure studies demonstrate the potential for increased AR in some people with asthma following 30-minute to 1-hour exposures to NO_2 concentrations near those in the ambient air (U.S. EPA, 2017a, Section 3.2.2).[97] In evaluating the NO_2 exposure concentrations at which increased AR has been observed, both the group mean results reported in individual studies and the results from a recent meta-analysis evaluating individual-level data are considered (Brown, 2015; U.S. EPA, 2016a, Section 5.2.2.1). Group mean responses in individual studies, and the variability in those responses, can provide insight into the extent to which observed changes in AR are due to NO_2 exposures, rather than to chance alone, and have the advantage of being based on the same exposure conditions. The meta-analysis can aid in identifying trends in individual-level responses across studies and can have the advantage of increased power to detect effects, even in the absence of statistically significant effects in individual studies.

When individual-level data were combined in a meta-analysis, Brown (2015) reported that statistically significant majorities of study participants experienced increased AR following resting exposures to NO_2 concentrations from 100 to 530 ppb. In some affected individuals, the magnitudes of these increases were large enough to have potential clinical relevance. Following exposures to 100 ppb NO_2 specifically, the lowest exposure concentration evaluated, a marginally statistically significant majority of study participants experienced increased AR.[98] As discussed in more detail in Section II.C.1, individual studies consistently report statistically significant NO_2-induced increases in AR following resting exposures to NO_2 concentrations at or above 250 ppb, but have generally not reported statistically significant increases in AR following resting exposures to NO_2 concentrations from 100 to 200 ppb. Limitations in this evidence include the lack of an apparent dose-response relationship between NO_2 and AR and remaining uncertainty in the adversity of the reported increases in AR. These uncertainties become increasingly important at the lower NO_2

[97] As discussed in Section II.C, experimental studies have not reported other respiratory effects following short-term exposures to NO_2 concentrations at or near those found in the ambient air.

[98] Brown (2015) reported a p-value of 0.08 when data were combined from studies of specific and non-specific AR. When the analysis was restricted only to non-specific AR following exposures to 100 ppb NO_2, the percentage who experienced increased AR was larger and statistically significant. In contrast, when the analysis was restricted only to specific AR following exposures to 100 ppb NO_2, the majority of study participants did not experience increased AR (U.S. EPA, 2016a; Brown 2015).

exposure concentrations (*i.e.,* at or near 100 ppb), as the evidence for NO_2-induced increases in AR becomes less consistent across studies at these lower concentrations.

The epidemiologic evidence from U.S. and Canadian studies, as considered in the PA, provides information about the ambient NO_2 concentrations in locations where such studies have examined associations with asthma-related hospital admissions or emergency department visits (short-term) or with asthma incidence (long-term). In particular, these studies inform consideration of the extent to which NO_2-health effect associations are consistent, precise, statistically significant, and present for distributions of ambient NO_2 concentrations that likely would have met the current standards. To the extent NO_2-health effect associations are reported in study areas that would likely have met the current standards, the evidence would support the potential for the current standards to allow the NO_2-associated effects indicated by those studies. In the absence of studies reporting associations in locations meeting the current NO_2 standards, there would be greater uncertainty regarding the potential for reported effects to be caused by NO_2 exposures that occur with air quality meeting those standards. There are also important uncertainties in the evidence which warrant consideration, including the potential for copollutant confounding and exposure measurement error, and the extent to which near-road NO_2 concentrations are reflected in the available air quality data.

With regard to epidemiologic studies of short-term NO_2 exposures conducted in the U.S. or Canada, the PA notes the following. First, the only recent multicity study evaluated (Stieb et al., 2009), which had maximum 1-hour DVs ranging from 67 to 242 ppb, did not report a positive association between NO_2 and ED visits. In addition, of the single-city studies (U.S. EPA, 2017a, Figure 3–1) that reported positive and relatively precise associations between NO_2 and asthma hospital admissions and ED visits, most locations had NO_2 concentrations likely to have violated the current 1-hour NO_2 standard over at least part of the study period. Specifically, most of these locations had maximum estimated DVs at or above 100 ppb and, had near-road NO_2 monitors been in place during study periods, DVs would likely have been higher. Thus, it is likely that even the one study location with a maximum DV of 100 ppb (Atlanta) would have violated the existing 1-hour standard during study periods.[99] For the study locations with maximum DVs below 100 ppb, mixed results have been reported, with associations that are generally statistically non-significant and imprecise. As with the studies reporting more precise associations, near-road monitors were not in place during these study periods. If they had been, 1-hour DVs could have been above 100 ppb. In drawing conclusions based on this epidemiologic evidence, the PA also considers the potential for copollutant confounding as ambient NO_2 concentrations are often highly correlated with other pollutants. This can complicate attempts to distinguish between independent effects of NO_2 and effects of the broader pollutant mixture. While this has been addressed to some extent in available studies, uncertainty remains for the most relevant copollutants (*i.e.,* those related to traffic such as $PM_{2.5}$, EC/BC, and CO). Taken together, while available U.S. and Canadian epidemiologic studies report NO_2-associated hospital admissions and emergency department visits in locations likely to have violated the current 1-hour NO_2 standard, the PA concludes that these studies do not indicate the occurrence of such NO_2-associated effects in locations and time periods with NO_2 concentrations that would clearly have met the current 1-hour NO_2 standard (*i.e.,* with its level of 100 ppb and 98th percentile form).

In giving further consideration specifically to the form of 1-hour standard, the PA notes that the available evidence and information in this review is consistent with that informing consideration of form in the last review. The last review focused on the upper percentiles of the distribution of NO_2 concentrations based, in part, on evidence for health effects associated with short-term NO_2 exposures from experimental studies which provided information on specific exposure concentrations that were linked to respiratory effects (75 FR 6475, February 9, 2010). In that review, the EPA specified a 98th percentile form, rather than a 99th percentile, for the new 1-hour standard. In combination with the 1-hour averaging time and 100 ppb level, a 98th percentile form was judged to provide appropriate public health protection. In addition, compared to the 99th percentile, a 98th percentile form was expected to provide greater regulatory stability.[100] In addition, a 98th percentile form is consistent with the PA's consideration of uncertainties in the health effects that have the potential to occur at 100 ppb. Specifically, when combined with the 1-hour averaging time and the level of 100 ppb, the 98th percentile form limits, but does not eliminate, the potential for exposures to 100 ppb NO_2.[101]

ii. Long-Term

With regard to health effects related to long-term NO_2 exposures, the PA first considers the basis for the current annual standard. It was originally set to protect against NO_2-associated respiratory disease in children reported in some epidemiologic studies (36 FR 8186, April 30, 1973). In subsequent reviews, the EPA has retained the annual standard, judging that it provides protection with an adequate margin of safety against the effects that have been reported in animal studies following long-term exposures to NO_2 concentrations well-above those found in the ambient air (*e.g.,* above 8,000 ppb for the development of lesions similar to those found in humans with emphysema) (60 FR 52879, October 11, 1995). In the 2010 review, the EPA noted that, though some evidence supported the need to limit long-term exposures to NO_2, the evidence for adverse health effects attributable to long-term NO_2 exposures did not support changing the level of the annual standard.

In the current review, the strengthened ''likely to be causal'' relationship between long-term NO_2 exposures and respiratory effects is supported by epidemiologic studies of asthma development and related effects demonstrated in animal toxicological studies. While these studies strengthen the evidence for effects of long-term exposures, compared to the last review, they are subject to important uncertainties, including the potential for confounding by traffic-related copollutants. The potential for such confounding is particularly important to consider when interpreting epidemiologic studies of long-term NO_2 exposures given (1) the relatively high correlations observed between measured

[99] Based on recent air quality information for Atlanta, 98th percentiles of daily maximum 1-hour NO_2 concentrations are higher at near-road monitors than non-near-road monitors (U.S. EPA, 2017a, Figures 2–9 and 2–10). These differences could have been even more pronounced during study periods, when NO_X emissions from traffic sources were higher (U.S. EPA, 2017a, Section 2.1.2).

[100] As noted in the last review, a less stable form could result in more frequent year-to-year shifts between meeting and violating the standard, potentially disrupting ongoing air quality planning without achieving public health goals (75 FR 6493, February 9, 2010).

[101] The 98th percentile corresponds to about the 7th or 8th highest daily maximum 1-hour NO_2 concentration in a year.

and modeled long-term ambient concentrations of NO_2 and long-term concentrations of other roadway-associated pollutants; (2) the general lack of information from copollutant models on the potential for NO_2 associations that are independent of other traffic-related pollutants or mixtures; and (3) the general lack of supporting information from experimental studies that evaluate long-term exposures to NO_2 concentrations near those in the ambient air. Thus, it is unclear the degree to which the observed effects in these studies are independently related to exposure to ambient concentrations of NO_2. The epidemiologic evidence from some U.S. and Canadian studies is also subject to uncertainty with regard to the extent to which the studies accurately characterized exposures of the study populations, further limiting what these studies can tell us regarding the adequacy of the current primary NO_2 standards.

While the PA recognizes the above uncertainties, it considers what studies of long-term NO_2 and asthma development indicate with regard to the adequacy of the current primary NO_2 standards. As discussed above for short-term exposures, the PA considers the degree to which the evidence indicates adverse respiratory effects associated with long-term NO_2 exposures in locations that would have met the NAAQS. As summarized in Section II.C.2, the causal determination for long-term exposures is supported both by studies of long-term NO_2 exposures and studies indicating a potential role in asthma development for repeated short-term exposures to high NO_2 concentrations.

As such, when considering the ambient NO_2 concentrations present during study periods, the PA considers these concentrations within the context of both the 1-hour and annual NO_2 standards. Analyses of historical data indicate that 1-hour DVs at or below 100 ppb generally correspond to annual DVs below 35 ppb.[102] CASAC noted this relationship, stating that ''attainment of the 1-hour standard corresponds with annual design value averages of 30 ppb NO_2'' (Diez Roux and Sheppard, 2017). Thus, meeting the 1-hour standard with its level of 100 ppb would be expected to maintain annual average NO_2 concentrations below the 53 ppb level of the current annual standard.

As discussed in Section II.C.1, while annual estimated DVs in study locations were often below 53 ppb, maximum 1-hour estimated DVs in most locations were near or above 100 ppb. Because these study-specific estimated DVs are based on the area-wide NO_2 monitors in place during study periods, they do not reflect the NO_2 concentrations near the largest roadways, which are expected to be higher in most urban areas. Had near-road monitors been in place during study periods, estimated NO_2 DVs based on near-road concentrations likely would have been higher in many locations, and would have been more likely to exceed the level of the annual and/or 1-hour standard(s).

Given the paucity of epidemiologic studies conducted in areas that were close to or below the current standards, and considering that no near road monitors were in place during the study periods, the PA concludes that the epidemiologic evidence does not provide support for NO_2-attributable asthma development in children in locations with NO_2 concentrations that would have clearly met the current annual and 1-hour NO_2 standards. The strongest epidemiologic evidence informing the level at which effects may occur comes from U.S. and Canadian epidemiologic studies that are subject to critical uncertainties related to copollutant confounding and exposure assessment. Furthermore, the PA's evaluation indicates that most of the locations included in epidemiologic studies of long-term NO_2 exposure and asthma incidence would likely have violated either one or both of the current NO_2 standards, over at least parts of the study periods.

iii. PA Conclusions

Taking note of the conclusions in the PA, and based on the information discussed above, the EPA revisits the question posed above: To what extent does the evidence indicate adverse respiratory effects attributable to short- or long-term NO_2 exposures lower than previously identified or below the existing standards?

In addressing this question, the PA notes that (1) experimental studies do not indicate adverse respiratory effects attributable to either short- or long-term NO_2 exposures lower than previously identified and that (2) epidemiologic studies do not provide support for associations between adverse effects and ambient NO_2 concentrations that would have clearly met the current standards. Taken together, the PA concludes that the available evidence does not support the need for increased protection against short- or long-term NO_2 exposures, beyond that provided by the existing standards. In its review of the draft PA, the CASAC agreed with this conclusion, stating that ''[t]he CASAC concurs with the EPA that the current scientific literature does not support a revision to the primary NAAQS for nitrogen dioxide'' (Diez Roux and Sheppard, 2017, p. 9). Therefore, the PA did not identify potential alternative standard levels or forms for consideration.

2. Exposure- and Risk-Based Considerations

As described in greater detail in Section II.D above, and in the REA Planning document (U.S. EPA, 2015, Section 2.1.1) and the PA (U.S. EPA, 2017a, Chapter 4), the EPA conducted updated analyses comparing ambient NO_2 concentrations (*i.e.,* as surrogates of potential exposures) to health-based benchmarks, with a particular focus on study areas where near-road monitors have been deployed. In the PA, staff concluded that updated quantitative risk assessments were not supported in the current review, based on uncertainties in the available evidence and the likelihood that such analyses would be subject to the same uncertainties identified in the risk estimates in the prior review (U.S. EPA, 2017a, Chapter 4). The CASAC stated that it was ''satisfied with the short-term exposure health-based benchmark analysis presented in the draft PA'' and that it ''support[ed] the decision not to conduct any new or updated quantitative risk analyses related to long-term exposure to NO_2'' (Diez Roux and Sheppard, 2017).

When considering analyses comparing NO_2 air quality with health-based benchmarks, the PA focuses on the following specific questions: (1) To what extent are ambient NO_2 concentrations that may be of public health concern estimated to occur in locations meeting the current NO_2 standards? (2) What are the important uncertainties associated with those estimates?

As discussed in Section II.D, benchmarks are based on information from controlled human exposure studies of NO_2 exposures and AR. In identifying specific NO_2 benchmarks, and considering the weight to place on each, the PA considers both the group mean results reported in individual studies and the results of a meta-analysis that combined data from multiple studies (Brown, 2015; U.S. EPA, 2016a, Section 5.2.2.1), as described above.

When taken together, the results of individual controlled human exposure studies and of the meta-analysis by Brown (2015) support consideration of NO_2 benchmarks between 100 and 300 ppb, based largely on studies of non-

[102] As noted in the PA, near-road monitors were not included in this analysis due to the limited amount of data available.

specific AR in people with asthma exposed at rest. As discussed in more detail in II.D, benchmarks from the upper end of this range are supported by the results of individual studies, the majority of which reported statistically significant increases in AR following NO_2 exposures at or above 250 ppb, and by the results of the meta-analysis by Brown (2015). Benchmarks from the lower end of this range, including 100 ppb, are supported by the results of the meta-analysis, even though individual studies do not consistently report statistically significant NO_2-induced increases in AR at these lower concentrations. In particular, while the meta-analysis indicates that the majority of study participants with asthma experienced an increase in AR following exposures to 100 ppb NO_2 (Brown, 2015), individual studies have not generally reported statistically significant increases in AR following resting exposures to 100 ppb NO_2.[103]

In further considering the potential public health implications of exposures to NO_2 concentrations at or above benchmarks, there are multiple uncertainties, as discussed in Section II.C.I. As discussed in more detail in that section, there is no indication of a dose-response relationship between NO_2 and AR in people with asthma, and there is uncertainty in the clinical relevance and potential adversity of the reported NO_2-induced increases in AR.

As discussed in Section II.D, analyses of unadjusted air quality, which meets the current standards in all locations, indicate almost no potential for 1-hour exposures to NO_2 concentrations at or above any of the benchmarks examined, including 100 ppb. Analyses of air quality adjusted upwards to just meet the current 1-hour standard [104] indicate virtually no potential for 1-hour exposures to NO_2 concentrations at or above 200 ppb (or 300 ppb), and almost none for exposures at or above 150 ppb. This is the case for both estimates averaged over multiple years and estimates in worst-case years, including at near-road monitoring sites within a few meters of heavily trafficked roads. With respect to the lowest benchmark evaluated, analyses estimate that there is potential for exposures to 1-hour NO_2 concentrations at or above 100 ppb on some days (*e.g.,* about one to 10 days per year, on average, at near-road monitoring sites). As described above, this result is consistent with expectations, given that the current 1-hour standard, with its 98th percentile form, is expected to limit, but not eliminate, the occurrence of 1-hour NO_2 concentrations of 100 ppb.

These analyses indicate that the current 1-hour NO_2 standard is expected to allow virtually no potential for exposures to the NO_2 concentrations that have been shown most consistently to increase AR in people with asthma, even under worst-case conditions across a variety of study areas with among the highest NO_X emissions in the U.S. Such NO_2 concentrations are not estimated to occur, even at monitoring sites adjacent to some of the most heavily trafficked roadways. In addition, the current 1-hour standard provides protection against NO_2 exposures that have the potential to exacerbate asthma symptoms, but for which the evidence indicates greater uncertainty in both the occurrence of such exacerbations and in their severity, should they occur (*i.e.,* at or near 100 ppb). Given the results of these analyses, and the uncertainties inherent in their interpretation, the PA concludes that there is little potential for exposures to ambient NO_2 concentrations that would be of public health concern in locations meeting the current 1-hour standard.

3. CASAC Advice

As discussed above (Section II.E), in the current review of the primary standards for NO_2, the CASAC has provided advice and recommendations based on its review of drafts of the ISA, of the REA Planning document, and of the draft PA. The CASAC's advice on the adequacy of the current primary NO_2 standards was provided as part of its review of the draft PA (Diez Roux and Sheppard, 2017). Overall, the CASAC concurred with the draft PA's preliminary conclusion that it is appropriate to consider retaining the current primary NO_2 standards without revision, stating that, ''the CASAC recommends retaining, and not changing the existing suite of standards'' (Diez Roux and Sheppard, 2017). The CASAC provided the following advice with respect to the individual elements of the standards:

• *Indicator and averaging time:* The CASAC stated ''there is strong evidence for the selection of NO_2 as the indicator of oxides of nitrogen'' and ''for the selection of 1-hour and annual averaging times'' (Diez Roux and Sheppard, 2017 p. 9). With regard with to averaging time in particular, the CASAC stated that ''[c]ontrolled human and animal studies provide scientific support for a 1-hour averaging time as being representative of an exposure duration that can lead to adverse effects'' (Diez Roux and Sheppard, 2017, p. 7). The CASAC further concluded that ''[e]pidemiologic studies provide support for the annual averaging time, representative of likely to be causal associations between long-term exposures, or repeated short-term exposures, and asthma development'' (Diez Roux and Sheppard, 2017, p. 7).

• *Level of the 1-hour standard:* The CASAC stated ''there are notable adverse effects at levels that exceed the current standard, but not at the level of the current standard. Thus, the CASAC advises that the current 1-hour standard is protective of adverse effects and that there is not a scientific basis for a standard lower than the current 1-hour standard'' (Diez Roux, and Sheppard 2017, p. 9).

• *Form of the 1-hour standard:* The CASAC also ''recommends retaining the current form'' for the 1-hour standard (Diez Roux and Sheppard 2017). Recognizing that the form allowed for some 1-hour concentrations that exceeded 100 ppb, the CASAC explained that the ''scientific rationale for this form is there is uncertainty regarding the severity of adverse effects at a level of 100 ppb NO_2, and thus some potential for maximum daily levels to exceed this benchmark with limited frequency may nonetheless be protective of public health'' (Diez Roux and Sheppard, 2017, p. 10). It further noted that the choice of form reflected the Administrator's policy judgment. (Diez Roux and Sheppard, 2017, p. 10).

• *Level of the annual standard:* In providing advice on the level of the annual standard, the CASAC commented that the long-term epidemiologic studies ''imply the possibility of adverse effects at levels below that of the current annual standard'' (Diez Roux and Sheppard, p. 8). However, CASAC recognized that these studies ''are also subject to uncertainty, including possible confounding with other traffic-related pollutants'' (Diez Roux and Sheppard, p. 8). CASAC also commented that these epidemiologic studies may have uncertainty related to exposure error and pointed out that estimated DVs in study areas do not account for near-road monitoring. Furthermore, CASAC recognized the causal associations between long-term exposures, or repeated short-term exposures, and asthma development (Diez Roux and

[103] Meta-analysis results for exposures to 100 ppb NO_2 were statistically significant when analyses were restricted to non-specific AR, but not when analyses were restricted to specific AR (Brown, 2015).

[104] In all study areas, ambient NO_2 concentrations required smaller upward adjustments to just meet the 1-hour standard than to just meet the annual standard. Therefore, as noted above and in the PA (U.S. EPA, 2017a, Section 4.2.1), when adjusting air quality to just meet the current NO_2 NAAQS, the adjustment needed to just meet the 1-hour standard was applied.

Sheppard, p. 7) and the appropriateness of considering the protection provided by the current suite of standards together (Diez Roux and Sheppard, p. 9). Therefore, the CASAC's advice on the annual standard takes into account the degree of protection provided by this standard, in combination with the current 1-hour standard. In particular, the CASAC recognized that meeting the 1-hour NO_2 standard can limit long-term NO_2 concentrations to below the level of the annual standard, observing that ''an hourly DV of 100 ppb NO_2 is associated with DV values that average approximately 30 ppb NO_2'' and that ''there is insufficient evidence to make a scientific judgment that adverse effects occur at annual DVs less than 30 ppb NO_2'' (Diez Roux and Sheppard, 2017, p. 9). Thus, in providing support for retaining the existing annual standard, the CASAC specifically noted that ''the current suite of standards is more protective of annual exposures compared to the annual standard by itself'' and that ''it is the suite of the current 1-hour and annual standards, together, that provide protection against adverse effects'' (Diez Roux and Sheppard, 2017, p. 9). Therefore, the CASAC ''recommends retaining the existing suite of standards'' (Diez Roux and Sheppard, 2017, p. 9), including the current annual standard.

In addition, CASAC also provided advice on areas for additional research based on key areas of uncertainty that came up during the review cycle (Diez Roux and Sheppard, 2017, p. 10–12). As part of this advice, CASAC stated that ''[t]here is an ongoing need for research in multipollutant exposure and epidemiology to attempt to distinguish the contribution to NO_2 exposure to human health risk'' (Diez Roux and Sheppard, 2017, p. 10). More specifically, CASAC pointed to the importance of further understanding the effects of co-pollutant exposures and the variability in ambient NO_2 concentrations, particularly considering ''locations of peak exposure occurrences (*e.g.,* on road in vehicles, roadside for active commuters, in street canyons, near other non-road facilities such as rail yards or industrial facilities)'' (Diez Roux and Sheppard, 2017, p. 11). In particular, CASAC recognized the importance of the new near-road monitoring data in reducing those uncertainties, stating that ''[t]he amount of data from near-road monitoring will increase between now and the next review cycle and should be analyzed and evaluated'' (Diez Roux and Sheppard, 2017, p. 11).

4. Administrator's Proposed Conclusions Regarding the Adequacy of the Current Primary NO_2 Standards

Taking into consideration the large body of evidence concerning NO_2-related health effects and available estimates of the potential for NO_2 exposures, including the uncertainties and limitations inherent in the evidence and those estimates, the Administrator proposes to conclude that the current primary NO_2 standards provide the requisite protection of public health, with an adequate margin of safety, and should be retained without revision in this review. The Administrator's proposed conclusions are informed by a careful consideration of the full body of information available in this review, giving particular weight to the assessment of the scientific evidence in the ISA; analyses in the PA comparing NO_2 air quality with health-based benchmarks; the PA's consideration of the evidence and analyses; and the advice and recommendations from the CASAC. The basis for the Administrator's proposed conclusions on the current primary NO_2 standards is discussed below.

As an initial matter, the Administrator takes note of the well-established body of scientific evidence supporting the occurrence of respiratory effects following NO_2 exposures. As in the last review, the clearest evidence indicates the occurrence of respiratory effects following short-term NO_2 exposures. The strongest support for this relationship comes from controlled human exposure studies demonstrating NO_2-induced increases in AR in individuals with asthma. As discussed above, the Administrator notes that most of the controlled human exposure studies assessed in the ISA were available in the last review, with the addition in this review of an updated meta-analysis that synthesizes data from these studies. He also notes that these studies provided an important part of the body of evidence supporting the decision in the last review to establish the 1-hour NO_2 standard with its level of 100 ppb. Beyond the controlled human exposure studies, additional supporting evidence comes from epidemiologic studies reporting associations with a range of asthma-related respiratory effects, including effects serious enough to result in emergency room visits or hospital admissions. While there is some new evidence in the current review from such epidemiologic studies of short-term NO_2 exposures, the results of these newer studies are generally consistent with the epidemiologic studies that were available in the last review.

With regard to long-term NO_2 exposures, the Administrator notes that the evidence supporting associations with asthma development in children has become stronger since the last review, though uncertainties remain regarding the degree to which estimates of long-term NO_2 concentrations in these studies are serving primarily as surrogates for exposures to the broader mixture of traffic-related pollutants. Supporting evidence also includes studies indicating a potential role for repeated short-term NO_2 exposures in the development of asthma (U.S. EPA, 2016a, p. 6–64 and p. 6–65).

In addition, the Administrator acknowledges that the evidence for some non-respiratory effects has strengthened since the last review. In particular, based on the assessment of the evidence in the ISA, he notes the stronger evidence for NO_2-associated cardiovascular effects (short- and long-term exposures), premature mortality (long-term exposures), and certain reproductive effects (long-term exposures). As detailed in the ISA, while this evidence has generally become stronger since the last review, it remains subject to greater uncertainty than the evidence of asthma-related respiratory effects (U.S. EPA, 2016a).

The Administrator's evaluation of the public health protection provided against ambient NO_2 exposures also involves consideration of populations and lifestages that may be at greater risk of experiencing NO_2-attributable health effects. In the current review, the Administrator's consideration of potential at-risk populations draws from the 2016 ISA's assessment of the evidence (U.S. EPA, 2016a, Chapter 7). Based on the ISA's systematic approach to evaluating factors that may increase risks in a particular population or during a particular lifestage, the Administrator is most concerned about the potential effects of NO_2 exposures in people with asthma, children, and older adults (U.S. EPA, 2016a, Table 7–27). Support for potentially higher risks in these populations is based primarily on evidence for asthma exacerbation or asthma development. Evidence for other health effects is subject to greater uncertainty (U.S. EPA, 2017a, Section 3.4).

The Administrator further uses the scientific evidence outlined above, and described in detail in the ISA (U.S. EPA, 2016a), to directly inform his consideration of the adequacy of the public health protection provided by the current primary NO_2 standards. Consistent with the approach in the PA

(U.S. EPA, 2017a), and with CASAC advice (Diez Roux and Sheppard, 2017), the Administrator specifically considers the evidence within the context of the degree of public health protection provided by the current 1-hour and annual standards together, including the combination of all elements of these standards (*i.e.,* indicator, averaging times, forms, levels).

In doing so, the Administrator focuses on the results of controlled human exposure studies of AR in people with asthma and on the results of U.S. and Canadian epidemiologic studies of asthma-related hospital admissions, asthma-related emergency department visits, and asthma development in children. He particularly emphasizes the results of controlled human exposure studies, which were identified in the ISA as providing ''[t]he key evidence that NO_2 exposure can independently exacerbate asthma'' (U.S. EPA, 2016a, p. 1–18). The Administrator's decision to focus on these studies is in agreement with the CASAC, which stated that, of the evidence for asthma exacerbation, ''[t]he strongest evidence is for an increase in AR based on controlled human exposure studies, with supporting evidence from epidemiologic studies'' (Diez Roux and Sheppard, 2017).

In considering the controlled human exposure studies of AR, the Administrator focuses both on the results of an updated meta-analysis of data from these studies and on the consistency of findings across individual studies. As discussed above, and consistent with the evidence in the last review, the meta-analysis indicates that the majority of study volunteers, generally with mild asthma, experienced increased AR following 30-minute to 1-hour resting exposures to NO_2 concentrations from 100 to 530 ppb. Based on these results, the Administrator notes the potential for people with asthma to experience NO_2-induced respiratory effects following exposures in this range, and that people with more severe asthma could experience more serious effects. The Administrator further notes that individual studies consistently report statistically significant increases in AR following exposures to NO_2 concentrations at or above 250 ppb, with less consistent results across studies conducted at lower exposure concentrations, particularly 100 ppb (II.C.1). Uncertainties in this evidence, discussed in sections II.C.1, II.D.3, and II.F.2 above, include the lack of an apparent dose-response relationship and uncertainty in the potential adversity of responses.

When the information discussed above is taken together, the Administrator judges it appropriate to consider the degree of protection provided against exposures to NO_2 concentrations at and above 100 ppb, though his concern is greater for exposures to higher concentrations. In particular, based on the results of the meta-analysis and on the consistent results across individual studies, the Administrator is most concerned about the potential for people with asthma to experience adverse respiratory effects following NO_2 exposures at or above 250 ppb. Because results are less consistent across individual studies that evaluated lower exposure concentrations, the Administrator becomes increasingly concerned about uncertainties in the evidence as he considers the potential implications of such exposures. While taking these uncertainties into consideration, the Administrator remains concerned about the potential for respiratory effects following exposures to NO_2 concentrations as low as 100 ppb, particularly in people with more severe cases of asthma than have generally been evaluated in the available NO_2 controlled human exposure studies. Thus, when the evidence and uncertainties are taken together, the Administrator judges that it is appropriate to consider the degree of protection provided against potential exposures to NO_2 concentrations at or above 100 ppb, with the most emphasis on the potential for exposures at or above 250 ppb.

In further considering the potential public health implications of controlled human exposure studies, the Administrator looks to the results of quantitative comparisons between NO_2 air quality and health-based benchmarks. As discussed in the PA, these comparisons can help to place the results of the controlled human exposure studies, which provide the basis for the benchmark concentrations, into a broader public health context. In considering the results of the analyses comparing NO_2 air quality to specific health-based benchmarks, the Administrator first recognizes that all areas of the U.S. meet the current primary NO_2 standards. When based on recent unadjusted NO_2 air quality, these analyses estimate almost no days with the potential for 1-hour exposures to NO_2 concentrations at or above health-based benchmarks, including the lowest benchmark examined (*i.e.,* 100 ppb).

The Administrator additionally recognizes that, even when ambient NO_2 concentrations are adjusted upward to just meet the existing 1-hour standard, the analyses estimate no days with the potential for exposures to the NO_2 concentrations that have been shown most consistently to increase AR in people with asthma (*i.e.,* above 250 ppb). Such NO_2 concentrations were not estimated to occur, even under worst-case conditions across a variety of study areas with among the highest NO_X emissions in the U.S., and at monitoring sites adjacent to some of the most heavily trafficked roadways in the U.S. In addition, analyses with adjusted air quality indicate a limited number of days with the potential for exposures to 1-hour NO_2 concentrations at or above 100 ppb, an exposure concentration with the potential to exacerbate asthma-related respiratory effects, but for which uncertainties in the evidence become increasingly important.

Based on the information above, the Administrator reaches the proposed conclusion that evidence from controlled human exposure studies of AR, together with analyses comparing ambient NO_2 concentrations to health-based benchmarks, supports the degree of the public health protection provided by the current primary NO_2 NAAQS. In particular, he is concerned about exposures to NO_2 concentrations at and above 250 ppb, where the potential for NO_2-induced respiratory effects is supported by results of the meta-analysis and by consistent results reported across individual studies. With regard to this, the Administrator notes that meeting the current standards is estimated to allow no potential for exposures to 1-hour NO_2 concentrations at or above 250 ppb. The Administrator is also concerned about exposures to lower NO_2 concentrations, including concentrations as low as 100 ppb though, as described above, he becomes increasingly concerned about the uncertainties in the evidence at such low exposure concentrations. In considering the degree of protection provided against exposures to 100 ppb NO_2, in light of uncertainties, the Administrator judges it appropriate to limit such exposures, but not necessarily to eliminate them. With regard to this, he notes that the current standard is estimated to allow limited potential for exposures to NO_2 concentrations at or above 100 ppb. Thus, given the substantial protection provided against exposures to NO_2 concentrations at and above 250 ppb, and the protection provided against exposures to concentrations as low as 100 ppb, the Administrator reaches the proposed conclusion that the evidence, when considered in light of its uncertainties, supports the degree of

public health protection provided by the current primary NO_2 NAAQS.

Although the NO_2 epidemiologic evidence is subject to greater uncertainty than the controlled human exposure studies of NO_2-induced changes in AR, the Administrator also considers what the available epidemiologic studies indicate with regard to the adequacy of the public health protection provided by the current standards. In particular, he considers analyses of NO_2 air quality in the locations, and during the time periods, of available U.S. and Canadian epidemiologic studies. These analyses can provide insights into the extent to which NO_2-health effect associations are present for distributions of ambient NO_2 concentrations that would be allowed by the current standards. The presence of such associations would support the potential for the current standards to allow the NO_2-associated effects indicated by epidemiologic studies. To the degree studies have not reported associations in locations meeting the current NO_2 standards, there is greater uncertainty regarding the potential for reported effects to occur following the NO_2 exposures that are associated with air quality meeting those standards.

With regard to studies of short-term NO_2 exposures, the Administrator notes that epidemiologic studies provide consistent evidence for asthma-related emergency department visits and hospital admissions with exposure to NO_2 in locations likely to have violated the current standards over at least parts of study periods (based on the presence of relatively precise and generally statistically significant associations across several studies). These studies have not consistently shown such NO_2-associated outcomes in areas that would have clearly met the current standards. In this regard, the Administrator recognizes that the NO_2 concentrations identified in these epidemiologic studies are based on an NO_2 monitoring network that, during study periods, did not include monitors meeting the current near-road monitoring requirements. This is particularly important given that NO_2 concentrations near the most heavily-trafficked roadways were likely to have been higher than those reflected by the NO_2 concentrations measured at monitors in operation during study years. As such, the estimated DVs associated with the areas at the times of the studies could have been higher had a near-road monitoring network been in place. Thus, while these epidemiologic studies provide consistent evidence for associations with asthma-related effects, the Administrator notes that studies conducted in the U.S. and Canada do not provide support for associations with asthma-related hospital admissions or emergency department visits in locations that would have clearly met the current standards.

With regard to studies of long-term NO_2 exposures, the Administrator notes that the preponderance of evidence for respiratory health effects comes from epidemiologic studies evaluating asthma development in children. As discussed above, these studies report associations with long-term average NO_2 concentrations, while the broader body of evidence indicates the potential for repeated short-term NO_2 exposures to contribute to the development of asthma. Because of this, and because air quality analyses indicate that meeting the current 1-hour standard can also limit annual NO_2 concentrations, when considering these studies of asthma development, the Administrator considers the protection provided by the combination of both the annual and 1-hour standards. While available epidemiologic studies conducted in the U.S. and Canada consistently report associations between long-term NO_2 exposures and asthma development in children in locations likely to have violated the current standards over at least parts of study periods, those studies do not indicate such associations in locations that would have clearly met the current annual and 1-hour standards. This is particularly the case given that NO_2 concentrations near the most heavily-trafficked roadways are not likely reflected by monitors in operation during study years. Thus, while recognizing the public health significance of asthma development in children, and recognizing that NO_2 concentrations violating the current standards have been associated with asthma development, the Administrator places weight on the PA's conclusion that the evidence does not provide support for NO_2-attributable asthma development in children in locations with NO_2 concentrations that would have clearly met both the annual and 1-hour standards.

Taking all of these considerations into account, the Administrator reaches the proposed conclusion that the current body of scientific evidence, in combination with the results of quantitative analyses comparing NO_2 air quality with health-based benchmarks, supports the degree of public health protection provided by the current 1-hour and annual primary NO_2 standards and does not call into question any of the elements of those standards. He further reaches the proposed conclusion that the current 1-hour and annual NO_2 primary standards, together, are requisite to protect public health with an adequate margin of safety.

In particular, with regard to short-term exposures and the current 1-hour standard, the Administrator takes note of the well-established body of scientific evidence supporting the occurrence of respiratory effects following short-term NO_2 exposures. In reaching the proposed conclusion that the current standards provide requisite protection against these effects, the Administrator notes:

- Meeting the current 1-hour NO_2 standard provides a substantial margin of safety against exposures to NO_2 concentrations that have been shown most consistently to increase AR in people with asthma, even under worst-case conditions across a variety of study areas with among the highest NO_X emissions in the U.S. Such NO_2 concentrations were not estimated to occur, even at monitoring sites adjacent to some of the most heavily trafficked roadways.
- Meeting the current 1-hour standard limits the potential for exposures to 1-hour concentrations at or above 100 ppb. Thus, the current standard provides protection against NO_2 exposures with the potential to exacerbate symptoms in some people with asthma, but for which uncertainties in the evidence become increasingly important.
- Meeting the current 1-hour standard is expected to maintain ambient NO_2 concentrations below those present in locations where key U.S. and Canadian epidemiologic studies reported precise and statistically significant associations between short-term NO_2 and asthma-related hospitalizations.

In addition, with regard to long-term NO_2 exposures, the Administrator notes that the evidence supporting associations with asthma development in children has become stronger since the last review, though important uncertainties remain. As discussed above, meeting the current annual and 1-hour standards is expected to maintain ambient NO_2 concentrations below those present in locations where key U.S. and Canadian epidemiologic studies reported such associations between long-term NO_2 and asthma development. In considering the protection provided against exposures that could contribute to asthma development, the Administrator recognizes the air quality relationship between the current 1-hour standard and annual standard, and that analyses of historical ambient NO_2 concentrations suggest that meeting the 1-hour standard with its level of 100 ppb would be expected to maintain annual average NO_2 concentrations well-below the 53 ppb level of the annual standard, and generally below 35

ppb.[105] The Administrator judges that, as additional years of data become available from the recently deployed near-road NO_2 monitors, it will be important to evaluate the degree to which this relationship is also observed in the near-road environment, and the degree to which the annual standard provides additional protection, beyond that provided by the 1-hour standard. Such an evaluation could inform future reviews of the primary NO_2 NAAQS, consistent with the CASAC advice that ''in the next review cycle for oxides of nitrogen . . . EPA should review the annual standard to determine if there is need for revision or revocation'' (Diez Roux and Sheppard, 2017, p. 9).

Therefore, in this review, the Administrator proposes to retain the current primary NO_2 standards, without revision. As described in section II.F.3 above, the Administrator notes that his proposed decision to retain the current primary NO_2 standards in this review is consistent with CASAC advice provided as part of its review of the draft PA. In particular, the Administrator notes that ''the CASAC recommends retaining, and not changing the existing suite of standards'' (Diez Roux and Sheppard, 2017). CASAC specifically focused its conclusions on the degree of protection provided by the combination of the 1-hour and annual standards against short- and long-term NO_2 exposures. In particularly, the CASAC stated that ''it is the suite of the current 1-hour and annual standards, together, that provide protection against adverse effects'' (Diez Roux and Sheppard, 2017, p. 9).

Inherent in the Administrator's proposed conclusions are public health policy judgments on the public health implications of the available scientific evidence and analyses, including how to weigh associated uncertainties. These public health policy judgments include judgments related to the appropriate degree of public health protection that should be afforded against risk of respiratory morbidity in at-risk populations, such as the potential for worsened respiratory effects in people with asthma, as well judgments related to the appropriate weight to be given to various aspects of the evidence and quantitative analyses, including how to consider their associated uncertainties. Based on these considerations and the judgments identified here, the Administrator reaches the proposed conclusion that the current standards provide the requisite protection of public health with an adequate margin of safety, including protection of at-risk populations, such as people with asthma.

In reaching this proposed conclusion, the Administrator recognizes that in establishing primary standards under the Act that are requisite to protect public health with an adequate margin of safety, he is seeking to establish standards that are neither more nor less stringent than necessary for this purpose. The Act does not require that primary standards be set at a zero-risk level, but rather at a level that avoids unacceptable risks to public health. In this context, the Administrator's proposed conclusion is that the current standards provide the requisite protection and that more or less stringent standards would not be requisite.

More specifically, given the adverse effects reported to be associated with NO_2 concentrations above the current standards, the Administrator does not believe standards less stringent than the current standards would be sufficient to protect public health with an adequate margin of safety. In this regard, he particularly notes that, compared to the current standards, less stringent standards would be more likely to allow (1) NO_2 exposures that could exacerbate respiratory effects in people with asthma, particularly those with more severe asthma and (2) ambient NO_2 concentrations that have been reported in epidemiologic studies to be associated with asthma-related hospitalizations and with asthma development in children. Consistent with these observations, the Administrator further notes CASAC's conclusion, based on its consideration of the evidence, that ''there are notable adverse effects at levels that exceed the current standard, but not at the level of the current standard'' (Diez Roux and Sheppard, 2017 pg. 9). Therefore, the Administrator reaches the proposed conclusion that standards less stringent than the current 1-hour and annual standards (*e.g.,* with levels higher than 100 ppb and 53 ppb, respectively) would not be sufficient to protect public health with an adequate margin of safety.

The Administrator additionally recognizes that the uncertainties and limitations associated with the many aspects of the estimated relationships between respiratory morbidity and NO_2 exposures are amplified with consideration of progressively lower ambient NO_2 concentrations. In his view, and consistent with the conclusions in the PA, there is appreciable uncertainty in the extent to which reductions in asthma exacerbations or asthma development would result from revising the primary NO_2 NAAQS to be more stringent than the current standards. Therefore, the Administrator also does not believe standards more stringent than the current standards would be appropriate. With regard to this, CASAC advised that ''there is not a scientific basis for a standard lower than the current 1-hour standard'' (Diez Roux and Sheppard, 2017 pg. 9). The CASAC also did not advise setting the level of the annual standard lower than the current level of 53 ppb, noting that the 1-hour standard can generally maintain long-term NO_2 concentrations below the level of the annual standard (Diez Roux and Sheppard, 2017).

Based on all of the above considerations, and consistent with CASAC advice, the Administrator reaches the proposed conclusion that it is appropriate to retain the current standards, without revision, in this review. He further proposes that the available evidence and information do not warrant the identification of potential alternative standards that provide a different degree of public health protection. In reaching these proposed conclusions, the Administrator recognizes that different public health policy judgments could lead to different conclusions regarding the extent to which the current standards protect the public health. Such judgments include those related to the appropriate degree of public health protection that should be afforded as well as the appropriate weight to be given to various aspects of the evidence and information, including how to consider uncertainties. Therefore, the Administrator solicits comment on his proposed conclusions regarding the public health protection provided by the current primary NO_2 standards and on his proposal to retain those standards, without revision, in this review. He invites comment on all aspects of these proposed conclusions and their underlying rationales, including on his proposal that the current standards are requisite, *i.e.,* neither more nor less stringent than necessary, to protect the public health with an adequate margin of safety and on the evidence-based and exposure-/risk-based considerations supporting that proposal.

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

[105] This air quality relationship was discussed in the PA where it was noted that the analysis did not include data from near-road monitors due to the limited amount of data available for the years analyzed (1980–2015).

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

The Office of Management and Budget (OMB) determined that this action is a significant regulatory action. Accordingly, it was submitted to OMB for review. Any changes made in response to OMB recommendations have been documented in the docket. Because this rule does not propose to change the existing NAAQS for NO_2, it does not impose costs or benefits relative to the baseline of continuing with the current NAAQS in effect. EPA has thus not prepared a Regulatory Impact Analysis for this rule.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. There are no information collection requirements directly associated with a decision to retain a NAAQS without any revision under section 109 of the CAA and this action proposes to retain the current primary NO_2 NAAQS without any revisions.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. Rather, this action proposes to retain, without revision, existing national standards for allowable concentrations of NO_2 in ambient air as required by section 109 of the CAA. *See also American Trucking Associations* v. *EPA*. 175 F.3d at 1044–45 (NAAQS do not have significant impacts upon small entities because NAAQS themselves impose no regulations upon small entities).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in the UMRA, 2 U.S.C. 1531–1538 and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. This action does not change existing regulations. It does not have a substantial direct effect on one or more Indian Tribes, since Tribes are not obligated to adopt or implement any NAAQS. The Tribal Authority Rule gives Tribes the opportunity to develop and implement CAA programs such as the primary NO_2 NAAQS, but it leaves to the discretion of the Tribe whether to develop these programs and which programs, or appropriate elements of a program, they will adopt. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866. The health effects evidence and risk assessment information for this action, which focuses on children, people with asthma, and older adults, in addressing the at-risk populations, is summarized in section II.C.3 above and described in the ISA and PA, copies of which are in the public docket for this action.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The purpose of this notice is to propose to retain the current primary NO_2 NAAQS. This proposal does not change existing requirements. Thus, the EPA concludes that this proposal does not constitute a significant energy action as defined in Executive Order 13211.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation for this decision is contained in Section II. The action proposed in this notice is to retain without revision the existing primary NAAQS for oxides of nitrogen based on the Administrator's conclusion that the existing standards protect public health, including the health of sensitive groups, with an adequate margin of safety. The EPA expressly considered the available information regarding health effects among at-risk populations in reaching the proposed decision that the existing standards are requisite.

K. Determination Under Section 307(d)

Section 307(d)(1)(V) of the CAA provides that the provisions of section 307(d) apply to ''such other actions as the Administrator may determine.'' Pursuant to section 307(d)(1)(V), the Administrator determines that this action is subject to the provisions of section 307(d).

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Dated: July 14, 2017.

E. Scott Pruitt,

Administrator.

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