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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. FAA–2017–1129; Notice No. 29–042–SC]

Special Conditions: Bell Helicopter Textron, Inc. (BHTI), Model 525 Helicopter; Mode Annunciation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the BHTI Model 525 helicopter. This helicopter will have a novel or unusual design feature associated with fly-by-wire flight control system (FBW FCS) functions that affect the pilot awareness of the flight control modes while operating the helicopter. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: April 18, 2018.

FOR FURTHER INFORMATION CONTACT: George Harrum, Aerospace Engineer, Rotorcraft Standards Branch, Policy and Innovation Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4087; email *George.Harrum@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On December 15, 2011, BHTI applied for a type certificate for a new transport category helicopter designated as the Model 525. The aircraft is a medium twin-engine rotorcraft. The design maximum takeoff weight is 20,500 pounds, with a maximum capacity of 19 passengers and a crew of 2.

The BHTI Model 525 helicopter will be equipped with a four-axis full authority digital FBW FCS that provides for aircraft control through pilot input and coupled flight director modes. Current regulations are inadequate in the area of pilot awareness of the flight control modes while operating the helicopter. The proposed special condition will require that suitable mode annunciation be provided to the flight crew for events that significantly change the operating mode of the system but do not merit the traditional warnings, cautions, and advisories.

Type Certification Basis

Under the provisions of 14 CFR 21.17, BHTI must show that the Model 525 helicopter meets the applicable provisions of part 29, as amended by Amendment 29–1 through 29–55 thereto. The BHTI Model 525 certification basis date is December 31, 2013, the effective date of application to the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 29) do not contain adequate or appropriate safety standards for the BHTI Model 525 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the BHTI Model 525 helicopter must comply with the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The BHTI Model 525 helicopter will incorporate the following novel or unusual design features: A four-axis full authority digital FBW FCS. Pilot control inputs, through the mechanically linked cockpit controls (cyclic, collective, directional pedals), are transmitted electrically to each of the three Flight Control Computers (FCCs). The pilot control input signals are then processed and transmitted to the hydraulic flight control actuators which affect control of the main and tail rotors. The FCCs process the pilot control input signals depending on the flight control mode in affect.

Discussion

The current 14 CFR 29 standards do not provide adequate standards for pilot awareness of the flight control modes while operating the helicopter. These special conditions require that suitable mode annunciation be provided to the flight crew for events that significantly change the operating mode of the system but do not merit the traditional warnings, cautions, and advisories.

Discussion of Comments

Notice of proposed special conditions No. 29–042–SC for the BHTI Model 525 helicopter was published in the **Federal Register** on December 7, 2017 (82 FR 57687). One commenter, Sikorsky Aircraft (Sikorsky), responded to the Notice.

Sikorsky requested that the annunciation required by the proposed special conditions be placed within the immediate field of view of the pilot. Sikorsky also requested that because the word ''significantly'' in the proposed special conditions may be subjective, the following language be added to provide clarification: ''in such a way as to alter the pilots primary control strategy.''

The FAA agrees. We have revised the special conditions accordingly.

Applicability

As discussed above, these special conditions are applicable to the BHTI Model 525 helicopter. Should BHTI apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of rotorcraft. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 29

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Bell Helicopter Textron, Inc., Model 525 helicopter:

Mode Annunciation: A means must be provided, within the pilots' primary field of view, to indicate to the crew any mode that significantly changes or degrades the handling or operational characteristics of the rotorcraft in such a way as to alter the pilots' primary control strategy.

Issued in Fort Worth, Texas, on March 30, 2018.

Jorge Castillo,

Acting Manager, Rotorcraft Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2018–08139 Filed 4–17–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2018–0323]

Special Local Regulations for Marine Events; Blessing of the Fleet, Tiburon, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the special local regulations in the navigable waters of the San Francisco Bay for the annual Blessing of the Fleet to be held on April 22, 2018. This action is necessary to ensure the safety of event participants and spectators. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the regulated area, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 100.1103, Table 1, Item number 3 will be enforced from 9 a.m. to 1 p.m. on April 22, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email Lieutenant Junior Grade Emily Rowan, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7443 or email at *D11-PF-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulation established in 33 CFR 100.1103, Table 1, Item number 3 on April 22, 2018. From 9 a.m. to 1 p.m. on April 22, 2018 the special local regulation applies to the navigable waters from Bluff Point on the southeastern side of Tiburon Peninsula to Point Campbell on the northern edge of Angel Island, and from Peninsula Point on the southern edge of Tiburon Peninsula to Point Stuart on the western edge of Angel Island.

Under the provisions of 33 CFR 100.1103, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the regulated area during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1103 and 5 U.S.C. 552(a). In addition to this notification in the **Federal Register**, the Coast Guard plans to provide the maritime community with extensive advance notification of the regulated area and its enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notification, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: April 12, 2018.

Anthony J. Ceraolo,

Captain, U.S. Coast Guard, Captain of the Port of San Francisco.

[FR Doc. 2018–08109 Filed 4–17–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0322]

RIN 1625–AA00

Safety Zone, Delaware River; Diving and Survey Operations; Marcus Hook, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is establishing a safety zone encompassing all navigable waters within a 250-yard radius of the Commerce Construction vessels and associated equipment conducting survey and diving operations in the Delaware River, and in the vicinity of Anchorage 7, near Marcus Hook, PA. The safety zone is needed to protect personnel, vessels, associated equipment, and the marine environment from potential hazards created by survey and diving operations. Entry of persons or vessels into this safety zone will be prohibited unless specifically authorized by the Captain of the Port Delaware Bay. We invite your comments on this rule.

DATES: This rule is effective from April 30, 2018 through June 30, 2018. Comments and related material must be received by the Coast Guard on or before May 18, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2018–0322 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Petty Officer Edmund Ofalt, Waterways Management Branch, U.S. Coast Guard Sector Delaware Bay; telephone (215) 271–4814, email *Edmund.J.Ofalt@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

APA Administrative Procedure Act
CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule due to the short time period between when Sector Delaware Bay received complete details of this operation, March 28, 2018, and the date when this safety zone needs to go into effect by. It is impracticable and contrary to the public interest to publish an NPRM before issuing this rule because we must establish the safety zone by April 30, 2018, to ensure the safety of personnel, vessels, associated equipment, and the marine environment from potential hazards created by survey and diving operations the Coast Guard is providing an opportunity to comment prior to the rule becoming effective and while the rule is in effect and may amend the rule after it is effective if necessary.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to mitigate hazards presented by survey and diving operations.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Delaware Bay (COTP) has determined that a safety zone is necessary to mitigate the hazards involving survey and diving operations. The safety zone covers all navigable waters within 250-yards of vessels and associated equipment being used by personnel to conduct survey and diving operations.

IV. Discussion of the Rule

This rule establishes a safety zone from April 30, 2018, through June 30, 2018. The safety zone will cover all navigable waters within 250-yards of survey and diving operation vessels, as well as any associated equipment, operating in Marcus Hook Anchorage No. 7 near Marcus Hook, PA, and within the Marcus Hook Range on the Delaware River. Diving and survey operations conducted within the anchorage will be in the southernmost portion of the anchorage on the eastern side adjacent to the New Jersey shoreline. The affiliated safety zone will restrict available anchorage grounds in the lower portion of Anchorage No. 7. During diving and survey operations conducted within navigable channel of the Marcus Hook Range, vessels will not be permitted to anchor within the southern portion of the anchorage as this section will be utilized to allow traffic to safely pass around the safety zone. Information on procedures for requesting permission to anchor, as well as any changes to traffic patterns, will be distributed to the maritime community via the methods stated below.

Notification regarding the specific location of the zone and any changes to traffic patterns will be sent to the maritime community via Broadcast Notice to Mariners and Marine Safety information Bulletins. Marine Safety Information Bulletins may be obtained from *https://homeport.uscg.mil/port-directory/delaware-bay* or by calling the Coast Guard Delaware Bay Command Center at 215–271–4807.

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 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on size, location and duration of the safety zone. The safety zone will impact a small designated area of Marcus Hook Anchorage No. 7 and the Marcus Hook Range on the Delaware River. During enforcement periods of the safety zone these impacts include restrictions to the location, type and size of vessels that may anchor in the Marcus Hook Anchorage. However, other anchorages in the Delaware River will remain fully operational as alternatives for vessel traffic. Vessel traffic will be able to safely transit around the safety zone. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16, Local Notice to Mariners, and Marine Safety Information Bulletin about 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 would 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 would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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

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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 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 made a preliminary determination 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 that will prohibit entry within 250-yards of survey and diving operation vessels, as well as any associated equipment, operating in Marcus Hook Anchorage No. 7 and Marcus Hook Range, on the Delaware River. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination 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.

VI. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. The Coast Guard may amend this temporary final rule if we receive comments from the public that indicate that a change is warranted. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

Documents mentioned in this temporary final rule as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard 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, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0322 to read as follows:

§ 165.T05–0322 Safety Zone, Delaware River; Diving and Survey Operations; Marcus Hook, PA.

(a) *Location.* The following areas are safety zones: All navigable waters within 250-yards of Commerce Construction crane barge KELLY and the towing vessel JOKER, as well as any associated equipment, operating in Marcus Hook Anchorage No. 7 or Marcus Hook Range, on the Delaware River.

(b) *Definitions.* (1) *Captain of the Port* means the Commander, Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) *Designated representative* means any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Delaware Bay, to assist with the enforcement of safety zones described in paragraph (a) of this section.

(c) *Regulations.* The general safety zone regulations found in subpart C of this part apply to the safety zones created by this section.

(1) Entry into or transiting within the zones is prohibited unless vessels obtain permission from the Captain of the Port via VHF–FM channel 16 or make satisfactory passing arrangements via VHF–FM channels 13 or 16 with the crane barge KELLY or towing vessel JOKER.

(2) Any vessel wishing to anchor within Marcus Hook Anchorage No. 7 is required to verify compliance with current temporary restrictions and requirements noted within the most current Sector Delaware Bay Marine Safety Information Bulletin. The most current Marine Safety Information Bulletin may be obtained at *https://homeport.uscg.mil/port-directory/delaware-bay* or by calling the Coast Guard Delaware Bay Command Center at 215–271–4807.

(3) All vessels authorized to enter or transit the zones must operate at the minimum safe speed necessary to maintain steerage and reduce wake.

(4) This section applies to all vessels except those engaged in law enforcement, aids to navigation servicing, and emergency response operations.

(d) *Enforcement periods.* This section will be enforced from April 30, 2018, through June 30, 2018.

Dated: April 12, 2018.

Scott E. Anderson,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2018–08110 Filed 4–17–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–2017; FRL–9975–70–Region 4]

Air Plan Approval; Florida; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notification of administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Florida state implementation plan (SIP). The regulations affected by this update have been previously submitted by Florida and approved by EPA. This update affects the materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective April 18, 2018.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, GA 30303; and the National Archives and Records Administration. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.* To view the materials at the Region 4 Office, EPA request that you email the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Lakeman can be reached via telephone at (404) 562–9043 or via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the proposed SIP revisions to EPA. Once these control measures and strategies are approved by EPA, and after notice and comment, they are incorporated into the federally-approved SIP and are identified in part 52 ''Approval and Promulgation of Implementation Plans,'' title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is ''incorporated by reference.'' This means that EPA has approved a given state regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows EPA and the public to monitor the extent to which a state implements a SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on proposed revisions containing new and/or revised state regulations. A submission from a state can revise one or more rules in their entirety or portions of rules, even change a single word. The state indicates the changes in the submission (such as, by using redline/strikethrough) and EPA then takes action on the requested changes. EPA establishes a docket for its actions using a unique Docket Identification Number. which is listed in each action. These dockets and the complete submission are available for viewing on *www.regulations.gov.*

On May 22, 1997, (62 FR 27968), EPA revised the procedures for incorporating by reference, into the Code of Federal Regulations, materials approved by EPA into each state SIP. These changes revised the format for the identification of the SIP in 40 CFR part 52, streamlined the mechanisms for announcing EPA approval of revisions to a SIP, and streamlined the mechanisms for EPA's updating of the IBR information contained for each SIP in 40 CFR part 52. The revised procedures also called for EPA to maintain ''SIP Compilations'' that contain the federally-approved regulations and source specific permits submitted by each state agency. These SIP Compilations are updated primarily on an annual basis. Under the revised procedures, EPA must periodically publish an informational document in the rules section of the **Federal Register** notifying the public that updates have been made to a SIP Compilation for a particular state. EPA applied the 1997 revised procedures to Florida on June 16, 1999 (64 FR 32346).

II. EPA Action

This action represents EPA's publication of the Florida SIP Compilation update, appearing in 40 CFR part 52: Specifically, the materials of paragraphs (c) and (d) at 40 CFR 52. In addition, notice is provided of correcting typographical errors, state effective dates, EPA approval dates and **Federal Register** citations listed in to Table (c) paragraph of paragraph 52.520, as described below:

A. Under the ''State effective date'' and ''EPA approval date'' changing the 2-digit year to reflect a 4-digit year (for consistency) and correcting numerous **Federal Register** citation to reflect the first page of the preamble opposed to the regulatory text page.

B. 62–204.220 Title is revised to read ''Ambient Air Quality Protection.''

C. 62–210.920 entry is removed from table. *See* 82 FR 46682

D. 62–244.100 State effective date is revised to read ''2/21/1990''.

E. 62–244.200 State effective date is revised to read ''2/21/1990''.

F. 62–244.300 State effective date is revised to read ''2/21/1990''.

G. 62–244.400 State effective date is revised to read ''2/21/1990''.

H. 62–244.500 State effective date is revised to read ''2/21/1990''.

I. 62–244.600 State effective date is revised to read ''2/21/1990''.

J. 62–296.509 entry is removed from table because EPA previously approved removal of the rule from the Florida SIP. *See* 74 FR 26103 (June 1, 2009).

III. Good Cause Exemption

EPA has determined that this action falls under the ''good cause'' exemption

in the section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs and corrects typographical errors appearing in the CFR. Under section 553(b)(3)(B) of the APA, an agency may find good cause where procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Public comment for this administrative action is ''unnecessary'' and ''contrary to the public interest'' since the codification (and typographical corrections) only reflect existing law. Immediate notice of this action in the **Federal Register** benefits the public by providing the public notice of the updated Florida SIP Compilation and notice of typographical corrections to the Florida ''Identification of Plan'' portion of the **Federal Register**. Further, pursuant to section 553(d)(3), making this action immediately effective benefits the public by immediately updating both the SIP compilation and the CFR ''Identification of plan'' section (which includes table entry corrections).

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of previously EPA-approved regulations promulgated by Florida and federally effective prior to October 1, 2017. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

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

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

EPA also believes that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. This is because prior EPA rulemaking actions for each individual component of the Florida SIP compilations previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA believes judicial review of this action under section 307(b)(1) is not available.

List of Subjects in 40 CFR Part 52

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

Dated: January 29, 2018.

Onis ''Trey'' Glenn, III

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart K–Florida

■ 2. In § 52.520, paragraphs (b) through (d) are revised to read as follows:

§ 52.520 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to October 1, 2017, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after October 1, 2017, for Florida will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State Implementation Plan as of the dates referenced in paragraph (b)(1) of this section.

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at 61 Forsyth Street SW, Atlanta, GA 30303. To obtain the material, please call (404) 562–9022. You may inspect the material with an EPA approval date prior to October 1, 2017, for Florida at the National Archives and Records Administration. For information on the availability of this material at NARA go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(c) *EPA Approved Florida Regulations.*

EPA APPROVED FLORIDA REGULATIONS

State citation (section)	Title/subject	State effective date	EPA approval date	Explanation
Chapter 62–204 Air Pollution Control—General Provisions				
62–204.100	Purpose and Scope	3/13/1996	6/16/1999, 64 FR 32353.	
62–204.200	Definitions	2/12/2006	6/27/2008, 73 FR 36435.	
62–204.220	Ambient Air Quality Protection	3/13/1996	6/16/1999, 64 FR 32346.	
62–204.240	Ambient Air Quality Standards	3/13/1996	6/16/1999, 64 FR 32346.	
62–204.260	Prevention of Significant Deterioration Maximum Allowable Increases (PSD Increments).	2/12/2006	6/27/2008, 73 FR 36435.	
62–204.320	Procedures for Designation and Redesignation of Areas.	3/13/1996	6/16/1999, 64 FR 32346.	
62–204.340	Designation of Attainment, Nonattainment, and Maintenance Areas.	3/13/1996	6/16/1999, 64 FR 32346.	
62–204.360	Designation of Prevention of Significant Deterioration Areas.	3/13/1996	6/16/1999, 64 FR 32346.	
62–204.400	Public Notice and Hearing Requirements for State Implementation Plan Revisions.	11/30/1994	6/16/1999, 64 FR 32353.	
62–204.500	Conformity	8/31/1998	8/11/2003, 68 FR 47468	Except for the incorporation by reference of 40 CFR 93.104(e) of the Transportation Conformity Rule.
Chapter 62–210 Stationary Sources—General Requirements				
62–210.200	Definitions	3/28/2012	10/6/2017, 82 FR 46682	Selected definitions are approved into the SIP.
62–210.220	Small Business Assistance Program.	10/6/08	7/3/2017, 82 FR 30767.	
62–210.300	Permits Required	5/9/2007	6/1/2009, 63 FR 26103.	
62–210.310	Air General Permits	6/29/2011	10/6/2017, 82 FR 46682.	
62–210.350	Public Notice and Comment	10/12/2008	10/6/2017, 82 FR 46682	Excludes revisions state effective February 11, 1999, which added 62–210.350(1)(c) avs 62–210.350(4)(a)2, and revised 62–210.350(4)(b).
62–210.360	Administrative Permit Corrections	11/23/1994	6/16/1999, 64 FR 32346.	
62–210.370	Emissions Computation and Reporting.	2/2/2006	6/27/2008, 73 FR 36435.	
62–210.550	Stack Height Policy	11/23/1994	6/16/1999, 64 FR 32346.	
62–210.650	Circumvention	10/15/1992	10/20/1994, 59 FR 52916.	
62–210.700	Excess Emissions	11/23/1994	6/16/1999, 64 FR 32346.	
62–210.900	Forms and Instructions	2/9/1993	11/7/1994, 59 FR 46157.	
Chapter 62–212 Stationary Sources—Preconstruction Review				
62–212.300	General Preconstruction Review Requirements.	6/29/2009	4/12/2011, 76 FR 20239.	
62–212.400	Prevention of Significant Deterioration.	3/28/2012	9/19/2012, 77 FR 58027	As of September 19, 2012, 61–212.400 does not include Florida's revision to adopt the $PM_{2.5}$ SILs threshold and provisions (as promulgated in the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC Rule at 40 CFR 52.21(k)(2)).
62–212.500	Preconstruction Review for Nonattainment Areas.	2/2/2006	6/27/2008, 73 FR 36435.	
62–212.720	Actuals Plantwide Applicability Limits (PALs).	12/17/2013	7/3/2017, 82 FR 30767.	

EPA APPROVED FLORIDA REGULATIONS—Continued

State citation (section)	Title/subject	State effective date	EPA approval date	Explanation
Chapter 62–243 Tampering With Motor Vehicle Air Pollution Control Equipment				
62–243.100 ...	Purpose and Scope	5/29/1990	6/9/1992, 57 FR 24370.	
62–243.200 ...	Definitions	1/2/1991	6/9/1992, 57 FR 24378.	
62–243.300 ...	Exemptions	1/2/1991	6/9/1992, 57 FR 24378.	
62–243.400 ...	Prohibitions	1/2/1991	6/9/1992, 57 FR 24378.	
62–243.500 ...	Certification	1/2/1991	6/9/1992, 57 FR 24378.	
62–243.600 ...	Enforcement	1/2/1991	6/9/1992, 57 FR 24378.	
62–243.700 ...	Penalties	5/29/1990	6/9/1992, 57 FR 24370.	
Chapter 62–244 Visible Emissions From Motor Vehicles				
62–244.100 ...	Purpose and Scope	2/21/1990	6/9/1992, 57 FR 24370.	
62–244.200 ...	Definitions	2/21/1990	6/9/1992, 57 FR 24370.	
62–244.300 ...	Exemptions	2/21/1990	6/9/1992, 57 FR 24370.	
62–244.400 ...	Prohibitions	2/21/1990	6/9/1992, 57 FR 24370.	
62–244.500 ...	Enforcement	2/21/1990	6/9/1992, 57 FR 24370.	
62–244.600 ...	Penalties	2/21/1990	6/9/1992, 57 FR 24370.	
Chapter 62–252 Gasoline Vapor Control				
62–252.300 ...	Gasoline Dispensing Facilities Stage I Vapor Recovery.	5/1/2015	8/12/2015, 80 FR 48259.	
Chapter 62–256 Open Burning and Frost Protection Fires				
62–256.100 ...	Declaration and Intent	12/09/1975	11/1/1977, 42 FR 57124.	
62–256.200 ...	Definitions	11/30/1994	6/16/1999, 64 FR 32346.	
62–256.300 ...	Prohibitions	11/30/1994	6/16/1999, 64 FR 32346.	
62–256.400 ...	Agricultural and Silvicultural Fires	7/1/1971	5/31/1972, 37 FR 10842.	
62–256.450 ...	Burning for Cold or Frost Protection.	6/27/1991	9/9/1994, 59 FR 46552.	
62–256.500 ...	Land Clearing	11/30/1994	6/16/1999, 64 FR 32346.	
62–256.600 ...	Industrial, Commercial, Municipal, and Research Open Burning.	7/1/1971	5/31/1972, 37 FR 10842.	
62–256.700 ...	Open Burning Allowed	11/30/1994	6/16/1999, 64 FR 32346.	
62–256.800 ...	Effective Date	7/1/1971	5/31/1972, 37 FR 10842.	
Chapter 62–296 Stationary Sources—Emission Standards				
62–296.100 ...	Purpose and Scope	10/6/2008	10/6/2017, 82 FR 46682.	
62–296.320 ...	General Pollutant Emission Limiting Standards.	3/13/1996	6/16/1999, 64 FR 32346.	
62–296.340 ...	Best Available Retrofit Technology	1/31/2007	8/29/2013, 78 FR 53250.	
62–296.401 ...	Incinerators	3/13/1996	6/16/1999, 64 FR 32346.	
62–296.402 ...	Sulfuric Acid Plants	3/13/1996	6/16/1999, 64 FR 32346.	
62–296.403 ...	Phosphate Processing	3/13/1996	6/16/1999, 64 FR 32346.	
62–296.404 ...	Kraft (Sulfate) Pulp Mills and Tall Oil Plants.	3/13/1996	6/16/1999, 64 FR 32346.	
62–296.405 ...	Fossil Fuel Steam Generators with more than 250 million Btu per Hour Heat Input.	3/2/1999	10/6/2017, 82 FR 46682.	
62–296.406 ...	Fossil Fuel Steam Generator with less than 250 million Btu per Hour Heat Input, New and Existing Emissions Units.	3/2/1999	10/6/2017, 82 FR 46682.	
62–296.408 ...	Nitric Acid Plants	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.409 ...	Sulfur Recovery Plants	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.410 ...	Carbonaceous Fuel Burning Equipment.	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.412 ...	Dry Cleaning Facilities	3/11/2010	10/6/2017, 82 FR 46682.	
62–296.414 ...	Concrete Batching Plants	1/10/2007	10/6/2017, 82 FR 46682.	
62–296.415 ...	Soil Thermal Treatment Facilities	3/13/1996	6/16/1999, 64 FR 32346.	
62–296.418 ...	Bulk Gasoline Plants	3/11/2010	10/6/2017, 82 FR 46682.	
62–296.470 ...	Implementation of Federal Clean Air Interstate Rule.	4/1/2007	10/12/07, 72 FR 58016.	
62–296.500 ...	Reasonably Available Control Technology (RACT)—Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X) Emitting Facilities.	3/11/2010	10/6/2017, 82 FR 46682.	

EPA APPROVED FLORIDA REGULATIONS—Continued

State citation (section)	Title/subject	State effective date	EPA approval date	Explanation
62–296.501 ...	Can Coating	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.502 ...	Coil Coating	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.503 ...	Paper Coating	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.504 ...	Fabric and Vinyl Coating	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.505 ...	Metal Furniture Coating	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.506 ...	Surface Coating of Large Appliances.	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.507 ...	Magnet Wire Coating	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.508 ...	Petroleum Liquid Storage	10/6/2008	10/6/2017, 82 FR 46682	Amendments effective 10/6/08.
62–296.510 ...	Bulk Gasoline Terminals	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.511 ...	Solvent Metal Cleaning	6/5/1996	01/16/2003, 68 FR 2204.	
62–296.512 ...	Cutback Asphalt	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.513 ...	Surface Coating of Miscellaneous Metal Parts and Products.	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.514 ...	Surface Coating of Flat Wood Paneling.	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.515 ...	Graphic Arts Systems	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.516 ...	Petroleum Liquid Storage Tanks with External Floating Roofs.	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.570 ...	Reasonably Available Control Technology (RACT)—Requirements for Major VOC and NO_X—Emitting Facilities.	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.600 ...	Reasonably Available Control Technology (RACT)—Lead.	3/13/1996	6/16/1999, 64 FR 32346.	
62–296.601 ...	Lead Processing Operations in General.	8/8/1994	9/18/1996, 61 FR 49064.	
62–296.602 ...	Primary Lead Acid Battery Manufacturing Operations.	3/13/1996	9/18/1996, 61 FR 49064.	
62–296.603 ...	Secondary Lead Smelting Operations.	8/8/1994	9/18/1996, 61 FR 49064.	
62–296.604 ...	Electric Arc Furnace Equipped Secondary Steel Manufacturing Operations.	8/8/1994	9/18/1996, 61 FR 49064.	
62–296.605 ...	Lead Oxide Handling Operations	8/8/1994	9/18/1996, 61 FR 49064.	
62–296.700 ...	Reasonably Available Control Technology (RACT)—Particulate Matter.	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.701 ...	Portland Cement Plants	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.702 ...	Fossil Fuel Steam Generators	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.703 ...	Carbonaceous Fuel Burners	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.704 ...	Asphalt Concrete Plants	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.705 ...	Phosphate Processing operations	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.706 ...	Glass Manufacturing Process	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.707 ...	Electric Arc Furnaces	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.708 ...	Sweat of Pot Furnaces	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.709 ...	Lime Kilns	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.710 ...	Smelt Dissolving Tanks	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.711 ...	Materials Handling, Sizing, Screening, Crushing and Grinding operations.	11/23/1994	6/16/1999, 64 FR 32346.	
62–296.712 ...	Miscellaneous Manufacturing Process Operations.	11/23/1994	6/16/1999, 64 FR 32346.	
Chapter 62–297 Stationary Sources—Emissions Monitoring				
62–297.310 ...	General Emissions Test Requirements.	3/9/2015	10/6/2017, 82 FR 46682.	
62–297.400 ...	EPA Methods Adopted by Reference.	11/23/1994	6/16/1999, 64 FR 32346.	
62–297.401 ...	Compliance Test Methods	3/13/1996	6/16/1999, 64 FR 32346.	
62–297.440 ...	Supplementary Test Procedures	11/23/1994	6/16/1999, 64 FR 32346.	
62–297.450 ...	EPA VOC Capture Efficiency Test Procedures.	3/2/1999	10/6/2017, 82 FR 46682.	
62–297.620 ...	Exceptions and Approval of Alternate Procedures and Requirements.	11/23/1994	6/16/1999, 64 FR 32346.	

EPA APPROVED FLORIDA REGULATIONS—Continued

State citation (section)	Title/subject	State effective date	EPA approval date	Explanation
State Statutes				
112.3143(4) ..	Voting Conflict	4/19/2012	7/30/2012, 77 FR 44485	To satisfy the requirements of sections 128 and 110(a)(2)(E)(ii).
112.3144	Full and Public Disclosure of Financial Interests.	4/19/2012	7/30/2012, 77 FR 44485	To satisfy the requirements of sections 128 and 110(a)(2)(E)(ii).
403.131	Injunctive relief, remedies	4/19/2012	7/30/2012, 77 FR 44485	To satisfy the requirements of section 110(a)(2)(G).
120.569	Decisions which affect substantial interests.	4/19/2012	7/30/2012, 77 FR 44485	To satisfy the requirements of section 110(a)(2)(G).

(d) *EPA-approved State Source-specific requirements.*

EPA-APPROVED FLORIDA SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanation
Harry S Truman, animal import center.	NA	11/26/1996	1/19/2000, 65 FR 2882.	
Martin Gas Sales, Inc	0570477–007–AC	1/17/2003	5/1/2003, 68 FR 23209.	
Broward County Aviation Department.	.....	8/15/2003	6/17/2003, 69 FR 33862 ..	Order Granting Variance from Rule 62–252.400.
Lockheed Martin Aeronautics Company.	.....	4/16/2005	11/28/2006, 71 FR 68745	Requirement that Lockheed Martin Aeronautics Company comply with EPA's Aerospace CTG at its Pinellas County facility.
Combs Oil Company	.....	7/31/2009	9/25/2015, 80 FR 57727 ..	Order Granting Variance from Rule 62–296.418(2)(b)2.
Mosaic Fertilizer, LLC	Air Permit No. 0570008–080–AC.	1/15/2015	7/3/2017, 82 FR 30749	Specific Conditions pertaining to: EU004; EU005; and EU006.
Rayonier Performance Fibers, LLC.	Air Permit No. 0890004–036–AC.	4/12/2012	7/3/2017, 82 FR 30749	Specific Conditions pertaining to: EU005; EU006; and EU022.
Tampa Electric Company—Big Bend Station.	Air Permit No. 0570039–074–AC.	2/26/2015	7/3/2017, 82 FR 30749	Specific Conditions pertaining to: EU001; EU002; EU003 and EU004.
WestRock, LLC	Air Permit No. 0890003–046–AC.	1/9/2015	7/3/2017, 82 FR 30749	Specific Conditions pertaining to: EU006; EU015; EU007 and EU011.

* * * * *

[FR Doc. 2018–07900 Filed 4–17–18; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1603

Requests for Documents and Testimony

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This final rule governs subpoenas and requests for LSC documents and testimony by non-federal litigants in cases in which LSC is not a party. This rule provides the public with guidance on where to send requests and establishes procedures by which those requests will be processed.

DATES: This final rule is effective on May 18, 2018.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, 202–295–1563, *sdavis@lsc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

LSC proposed to create a new regulation, known as a *Touhy* regulation, that would establish a process by which litigants in cases where LSC is not a party could obtain documents or testimony from LSC and its employees. Arising from the Supreme Court's decision in *U.S. ex rel Touhy* v. *Ragen,* 340 U.S. 462 (1951), *Touhy* regulations define agencies' procedures for responding to document or testimony requests, as well as individual agency employees' obligation to follow such procedures.

Between 2013 and 2017, LSC and its Office of the Inspector General (OIG) received several subpoenas and requests for testimony or documents but did not have internal or external guidance in place regarding such requests. At the OIG's recommendation, LSC added rulemaking on requests for documents and testimony to its rulemaking agenda in 2015. On October 15, 2017, the Operations and Regulations Committee (Committee) of LSC's Board of Directors (Board) voted to recommend that the Board authorize rulemaking on part 1603. On October 17, 2017, the Board authorized LSC to begin rulemaking.

Regulatory action was justified for four reasons. First, a *Touhy* regulation would promote efficiency and timeliness by identifying those LSC officials with the authority to respond to requests or subpoenas for documents or testimony and establishing a procedure for LSC's consideration of such requests. Second, it would minimize the possibility of involving LSC in controversies not related to its functions. Third, it would prevent the

misuse of LSC's employees as involuntary expert witnesses for private interests or as inappropriate expert witnesses as to the state of the law. Fourth, it would maintain LSC's impartiality toward private litigants.

On January 21, 2018, the Committee voted to recommend that the Board approve this notice of proposed rulemaking (NPRM) for publication. On January 23, 2018, the Board accepted the Committee's recommendation and voted to approve publication of this NPRM with a 30-day comment period. LSC published the notice of proposed rulemaking in the **Federal Register** on February 1, 2018, 83 FR 4827. The comment period remained open for thirty days and closed on March 5, 2018.

On April 8, 2018, the Committee voted to recommend that the Board adopt this Final Rule and approve its publication in the **Federal Register**. On April 10, 2018, the Board accepted the Committee's recommendation and voted to adopt and approve publication of this final rule.

Materials regarding this rulemaking are available in the open rulemaking section of LSC's website at *http://www.lsc.gov/about-lsc/laws-regulations-guidance/rulemaking.* After the effective date of the rule, those materials will appear in the closed rulemaking section at *http://www.lsc.gov/about-lsc/laws-regulations-guidance/rulemaking/closed-rulemaking.*

II. Discussion of the Final Rule

LSC received no comments on the proposed rule. Consequently, LSC is adopting the text of the proposed rule published in the **Federal Register** at 83 FR 4827 with minor revisions. At the Operations and Regulations Committee meeting on April 8, 2018, the Committee recommended that LSC make two technical changes. The first was to include language in the definition of *employee* to make clear that this rule applies to non-Director members of Board committees. The second was to add language to § 1603.4(a) clarifying that individuals seeking testimony from an employee of OIG must follow the procedures in § 1603.4(b) for requesting testimony from the OIG Legal Counsel, rather than submitting the request to LSC's General Counsel. LSC Management concurred with the recommendations and revised the proposed final rule text accordingly.

In a final rule published elsewhere in this issue of the **Federal Register**, LSC is removing the existing version of part 1603 pertaining to state advisory councils. LSC is replacing it with this regulation.

List of Subjects in 45 CFR Part 1603

Administrative practice and procedure; Archives and records; Courts.

■ For the reasons discussed in the preamble, the Legal Services Corporation adds CFR part 1603 to read as follows:

PART 1603—TESTIMONY BY EMPLOYEES AND PRODUCTION OF DOCUMENTS IN PROCEEDINGS WHERE THE UNITED STATES IS NOT A PARTY

Sec.

1603.1 Scope, purpose, and applicability.
1603.2 Definitions.
1603.3 What is LSC's policy on presentation of testimony and production of documents?
1603.4 How does a person request voluntary testimony from an employee?
1603.5 How will LSC respond to a request for expert testimony from an employee?
1603.6 How will LSC respond to a subpoena for documents?
1603.7 When will LSC certify the authenticity of records?
1603.8 Does this part give individuals any rights?

Authority: 42 U.S.C. 2996g(e).

§ 1603.1 Scope, purpose, and applicability.

(a) This part sets forth rules to be followed when a litigant requests an employee of the Legal Services Corporation (LSC), including LSC's Office of the Inspector General (OIG), to provide testimony in a deposition, trial, or other similar proceeding concerning information acquired in the course of performing official duties or because of such person's official capacity with LSC. This part also sets forth procedures for the handling of subpoenas for documents and other requests for documents in the possession of LSC or the OIG, and for the processing of requests for certification of copies of documents.

(b) It is LSC's policy to provide information, data, and records to non-federal litigants to the same extent and in the same manner that they are made available to the public. When subject to the jurisdiction of a court or other tribunal presiding over litigation between non-federal parties, LSC will follow all applicable procedural and substantive rules relating to the production of information, data, and records by a non-party. The availability of LSC employees to testify in litigation not involving federal parties is governed by LSC's policy to maintain strict impartiality with respect to private litigants and to minimize the disruption of official duties.

(c) This part applies to state, local, and tribal judicial, administrative, and legislative proceedings, and to federal judicial and administrative proceedings.

(d) This part does not apply to:

(1) Any civil or criminal proceedings to which LSC is a party.

(2) Congressional requests or subpoenas for testimony or documents.

(3) Consultative services and technical assistance provided by LSC in carrying out its normal program activities.

(4) Employees serving as expert witnesses in connection with professional and consultative services as approved outside activities. In cases where employees are providing such outside services, they must state for the record that the testimony represents their own views and does not necessarily represent the official position of LSC.

(5) Employees making appearances in their private capacity in legal or administrative proceedings that do not relate to LSC, such as cases arising out of traffic accidents, crimes, domestic relations, etc., and not involving professional and consultative services.

(6) Any civil or criminal proceedings in State court brought on behalf of LSC.

(7) Any criminal proceeding brought as a result of a referral for prosecution by the OIG or by any other Inspector General in connection with a case worked jointly with the OIG.

§ 1603.2 Definitions.

(a) *Certify* means to authenticate official LSC documents.

(b) *Employee* means current and former LSC employees, including temporary employees, OIG employees, and members of the Board of Directors and its Committees.

(c) *LSC* means the Legal Services Corporation. Unless explicitly stated otherwise, LSC includes the OIG.

(d) *Testify* and *testimony* include in-person, oral statements before a court, legislative or administrative body and statements made pursuant to depositions, interrogatories, declarations, affidavits, or other formal participation.

§ 1603.3 What is LSC's policy on presentation of testimony and production of documents?

In any proceedings to which this part applies, no employee may provide testimony or produce documents concerning information acquired in the course of performing official duties or because of the person's official relationship with LSC unless authorized by the General Counsel or the OIG Legal Counsel pursuant to this part based on

his or her determination that compliance with the request would promote LSC's objectives.

§ 1603.4 How does a person request voluntary testimony from an employee?

(a) All requests for testimony by an employee in his or her official capacity, except employees of OIG described in paragraph (b) of this section, and not subject to the exceptions set forth in § 1603.1(d) of this part must be in writing and addressed to the General Counsel.

(b) All requests for testimony by an employee of the OIG must be in writing and addressed to the OIG Legal Counsel.

(c) Requests must state the nature of the requested testimony, why the information sought is unavailable by any other means, and the reasons why the testimony would be in the interest of LSC.

§ 1603.5 How will LSC respond to a request for expert testimony from an employee?

No employee shall serve as an expert witness in any proceeding described in § 1603.1(c) of this part or before a court or agency of the United States unless the General Counsel or the OIG Legal Counsel authorizes the employee's participation.

§ 1603.6 How will LSC respond to a subpoena for documents?

(a) Whenever a subpoena commanding the production of any LSC record has been served upon an employee, the employee shall refer the subpoena to the General Counsel or the OIG Legal Counsel, as appropriate. The General Counsel or the OIG Legal Counsel shall determine whether the subpoena is legally sufficient, whether the subpoena was properly served, and whether the issuing court or other tribunal has jurisdiction over LSC. If the General Counsel or the OIG Legal Counsel determines that the subpoena satisfies all three factors, LSC shall comply with the terms of the subpoena unless LSC takes affirmative action to modify or quash the subpoena in accordance with Fed. R. Civ. P. 45 (c).

(b) If a subpoena commanding the production of any record served upon an employee is determined by the General Counsel or the OIG Legal Counsel to be legally insufficient, improperly served, or from a tribunal not having jurisdiction, LSC shall deem the subpoena a request for records under the Freedom of Information Act. LSC shall handle the subpoena pursuant to the rules governing public disclosure established in 45 CFR part 1602.

(c) If the General Counsel or the OIG Legal Counsel denies approval to comply with a subpoena for testimony or has not acted by the return date, the employee will be directed to appear at the stated time and place, unless advised by the General Counsel or the OIG Legal Counsel that responding to the subpoena would be inappropriate. The employee will be directed to produce a copy of these regulations and respectfully decline to testify or produce any documents on the basis of these regulations.

§ 1603.7 When will LSC certify the authenticity of records?

Upon request, LSC will certify the authenticity of copies of records that are to be disclosed. The requesting party will be responsible for reasonable fees for copying and certification.

§ 1603.8 Does this part give individuals any rights?

This part is intended only to provide a process for receipt and processing of private litigants' requests for LSC documents and testimony. It does not, and may not be relied upon, to create a right or benefit, substantive or procedural, enforceable at law by a party against LSC.

Dated: April 11, 2018.

Stefanie Davis,

Assistant General Counsel.

[FR Doc. 2018–07964 Filed 4–17–18; 8:45 am]

BILLING CODE 7050–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[WT Docket No. 10–4; FCC 18–35]

Improvement of Wireless Coverage Through the Use of Signal Boosters

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission takes further steps to expand access to signal boosters by removing the personal use restriction on Provider-Specific Consumer Signal Boosters, thereby allowing small businesses, public safety entities, and other organizations to take advantage of the signal boosters' benefits. Specifically, whereas the existing rules restricted Provider-Specific Consumer Signal Boosters to personal use, the Commission will now permit any subscriber—an individual or a non-individual—with a proper registration to use these boosters. This approach will have cognizable public interest benefits by permitting more entities to take advantage of the recognized benefits of Provider-Specific Consumer Signal Boosters.

DATES: Effective May 18, 2018.

FOR FURTHER INFORMATION CONTACT: Amanda Huetinck at *Amanda.huetinck@fcc.gov,* of the Wireless Telecommunications Bureau, Mobility Division, (202) 418–7090.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order* (*Second Report and Order*) in WT Docket No. 10–4, FCC 18–35, released on March 23, 2018. The complete text of the *Second Report and Order,* including all Appendices, is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW, Room CY–A157, Washington, DC 20554, or by downloading the text from the Commission's website at *https://apps.fcc.gov/edocs_public/attachmatch/FCC-18-35A1.pdf.*

Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *FCC504@fcc.gov* or calling the Consumer and Government Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

The Commission will send a copy of the *Second Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

I. Second Report and Order

1. The Commission's Consumer Signal Booster rules, adopted in a 2013 *Report and Order* (WT Docket No. 10–4) (*Report and Order*), 78 FR 21555, Apr. 11, 2013, appear to have achieved the Commission's goals of expanding Americans' access to well-designed boosters that do not harm wireless providers' networks. The rules adopted in the *Report and Order,* however, were conservatively designed and tailored to meet the needs of individual consumers. Given the record developed in the proceeding, the Commission finds that it can expand the availability of Consumer Signal Boosters without creating a risk of unacceptable interference. Accordingly, in its *Second Report and Order,* the Commission further expands access to signal boosters by eliminating a restriction on their use that the Commission now finds unnecessary. Specifically, based on the record before it, the Commission removes the personal use restriction on the operation of Provider-Specific Consumer Signal Boosters so that small businesses, public safety entities, and other organizations also may take full

advantage of these boosters to improve their access to quality wireless coverage. In an accompanying *Second Further Notice of Proposed Rulemaking,* published elsewhere in this issue of the **Federal Register**, the Commission proposes to remove the personal use restriction for Wideband Consumer Signal Boosters as well.

2. The Commission in the *Report and Order* required that prior to operating a Consumer Signal Booster, the subscriber, inter alia, must (1) obtain the consent of the licensee providing service to the subscriber, and (2) register the booster with the licensee providing service to the subscriber. These requirements help ensure that wireless providers retain sufficient control over signal boosters to avoid a violation of Section 310(d) of the Communications Act and are key components to the success of the Consumer Signal Booster regulatory regime. Coupled with § 20.21(e)'s Network Protection Standard (NPS), these requirements have ensured that signal boosters are effective at improving signal coverage without causing harmful interference to wireless networks.

3. The Commission originally included the personal use restriction on Consumer Signal Booster operation and use in the expectation that it would help support a streamlined process for meeting the consent and registration requirements. In particular, by restricting operation to the subscriber's personal use, the Commission ensured that consumers need only obtain consent from and register their devices with the wireless provider to which they subscribe. For example, if a subscriber plans to use his booster with only his own provider for his own personal use, he would need only register with that provider. Or, if he and a housemate plan to use the same booster with two different wireless providers (his provider and the housemate's different provider), each would need to register with his own provider.

4. In a *Further Notice of Proposed Rulemaking* released on September 23, 2014 (WT Docket No. 10–4) (*Further NPRM*), 79 FR 70837, Nov. 28, 2014, the Commission explained that, because a Provider-Specific Consumer Signal Booster operates only on a single wireless provider's spectrum, once the subscriber has obtained provider consent to use the signal booster, any transmission from the signal booster would be authorized. The Commission therefore questioned whether the personal use restriction remains necessary for Provider-Specific Consumer Signal Boosters. The *Further NPRM* specifically asked whether the Commission should eliminate the personal use restriction for Provider-Specific Consumer Signal Boosters, and it sought comment on several related questions. Commenters responding to the *Further NPRM* overwhelmingly supported elimination of the personal use restriction for Provider-Specific Consumer Signal Boosters.

5. As described below, the Commission finds that the personal use restriction on Provider-Specific Consumer Signal Boosters is unnecessary and that removing it is in the public interest. The Commission therefore amends § 20.21 to remove this restriction. The action the Commission takes will expand access to signal boosters for small businesses, public safety entities using subscriber-based services in support of their operations, and other organizations, furthering the goals the Commission first set out to achieve in the *Report and Order.* When these rule changes take effect, once a subscriber—whether an individual or a non-individual—properly registers its Provider-Specific Consumer Signal Booster with its provider, anyone who subscribes to that provider also may use the device. For example, if a small business owner registers her Provider-Specific Consumer Signal Booster with and receives the consent of her wireless provider, any employees or customers who subscribe to that same provider would then be free to use that booster without registering. The Commission reiterates that the registering subscriber is an ''operator'' under its rules and as such must adhere to the requirements of its rules.

6. In adopting this change, the Commission concludes that the personal use restriction on Provider-Specific Consumer Signal Boosters is not needed to prevent unauthorized operation of these boosters or to ensure compliance with its signal booster rules. As stated in the *Further NPRM* and explained above, the fact that a subscriber must register his Provider-Specific Consumer Signal Booster with his provider renders the personal use restriction unnecessarily restrictive. As Nextivity points out, ''[a]s required by the Commission's rules and implemented in the equipment certification process, Provider-Specific Consumer Signal Boosters can only be used with an appropriate carrier registration and therefore the carrier always retains control over the Provider-Specific Consumer Signal Booster. . . . In no instance can a Provider-Specific Consumer Signal Booster be used to operate on spectrum without the carrier's consent.''

7. In addition to concluding that the personal use restriction on Provider-Specific Consumer Signal Boosters is unnecessary, the Commission also finds that modifying its rules as described in its *Second Report and Order* will affirmatively further the public interest. As T-Mobile explains, ''[t]here are numerous practical considerations that favor the use of a provider-specific consumer booster in a non-personal use setting. For example, a small business may need to install a booster to improve signal strength within its office.'' The inclusion of the personal use restriction on Provider-Specific Consumer Signal Boosters, however, prevents such use and blocks whole segments of the public—*e.g.,* small businesses, institutions of higher education, office parks, factories, warehouses, and government buildings—from taking advantage of the boosters' benefits. As T-Mobile also notes, ''[t]he only options available to such [small businesses and others] would be to deploy an industrial signal booster, switch carriers, or continue to endure indoor coverage issues.'' The Commission also agrees with Nextivity that retaining the restriction on Provider-Specific Consumer Signal Boosters ''denies a significant segment of the American business sector from fully participating in the nation's wireless transformation. Further, the prohibition disproportionality penalizes small business users in rural and edge areas and dense indoor urban environments where wireless coverage often is especially challenged.''

8. Accordingly, based on the record before it, the Commission eliminates the personal use restriction on Provider-Specific Consumer Signal Boosters. Not only is this restriction unnecessary, but its removal will have cognizable public interest benefits by permitting more entities to take advantage of the recognized benefits of Provider-Specific Consumer Signal Boosters.

II. Procedural Matters

A. Paperwork Reduction Act Certification

9. The *Second Report and Order* does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, the *Second Report and Order* does not contain any new or modified information collection burdens for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). The Final Regulatory

Flexibility Certification (FRFC) is in Appendix C of the *Second Report and Order.*

B. Congressional Review Act

10. The Commission will send a copy of the *Second Report and Order* to Congress and the Government Accountability Office pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Second Report and Order,* including the FRFA, to the Chief Counsel for Advocacy of the SBA (5 U.S.C. 603(a)).

C. Final Regulatory Flexibility Analysis

11. The Regulatory Flexibility Act of 1980 (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared a FRFC, set forth in Appendix C of the *Second Report and Order,* concerning the possible impact of the rule changes.

D. Ex Parte Presentations

12. This proceeding shall continue to be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the Commission's Electronic Comment Filing System (ECFS) available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

13. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

III. Ordering Clauses

14. Accordingly, *it is ordered,* pursuant to Sections 1, 4(i), 4(j), 7, 301, 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157, 301, 302, and 303, that the *Second Report and Order* in WT Docket No. 10–4 *is adopted.*

15. *It is further ordered* that part 20 of the Commission's rules, 47 CFR part 20, *is amended* as specified in Appendix A of the *Second Report and Order.*

16. *It is further ordered* that the adopted rules *will become effective* 30 days after the date of publication in the **Federal Register**.

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

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

List of Subjects in 47 CFR Part 20

Communications common carriers, Communications equipment, Radio.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 20 as follows:

PART 20—COMMERCIAL MOBILE SERVICES

■ 1. The authority citation for part 20 continues to read as follows:

Authority: 47 U.S.C. 151, 152(a) 154(i), 157, 160, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332, 610, 615, 615a, 615b, 615c, unless otherwise noted.

■ 2. Amend § 20.3 by revising the definition of *Consumer Signal Booster* to read as follows:

§ 20.3 Definitions.

* * * * *

Consumer Signal Booster. A bi-directional signal booster that is marketed and sold for use without modification.

* * * * *

■ 3. Amend § 20.21 by:
■ a. Revising paragraph (a) introductory text;
■ b. Removing ''and'' from the end of paragraph (a)(5);
■ c. Removing the period at the end of paragraph (a)(6) and adding ''; and'' in its place;
■ d. Adding paragraph (a)(7); and
■ e. Revising paragraph (g).

The revisions and addition read as follows:

§ 20.21 Signal boosters.

(a) *Operation of Consumer Signal Boosters.* A subscriber in good standing of a commercial mobile radio service system may operate a Consumer Signal Booster under the authorization held by the licensee providing service to the subscriber provided that the subscriber complies with paragraphs (a)(1) through (7) of this section. Failure to comply with all applicable rules in this section and all applicable technical rules for the frequency band(s) of operation voids the authority to operate the Consumer Signal Booster.

* * * * *

(7) If operating a Wideband Consumer Signal Booster, the subscriber operates it only for personal use.

* * * * *

(g) *Marketing and sale of signal boosters.* Except as provided in § 2.803 of this chapter, no person, manufacturer, distributor, or retailer may market (as defined in § 2.803 of this chapter) any Consumer Signal Booster that does not comply with the requirements of this section to any person in the United States or to any person intending to operate the Consumer Signal Booster within the United States. Wideband Consumer

Signal Boosters may only be sold to members of the general public for their personal use.

* * * * *

[FR Doc. 2018–08031 Filed 4–17–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards

CFR Correction

■ In Title 49 of the Code of Federal Regulations, Parts 400 to 571, revised as of October 1, 2017, on page 982, in § 571.217, the first Figure 3D is removed, and on page 983, Figure 4 is reinstated to read as follows:

§ 571.217 Standard No. 217; Bus emergency exits and window retention and release.

* * * * *

BILLING CODE 1301–00–D

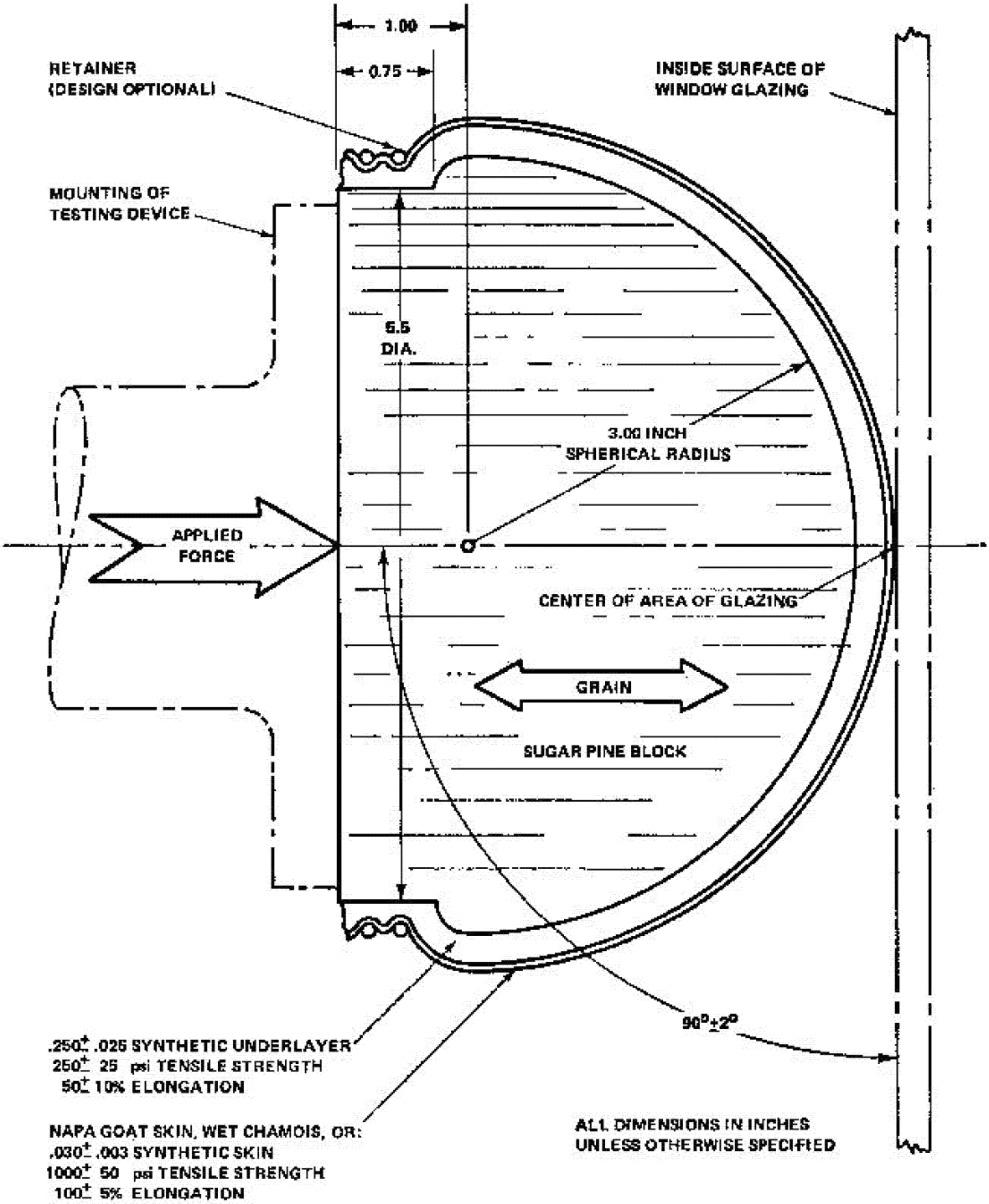

FIGURE 4 HEAD FORM

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[FR Doc. 2018–08196 Filed 4–17–18; 8:45 am]

BILLING CODE 1301–00–C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2016–0138; FXES11130900000 178 FF09E42000]

RIN 1018–BB91

Endangered and Threatened Wildlife and Plants; Removal of the Lesser Long-Nosed Bat From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Under the authority of the Endangered Species Act of 1973, as amended, we, the U.S. Fish and Wildlife Service, are removing the lesser long-nosed bat *(Leptonycteris curasoae yerbabuenae*) from the Federal List of Endangered and Threatened Wildlife due to recovery. This determination is based on a thorough review of the best available scientific and commercial information, which indicates that the threats to this subspecies have been eliminated or reduced to the point that the subspecies has recovered and no longer meets the definition of endangered or threatened under the Act.

DATES: The rule is effective May 18, 2018.

ADDRESSES: *Copies of documents:* This final rule and supporting documents, including the Species Status Assessment (SSA) are available on *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0138. In addition, the supporting file for this final rule will be available for public inspection, by appointment, during normal business hours, at the Arizona Ecological Services Field Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, AZ 85021.

FOR FURTHER INFORMATION CONTACT: Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, AZ 85021; by telephone (602–242–0210); or by facsimile (602–242–2513). If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*), a species may be added to the Lists of Endangered and Threatened Wildlife and Plants if it is endangered or threatened throughout all or a significant portion of its range. Adding a species to (''listing'') or removing a species from these Lists (''delisting'') can only be accomplished by issuing a rule.

What this document does. This rule makes final the removal of the lesser long-nosed bat *(Leptonycteris curasoae yerbabuenae)* from the Federal List of Endangered and Threatened Wildlife.

The basis for our action. Under the ESA, we can determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We may delist a species if the best available scientific and commercial data indicate that the species is neither endangered or threatened. We have determined that the lesser-long nosed bat has recovered and no longer meets the definition of endangered or threatened under the Act.

Peer review and public comment. We sought comments on both the SSA and the proposed delisting rule from independent specialists to ensure that this rule is based on scientifically sound data, assumptions, and analyses. We also considered all comments and information received during the comment period.

Previous Federal Actions

In carrying out our responsibility to enforce the Endangered Species Act of 1973, as amended (ESA or Act; 16 U.S.C. 1531 *et seq.*), we, the U.S. Fish and Wildlife Service (Service), maintain the Lists of Endangered and Threatened Wildlife and Plants in title 50 of the Code of Federal Regulations. On September 30, 1988, we published a final rule in the **Federal Register** (53 FR 38456) to add the Mexican long-nosed bat (*Leptonycteris nivalis*) and Sanborn's long-nosed bat (*Leptonycteris sanborni* (=*L. yerbabuenae*)) as endangered species to the Federal List of Endangered and Threatened Wildlife (List). That rule became effective on October 31, 1988. In 1993, we amended the List by revising the entry for the Sanborn's long-nosed bat to ''Bat, lesser (=Sanborn's) long-nosed'' with the scientific name ''*Leptonycteris curasoae yerbabuenae.*'' We issued a recovery plan for the lesser long-nosed bat on March 4, 1997.

In 2001, we revised the entry for the lesser long-nosed bat to remove the synonym of ''Sanborn's''; consequently, the listing reads, ''Bat, lesser long-nosed'' and retains the scientific name ''*Leptonycteris curasoae yerbabuenae.*'' Cole and Wilson (2006) recommended that *L. c. yerbabuenae* be recognized as *Leptonycteris yerbabuenae.* Additionally, Wilson and Reeder's (2005) ''Mammal Species of the World (Third Edition), an accepted standard for mammalian taxonomy, also indicates that *L. yerbabuenae* is a species distinct from *L. curasoae.* Currently, the most accepted and currently used classification for the lesser long-nosed bat is *L. yerbabuenae;* however, the Service continues to classify the listed entity as *Leptonycteris curasoae yerbabuenae.* On August 30, 2007, we completed a 5-year review, in which we recommended reclassifying the species from endangered to threatened status (*i.e.,* ''downlisting'') under the Act (Service 2007; available online at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0138 or *https://www.fws.gov/southwest/es/arizona/Lesser.htm*). We recommended, as part of the status review, that the Service recognize and change the taxonomic nomenclature for the lesser long-nosed bat to be consistent with the most recent classification of this species, *L. yerbabuenae.* However, because we are removing the lesser long-nosed bat from the List (*i.e.,* ''delisting'' the species), this recommendation is moot. Please note that, throughout this rule, we continue to refer to the lesser long-nosed bat as a subspecies.

The recommendation to downlist the species in the 5-year review was made because information generated since the listing of the lesser long-nosed bat indicated that the subspecies was not in imminent danger of extinction throughout all or a significant portion of its range (higher population numbers, increased number of known roosts, reduced impacts from known threats, and improved protection status) and thus, did not meet the definition of endangered. On July 16, 2012, we received a petition from The Pacific Legal Foundation and others requesting that, among other reclassification actions, the Service downlist the lesser long-nosed bat as recommended in the 5-year review. On September 9, 2013, the Service published a 90-day petition finding under the Act stating that the

petition contained substantial scientific or commercial information indicating the petitioned action (*i.e.,* downlisting) for the lesser long-nosed bat may be warranted (78 FR 55046).

On November 28, 2014, the Service received a ''60-day Notice of Intent to Bring Citizen Suit.'' On November 20, 2015, the New Mexico Cattle Growers Association and others filed a complaint challenging the Service's failure to complete the 12-month findings on five species, including the lesser long-nosed bat (*New Mexico Cattle Growers Association, et al.* v. *United States Department of the Interior, et al.,* No. 1:15–cv–01065–PJK–LF (D.N.M)). Plaintiffs asked the Court to compel the Service to make 12-month findings on the five species. The parties settled the lawsuit with the requirement that the Service submit a 12-month finding for the lesser long-nosed bat to the Office of the Federal Register for publication on or before December 30, 2016, among other obligations not related to the lesser long-nosed bat. On January 6, 2017, the Service published in the **Federal Register** a proposed rule (82 FR 1665) and 12-month petition finding and request for comments to remove the lesser long-nosed bat from the Federal List of Endangered and Threatened Wildlife.

Summary of Changes From the Proposed Rule

We have not made any substantive changes in this final rule based on the comments that we received during the public comment period on the January 6, 2017, proposed rule (82 FR 1665). Based on peer review, State, and public comments, we added text and information to clarify some language in the SSA and the proposed rule that has been incorporated into this final rule as discussed below in the Summary of Comments and Recommendations.

Species Information

A thorough review of the taxonomy, life history, ecology, and overall viability of the lesser long-nosed bat is presented in the SSA report for the lesser long-nosed bat (Service 2017), which is available online at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0138 or *https://www.fws.gov/southwest/es/arizona/Lesser.htm,* or in person at the Arizona Ecological Services Field Office (see **ADDRESSES**, above). The SSA report documents the results of the biological status review for the lesser long-nosed bat and provides an account of the subspecies' overall viability through forecasting of the subspecies' condition in the future (Service 2017; entire). In the SSA report, we summarize the relevant biological data and a description of past, present, and likely future stressors to the subspecies, and conduct an analysis of the viability of the subspecies. The SSA report provides the scientific basis that informs our regulatory determination regarding whether this subspecies should be listed as an endangered or a threatened species under the Act. This determination involves the application of standards within the Act, its implementing regulations, and Service policies to the scientific information and analysis in the SSA.

The following discussion is a summary of the results and conclusions from the SSA report. The Service invited a group of experts to provide input as the draft SSA report was being developed. These experts included lesser long-nosed bat biologists, as well as experts in climate change modeling and plant phenology (the scientific study of periodic biological phenomena, such as flowering, in relation to climatic conditions). Following development of the draft SSA, and in compliance with our policy, ''Notice of Interagency Cooperative Policy for Peer Review of Endangered Species Act Activities,'' which was published on July 1, 1994 (59 FR 34270), we solicited peer reviews on the draft SSA report from four objective and independent scientific experts in November 2016 and received responses from two peer reviewers.

The lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae)* is one of three nectar-feeding bats in the United States; the others are the Mexican long-nosed bat (*L. nivalis*) and the Mexican long-tongued bat (*Choeronycteris mexicana*). The lesser long-nosed bat is a migratory pollinator and seed disperser that provides important ecosystem services in arid forest, desert, and grassland systems throughout its range in the United States and Mexico, contributing to healthy soils, diverse vegetation communities, and sustainable economic benefits for communities. The range of the lesser long-nosed bat extends from the southwestern United States southward through Mexico.

Following listing of the lesser long-nosed bat, recovery activities were based on the U.S. recovery plan (Service 1997, entire) and the Program for the Conservation of Migratory Bats in Mexico, which was formed in 1994 (Bats 1995, pp. 1–6). The primary recovery actions outlined in the recovery plan were to monitor and protect known roost sites and foraging habitats. Because the lesser long-nosed bat is a colonial roosting species known to occur at a limited number of roosts across its range in Mexico and the United States (Arizona and New Mexico), impacts at roost locations could have a significant impact on the population, particularly if the impacts occur at maternity roosts. However, because approximately 60 percent (8 out of 14) of the roost locations known at the time of listing were on ''protected'' lands in both the United States and Mexico, the degree of threat from impacts to roost locations was determined in our SSA to be moderate. For example, as stated in the proposed rule, approximately 75 percent of this species in the United States is on federally managed lands where there are guidelines and management plans (Land and Resource Management Plans, Resource Management Plans, Integrated Natural Resource Management Plans, etc.) that include actions and measures that contribute to the protection of lesser long-nosed bats and their habitat.

The Service's 5-year review recommended downlisting from endangered to threatened status (Service 2007; available at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0138 or *https://www.fws.gov/southwest/es/arizona/Lesser.htm*). The 5-year review, indicated that information generated since the listing of the bat indicated that it was not in imminent danger of extinction throughout all or a significant portion of its range and thus, would not meet the definition of endangered. In Mexico, the lesser long-nosed bat was removed from that nation's equivalent of the endangered species list in 2013 (SEMARNAT 2010, entire; Medellin and Knoop 2013, entire). Between 1990 and 2010, Mexican researchers carried out a wide range of studies that demonstrated that the lesser long-nosed bat was no longer in the critical condition that led it to be listed as in danger of extinction in Mexico. Specifically, the evaluation to delist in Mexico showed (1) the distribution of lesser long-nosed bats is extensive within Mexico, covering more than 40 percent of the country; (2) the extent and condition of lesser long-nosed bat habitat is only moderately limiting and this species has demonstrated that it is adaptable to varying environmental conditions; (3) the species does not exhibit any particular characteristics that make it especially vulnerable; and (4) the extent of human impacts is average and increased education, outreach, and research have reduced the occurrence of human impacts and disturbance.

Subspecies Description and Needs

The lesser long-nosed bat is a migratory bat characterized by a resident subpopulation that remains year round in southern Mexico to mate and give birth, and a migratory subpopulation that winters and mates in central and southern Mexico, but that migrates north in the spring to give birth in northern Mexico and the southwestern United States (Arizona). This migratory subpopulation then obtains the necessary resources in Arizona and New Mexico to be able to migrate south in the fall back to central and southern Mexico. The lesser long-nosed bat is a nectar, pollen, and fruit-eating bat that depends on a variety of flowering plants as food resources. These plants include columnar cacti, agaves, and a variety of flowering deciduous trees. The lesser long-nosed bat is a colonial roosting species that roosts in groups ranging from a few hundred to over 100,000. Roost sites are primarily caves, mines, and large crevices with appropriate temperatures and humidity; reduced access to predators; free of disease-causing organisms (fungus that causes white-nose syndrome, etc.); limited human disturbance; structural integrity; in a diversity of locations to provide for maternity, mating, migration, and transition roost sites.

The primary life-history needs of this subspecies include appropriate and adequately distributed roosting sites; adequate forage resources for life-history events such as mating and birthing; and adequate roosting and forage resources in an appropriate configuration (a ''nectar trail'') to complete migration between southern Mexico and northern Mexico and the United States.

For more information on this topic, see chapter 2 of the SSA Report (Service 2017), which is available online at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0138 or *https://www.fws.gov/southwest/es/arizona/Lesser.htm,* or in person at the Arizona Ecological Services Field Office (see **ADDRESSES**, above).

Current Conditions

For the last 20 years, following the completion of the lesser long-nosed bat recovery plan, there has been a steadily increasing effort related to the conservation of this subspecies. In addition, better methods of monitoring have been developed, such as the use of infrared videography and radio telemetry. These monitoring efforts have led to an increase in the number of known roosts throughout its range, from approximately 14 known at the time of listing to approximately 75 currently known roost sites. Additionally, these monitoring efforts have led to more accurate assessments of the numbers of lesser long-nosed bats using these roosts. The 1988 listing rule emphasized low population numbers along with an apparent declining population trend. At the time of listing, 1,000 lesser long-nosed bats were estimated rangewide. Since then, we have documented increased lesser long-nosed bat numbers and positive trends (stable or increasing numbers of bats documented over the past 20 years) at most roosts. The current estimate is now more than 200,000 bats rangewide. While this may, in large part, reflect a better approach to survey and monitoring in subsequent years, it gives us better information upon which to evaluate the status of the lesser long-nosed bat population.

A number of lesser long-nosed bat publications have population estimates that far exceed those known at the time of listing (Fleming et al. 2003; Sidner and Davis 1988). Although population estimates and roost count numbers fluctuate from year to year, the numbers of lesser long-nosed bats estimated from 2010 through 2015 in the three known maternity roosts in the United States were an average of two and a half times higher than those known in the late 1990s (Service 2017; p. 10). Furthermore, protection measures have been implemented at over half the roosts in both the United States and Mexico (approximately 40 roosts), including gating, road closures, fencing, implementation of management plans, public education, monitoring, and enforcement of access limitations. Generally, roosts on Federal lands benefit from monitoring by agency personnel and a law enforcement presence resulting in these roosts being exposed to fewer potential impacts than if the roost occurred on non-federal lands. Efforts to physically protect roosts through the use of gates or barriers have been implemented at six roost sites in Arizona. The experimental fence at one roost (a mine site) worked initially, but was subsequently vandalized resulting in roost abandonment. The fencing was repaired and there have been no subsequent breeches and the bats have recolonized the site (Service 2017; p. 11).

In the summer of 2017, a drastic (*i.e.,* approximately 86 percent) decline was observed in the numbers of bats at one of the key maternity sites along the U.S.-Mexico border. Additionally, a late-summer transition roost in Arizona was documented as not being occupied for the second year in a row. We do not have a complete understanding of what caused the fatality event and roost abandonment in 2017. It is likely that a mortality event at the maternity roost site in 2016 probably contributed to the decline in 2017 and the information we have indicates the observed fatalities were the result of a natural weather event. The decline could also be the result of migrating females using other roosts in the area or resource conditions in Mexico resulted in fewer bats migrating northward. We intend to work with our partners in Mexico and the United States to increase the monitoring effort at this roost. We also intend to gather information on resource conditions in both the United States and Mexico and consider roost counts at other maternity roosts in the region to gain a better understanding of the causes and implications of the events of 2016 and 2017. This maternity roost is included in our draft post-delisting monitoring plan, so we will continue to monitor and evaluate this roost for the next 15 years and implement adaptive management actions, if necessary. We evaluated lesser long-nosed bat resiliency, redundancy, and representation in the SSA over two time frames, 15 years and 50 years. Because the species' viability is evaluated by resiliency, redundancy, and representation under a 15-year time frame, we used the same timeframe in the development of thresholds for post-delisting monitoring. In addition, the 15-year is based on the history of past conservation implementation, such as identifying and monitoring roost sites; completing the processes for identifying, permitting, implementing, and monitoring roost protection measures; conducting education and outreach and seeing changes in public perceptions.

Lesser long-nosed bat roosts have a history of numbers fluctuating from year to year. Any observed incidents of fatalities or changes in roost occupancy patterns should be considered in the context of time. There is not rigorous roost count data that can be used to statistically define the trend of the lesser long-nosed bat population throughout its range. We have count data from both the United States and Mexico that has occurred regularly over the past 20 years, including annual simultaneous counts at both maternity and late-summer transition roosts in the United States. Not all roosts are counted every year, but some are. Not all roosts are counted multiple times each year, but some are. Regardless, each known roost in the United States has some count data that has occurred over the past 20 years that has resulted in regular or

periodic visits by bat biologists or land managers. These counts have shown increasing or stable numbers and roost sites that continue to provide for the life history needs of the lesser long-nose bat. When looking at the count data over time and applying our best professional judgment to this data, we have concluded that the overall lesser long-nosed bat population trend is positive. Our conservation partners in Mexico reached the same conclusion when they delisted the lesser long-nosed bat in 2013.

The lesser long-nosed bat's conservation status in Mexico is secure enough that Mexico removed the subspecies from its endangered species list in 2013 because of the factors described above. The species has a greater distribution in Mexico than in the United States; thus much of the same reasoning for the subspecies' removal from Mexico's endangered species list applies to our reasoning to remove the lesser long-nosed bat from the U.S. List of Endangered and Threatened Wildlife.

Because the lesser long-nosed bat has both resident and migratory subpopulations, all of the necessary habitat elements must be appropriately distributed across the range of this species such that roost sites, forage resources, and migration pathways are in the appropriate locations during the appropriate season. Currently, the distribution of the lesser long-nosed bat extends from southern Mexico into the southwestern United States. In Mexico, the distribution of the lesser long-nosed bat covers approximately 40 percent of the country when considering resident areas, migration pathways, and seasonally-occupied roosts within the range of this subspecies. Within both the United States and Mexico, the current distribution of the lesser long-nosed bat has not generally decreased or changed substantially over the past 20 years from that described in the Recovery Plan. An exception to this is the recent documentation of the lesser long-nosed bat range expanding northward to the Gila River in New Mexico (HEG 2015, entire). However, any given area within the range of the lesser long-nosed bat may be used in an ephemeral manner dictated by the availability of resources that can change on an annual and seasonal basis. Roost switching occurs in response to changing resources and areas that may be used during one year or season may not be used in subsequent years until resources are again adequate to support occupancy of the area. This affects if and how maternity and mating roosts, migration pathways, and transition roosts are all used during any given year or season. However, while the distribution of the lesser long-nosed bat within its range may be fluid, the overall distribution of this species has remained similar over time (Service 2017, chapters 1 through 3).

For more information on this topic, see chapter 5 of the SSA Report (Service 2017), which is available online at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0138 or *https://www.fws.gov/southwest/es/arizona/Lesser.htm,* or in person at the Arizona Ecological Services Field Office (see **ADDRESSES**, above).

Recovery Planning and Recovery Criteria

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Recovery plans identify site-specific management actions that will achieve recovery of the species and objective, measurable criteria that set a trigger for review of the species' status. Methods for monitoring recovery progress may also be included in recovery plans.

Recovery plans are not regulatory documents; instead they are intended to establish goals for long-term conservation of listed species and define criteria that are designed to indicate when the threats facing a species have been removed or reduced to such an extent that the species may no longer need the protections of the Act. They also identify suites of actions that are expected to facilitate achieving this goal of recovery. While recovery plans are not regulatory, they provide guidance regarding what recovery may look like and possible paths to achieve it. However, there are many paths to accomplishing recovery of a species, and recovery may be achieved without all recovery actions being implemented or criteria being fully met. Recovery of a species is a dynamic process requiring adaptive management that may, or may not, fully follow the guidance provided in a recovery plan.

The 1997 lesser long-nosed bat recovery plan objective is to downlist the species to threatened (Service 1997, entire). The recovery plan does not explain why delisting was not considered as the objective for the recovery plan. The existing recovery plan does not explicitly tie the recovery criteria to the five listing factors at section 4(a)(1) of the Act or contain explicit discussion of those five listing factors. The recovery plan lists four criteria that should be considered for downlisting the subspecies, which are summarized below. A detailed review of the recovery criteria for the lesser long-nosed bat is presented in the 5-year Review for the Lesser Long-Nosed Bat (Service 2007; available online at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0138 or at *https://www.fws.gov/southwest/es/arizona/Lesser.htm*).

During our development of the SSA report and 5-year review, we found that data relied upon to develop the 1988 listing rule and the recovery plan are out of date. Subsequent to the completion of the listing rule and recovery plan, considerable additional data regarding the life history and status of the lesser long-nosed bat have been gathered and, as discussed above, have documented an increase in the number of known roost sites and the number of lesser long-nosed bats occupying those roosts. During the 2007 5-year review of the status of this subspecies, it was determined that the 1997 recovery plan was outdated and did not reflect the best available information on the biology of this subspecies and its needs (Service 2007; p. 30; available online at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0138 or at *https://www.fws.gov/southwest/es/arizona/Lesser.htm*). As explained below, we assessed the species' viability in the SSA report (Service 2017) in making the determination of whether or not the lesser long-nosed bat has recovered as defined by the Act.

Recovery Criterion 1 (Monitor Major Roosts for 5 Years)

Significant efforts have been made to implement a regular schedule of monitoring at the known roost sites throughout the range of the species. Approximately six roosts were known in Arizona and New Mexico at the time of listing. Currently, we have documented approximately 50 lesser long-nosed bat roosts in Arizona and New Mexico. All 13 of the roost sites identified in the recovery plan have had some degree of monitoring over the past 20 years. In the United States, all of the six major roosts identified in the recovery plan for monitoring (Copper Mountain, Bluebird, Old Mammon, Patagonia Bat Cave, State of Texas, and Hilltop) have been monitored since 2001. Additionally, we now consider almost all of the approximately 50 known roosts in the United States to be major roosts, meaning they host more than 1,000 bats. None of the New Mexico roosts were identified for monitoring in the recovery plan, but these roosts have been monitored

sporadically since the completion of the recovery plan (Service 2007; pp. 6–9). The seven roost sites in Mexico have been regularly monitored since the development of the recovery plan (Medellín and Torres 2013, pp. 11–13). Therefore, this recovery criterion has been satisfied. For more information, see chapter 2 of the SSA Report (Service 2017).

Recovery Criterion 2 (Roost Numbers Stable or Increasing)

Nearly all of the lesser long-nosed bat experts and researchers who provided input to the 5-year review and SSA indicated that they observed that the number of lesser long-nosed bats at most of the roost sites in both the United States and Mexico is stable or increasing (see chapter 2 of the SSA Report (Service 2017). The lesser long-nosed bat's conservation status in Mexico has been determined to be secure enough that Mexico removed the subspecies from its endangered species list in 2013 based on the factors discussed above. With a documented increase from an estimated 1,000 lesser long-nosed bats rangewide at the time of listing to more than 200,000 currently documented, the total number of bats documented at this time is many times greater than those numbers upon which the listing of this species relied. Therefore, this criterion has been met.

Recovery Criterion 3 (Protect Roost and Forage Plant Habitats)

The lesser long-nosed bat population is fluid and constantly adapts to changing environmental conditions over a large, bi-national range. Lesser long-nosed bat roost sites are discrete and consistent, but the lesser long-nosed bat may use these roost sites in a changing and adaptable manner to take advantage of ephemeral and constantly changing forage resources with both seasonal and annual differences of occurrence. Therefore, observations of occupancy and numbers of bats using these roosts may not be a complete or accurate representation of the status of the subspecies across its range. However, the information regarding the status of the lesser long-nosed bat population is much more accurate and complete than it was as the time of the 1988 listing rule.

More roost locations for lesser long-nosed bats are currently known, and are being more consistently monitored, than at the time of listing in 1988 (an increase from approximately 14 to approximately 75 currently known roosts). As we describe in more detail in Factor D below, we now know that the majority of these roost sites occur on public lands where they are protected and managed.

In related efforts, a number of studies have been completed that provide us with better information related to the forage requirements of the lesser long-nosed bat when compared to the time of listing and recovery plan completion. We now know that lesser long-nosed bats are more adaptable to ephemeral forage resources and we know that effects from livestock grazing, prescribed burning, and harvesting by the tequila industry do not significantly affect lesser long-nosed bat forage resources.

Some progress has been made toward protecting known lesser long-nosed bat roost sites, but the ultimate level of effectiveness of gates as a protection measure is still being evaluated and improved. Gates provide long-term protection of roost sites, but are accepted and used by different bat species to different extents. Different gates designs are currently being tested at additional lesser long-nosed bat roost sites. For more information, see chapter 4 of the SSA Report (Service 2017).

In summary, we have considerably better data with regard to roost locations of lesser long-nosed bat compared to the information available at the time of listing and completion of the recovery plan. Because of improved information, land management agencies are doing a better job of protecting lesser long-nosed bat roost sites and foraging areas. Over the past five years, there has been considerable effort and success in understanding lesser long-nosed bat roost protection options and many roosts have had roost protection measures implemented (Service 2017, p. 56). In addition, monitoring over the past 24 years indicates steady increases in the numbers of lesser long-nosed bats at these roosts due to roost site protections (Service 2017, p. 10). Therefore, we believed this recovery criterion has been met. For more information, see chapter 2 and Conservation Efforts in the SSA Report (Service 2017).

Recovery Criterion 4 (Status of New and Known Threats)

This criterion relates to adequately addressing threats known at the time the 1997 recovery plan was written, as well as any new threats that have been identified subsequent to the completion of the recovery plan. Our current state of knowledge with regard to threats to this subspecies has changed since the development of the recovery plan. Threats to the lesser long-nosed bat from grazing on food plants, the tequila industry, and prescribed fire, identified in the recovery plan, are likely not as severe as once thought. Effects from illegal border activity and the associated enforcement activities are a new and continuing threat to roost sites in the border region. However, the Service and appropriate land managers have an active program of coordination and technical assistance with Customs and Border Protection that are addressing border issues. Potential effects to forage species and their phenology as a result of climate change have been identified, but are characterized by uncertainty and lack of data specifically addressing those issues. Nonetheless, lesser long-nosed bats have shown the ability to adapt to adverse forage conditions and we find that the lesser long-nosed bat is characterized by flexible and adaptive behaviors that will allow it to remain viable under changing climatic conditions.

Some progress has been made toward protecting known lesser long-nosed bat roost sites; while the ultimate level of effectiveness of gates as a protection measure is still being evaluated and improved, they do provide long-term protection of roost sites. Gates are currently being tested at a few additional lesser long-nosed bat roost sites. Roost protection also occurs in the form of regular monitoring, fencing, road closures, and ongoing management as outlined in the land management agencies' planning documents. This recovery criterion has been met. For more information, see chapter 4 of the SSA Report (Service 2017).

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for listing species, reclassifying species, or removing species from listed status. A species is an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. A species may be reclassified or delisted on the same basis. Consideration of these factors was included in the SSA report in the discussion on ''threats'' or ''risk factors,'' and threats were projected into the future using scenarios to evaluate the current and future viability of the lesser long-nosed bat. The effects of

conservation measures currently in place were also assessed in the SSA report as part of the current condition of the subspecies, and those effects were projected in future scenarios. The evaluation of the five factors as described in the SSA report is summarized below.

The Service reviews the best scientific and commercial information available when conducting a threats analysis. In considering what factors may constitute a threat, we must look beyond the mere exposure of individuals of a species to the factor to determine whether the exposure causes actual impacts to the entire species. The mere identification of factors that could negatively impact a species is not sufficient to compel a finding that a currently listed species should be maintained on the Federal Lists of Endangered and Threatened Wildlife and Plants. We require evidence that these factors are operative threats currently acting on the species to the point that the species meets the definition of endangered or threatened under the Act.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The primary concern regarding future viability of this subspecies continues to be roost site disturbance or loss. This is primarily an issue related to human activities and destructive actions at these roost sites. In addition, the colonial roosting behavior of this subspecies, where high percentages of the population can congregate at a limited number of roost sites, increases the likelihood of significant declines or extinction if impacts at roost sites are pervasive However, as discussed above, increased lesser long-nosed bat numbers and positive trends at most roosts have reduced concerns expressed in the 1988 listing rule with regard to low population numbers and an apparent declining population trend. Agencies and conservation partners are implementing protective measures at known roosts and newly discovered roosts Outreach and education efforts have been effective in increasing the understanding of the general public, as well as conservation partners, with regard to the need to prevent disturbance at lesser long-nosed bat roosts while the bats are present (Service 2017, pp. 45–48). As discussed further in Factor D below, we have determined that roost sites have and will be protected to the extent that roost disturbance is no longer a sufficient threat to warrant protection under the Act.

Although most data related to lesser long-nosed bat roost counts and monitoring have not been collected in a way that is statistically rigorous enough to draw statistically-valid conclusions about the trend of the population, in the professional judgment of biologists and others involved in these efforts, the total numbers of bats observed at roost sites across the range of the lesser long-nosed bat are considered stable or increasing at nearly all roost sites being monitored. With a documented increase from an estimated 1,000 lesser long-nosed bats rangewide at the time of listing to more than 200,000 currently estimated, the total number of bats currently being documented is many times greater than those numbers upon which the listing of this species relied, and while this may, in large part, reflect a better approach to survey and monitoring in subsequent years, it gives us better information upon which to evaluate the status of the lesser long-nosed bat population. This documented increase in roosts and of stable or increasing lesser long-nosed bat numbers indicates that threats to habitat have not reduced available habitat components to the point that it is significantly affecting the lesser long-nosed bat status. And, roost site protections will continue into the foreseeable future. Adequate roosts of all types (maternity, mating, transition, and migratory) currently exist and are likely to exist into the foreseeable future (Service 2017; pp. 8–14).

Significant information regarding the relationship of lesser long-nosed bats to their forage resources has been gathered over the past decade. Because lesser long-nosed bats are highly specialized nectar-, pollen-, and fruit-eaters, they have potential to be extremely vulnerable to loss of or impacts to forage species. However, lesser long-nosed bats are also highly effective at locating food resources, and their nomadic nature allows them to adapt to local conditions. For example, the resiliency of lesser long-nosed bats became evident in 2004, when a widespread failure of saguaro and organ pipe bloom occurred. The failure was first noted in Organ Pipe Cactus National Monument, and such a failure had not been noted in the recorded history of the Monument (Billings 2005). The failure extended from Cabeza Prieta National Wildlife Refuge on the west to Tucson on the east, and south into central Sonora, Mexico. The large-scale loss of this lesser long-nosed bat food resource was somewhat offset by the fact that small numbers of both saguaro and organ pipe flowers continued to bloom into August and September. Such a failure would have been expected to result in fewer lesser long-nosed bats using roosts in this area or reduced productivity at these roosts. However, this was not the case. Maternity roost numbers remained as high as or higher than previous years, with some 25,000 adult females counted during 2004 monitoring (Billings 2005). Ultimately, it appears lesser long-nosed bats were able to subsist and raise young in southwestern Arizona in this atypical year. Other observations over the past 20 years, including some years of significantly reduced agave availability, have indicated that the lesser long-nosed bat is more adaptable than previously believed to changing forage resource availability. This adaptability leads us to a determination that forage availability will not significantly affect the viability of the lesser long-nosed bat population.

Additionally, the effects of livestock grazing and prescribed fire on long-nosed bat food sources are also not as significant as originally thought. For example, Widmer (2002) found that livestock were not responsible for all of the utilization of agave flower stalks in their study area. Wildlife such as javelina, white-tailed deer, and small mammals also utilized agave flower stalks as a food resource. The extent of livestock use of agave flower stalks appears to be related to standing biomass and distance from water. Further, Bowers and McLaughlin (2000) found that the proportion of agave flower stalks broken by cattle did not differ significantly between grazed and ungrazed areas. This information indicates that livestock do not have a significant effect on lesser long-nosed bat food sources, over and above the impact of native grazers.

Thomas and Goodson (1992) and Johnson (2001, p. 37) reported 14 percent and 19 percent mortality of agaves following burns. Some agency monitoring has occurred post-fire for both wildfires and prescribed burns. This monitoring indicates that agave mortality in burned areas is generally less than 10 percent (USFS 2015, pp. 82–83; USFS 2013, pp. 10–11). Contributing to this relatively low mortality rate is the fact that most fires burn in a mosaic, where portions of the area do not burn. Impacts of fire on agave as a food source for lesser long-nosed bats may not be a significant concern for the following reasons: Fire-caused mortality of agaves appears to be low; alternative foraging areas typically occur within the foraging distance from lesser long-nosed bat roosts; and most agave concentrations occur on steep, rocky slopes with low fuel loads (Warren 1996). In addition, Johnson

(2001, pp. 35–36) reported that recruitment of new agaves occurred at higher rates in burned plots than in unburned plots, indicating that there may be an increased availability over time of agaves in areas that have burned, if the return rate of fire is greater than 7 years. The effects of agave harvesting are primarily limited to bootleggers, which is likely occurring at the same levels as when the species was listed in 1988; however, this is not considered significant, because it removes a relatively limited number of lesser long-nosed bat forage plants. In addition, increased outreach and education are being provided to tequila producers in an effort to reduce the effects of agave harvesting on lesser long-nosed bats. These producers primarily farm agaves (as opposed to harvesting wild-growing agaves) and are working with our Mexican partners to leave agaves for utilization by nectar-feeding bats.

Sufficient available forage resources are located in appropriate areas, including in proximity to maternity roosts and along the ''nectar trail'' used during migration. The discussion above and the SSA report detail our analysis and determination that forage resources are adequate and that the lesser long-nosed bat is likely to adapt to any changes in forage availability in the future (Service 2017; pp. 15–20).

While not currently a threat affecting the viability of the lesser long-nosed bat population, the potential for migration corridors to be truncated or interrupted is a concern. Significant gaps in the presence of important roosts and forage species along migration routes would affect the population dynamics of this subspecies. While the lesser long-nosed bat continues to be faced with loss and modification of its habitat throughout its range, primarily from urbanization and catastrophic wildfires, the habitats used by this subspecies occur over an extensive range that covers a wide diversity of vegetation and ecological communities. These are habitat characteristics that would not make this subspecies intrinsically vulnerable with regard to habitat limitations. That is to say, the wide variety of ecosystems that this subspecies uses, over a relatively expansive range, results in available areas characterized by the asynchronous flowering of forage resources making up the diet of the lesser long-nosed bat and buffers this subspecies from potential loss or reduction of habitats as a result of stochastic events, including climate change, among others.

Lesser long-nosed bats are affected directly by development that removes important foraging habitat, but also indirectly as growing numbers of people increase the potential for roost disturbance. Impacts from urbanization on lesser long-nosed bat habitat are of concern because they tend to be permanent, long-term impacts, as opposed to the often temporary, shorter-term impacts from fire, grazing, and agave harvesting. Lesser long-nosed bats are often able to react to temporary impacts by moving to alternative sites in the short-term. Various human activities, including recreation and caving, can result in impacts to lesser long-nosed bat roosts. As discussed earlier, various land use plan and laws regulate the access to sensitive sites such as bat roosts. The implementation of these plans is not dependent on the regulatory protections of the Act. Additionally, post-delisting monitoring will provide regular assessments of lesser long-nosed bat roosts and allow us to respond with appropriate management to an indication of disturbance or vandalism. Past and ongoing outreach and education has been effective in raising public awareness related to the conservation of bats. The general public better understands the needs and benefits of bats in the environment. Continued education and understanding will help reduce the occurrence of bat roost disturbance and vandalism. Such efforts have been very effective, particularly in Mexico.

There is no question that current population numbers of lesser long-nosed bats exceed the levels known and recorded at the time of listing in 1988. A number of publications have documented numbers of lesser long-nosed bats throughout its range that far exceed the numbers used in the listing analysis with an estimated increase from fewer than 1,000 bats to approximately 200,000 bats rangewide (Fleming et al. 2003, pp. 64–65; Sidner and Davis 1988, p. 494). Also, in general, the trend in overall numbers of lesser long-nosed bats estimated at roost sites has been stable or increasing in both the United States and Mexico (Medellín and Knoop 2013, p. 13; Service 2017). Increased roost occupancy and the positive trend in numbers of lesser long-nosed bats occupying these roosts appear to be supported by adequate forage resources. The adaptability of the lesser long-nosed bat to changing forage conditions seems to allow the lesser long-nosed bat to sustain a positive population status under current environmental conditions.

While some threats are ongoing with regard to lesser long-nosed bat habitat, in general, we find that threats to this species' habitat have been reduced or are being addressed in such a way that lesser long-nosed bat habitat is being enhanced and protected at a level that has increased since the 1988 listing of this species. In particular, areas that were vulnerable to threats have been protected or are now managed such that those threats have been reduced. Outreach and education have increased the understanding of what needs to be done to protect lesser long-nosed bat habitat.

Beyond the regulatory requirements of the Act, our conservation partners have implemented a number of past and current conservation measures that to benefit the bat (Service 2017, p. 46). The Blue Bird Mine on Cabeza Prieta National Wildlife Refuge was fenced in 2004 to protect a known lesser long-nosed bat maternity roost. Bats reoccupied this abandoned roost following the installation of this protective fencing. After the fence was vandalized and subsequently abandoned by lesser long-nosed bats in 2005, the fence was repaired (McCasland 2005), and there has been no subsequent abandonment of this roost.

Telemetry projects have identified a number of new transition roosts. Roosts on non-Federal lands support efforts to promote the conservation of the lesser long-nosed bat. The Arizona-Sonora Desert Museum has conducted studies on seasonal movements between lesser long-nosed bat roosts in Arizona, a migratory pollinator study, and roost monitoring in the United States and Mexico, and conducts educational activities related to bats (Krebbs 2005a).

Investigations were initiated related to the distribution and use of hummingbird feeders by lesser long-nosed bat in the Tucson area (Wolf 2006). This program has been continued and expanded through a citizen scientist program being coordinated by the Service, Arizona Game and Fish Department (AGFD), the Town of Marana, the University of Arizona, and a system of volunteer citizen scientists now number over 100. Information on arrival and departure dates, peak use periods, and population characteristics are being gathered to increase our understanding of lesser long-nosed bat life history.

A mine site on the Tohono O'odham Nation that supports a lesser long-nosed bat maternity colony has been structurally stabilized to maintain roost integrity (Wolf and Dalton 2005). The exhaust fan was removed from the historical Colossal Cave maternity roost in an effort to get lesser long-nosed bat to recolonize this roost; however, so far, no lesser long-nosed bats have

recolonized this cave (AGFD 2005, entire). More recently, in 2015, a gate blocking the entrance to the bat roost at Colossal Cave has been replaced by a more bat-friendly gate.

Educational programs occur at organized events such as Southwest Wings Birding Festival. Other programs are conducted as requested, but efforts are sporadic (AGFD 2005). In Mexico, bat biologists are working with elementary schools, providing ''bat-pollination'' and other games for school children who previously had known little about and had little concern for bats. This educational effort has been successful in passing along this information to siblings and teachers are sharing the program (Medellín 2011; p. 9).

The Service and other agencies and partner organizations are raising the awareness of pollinators in general, and bat pollinators specifically, through education and outreach efforts that include events across the United States and in Mexico.

Therefore, based on the analysis completed in the SSA report (Service 2017; pp. 54–61), we have determined that threats to the habitat of this species are currently reduced and will continue to be addressed in the foreseeable future, or are not as significant as previously thought.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Lesser long-nosed bats are not known to be taken for commercial purposes, and scientific collecting is not known to be a problem (Service 1988, p. 38459). Caves and mines continue to attract recreational users interested in exploring these features, but this threat has probably not increased since the listing. For example, Pima County, in southeastern Arizona, is implementing mine closures on lands that they have acquired for conservation purposes. Other land management agencies also carry out abandoned mine closures for public recreational safety purposes. A positive aspect of these mine closure processes is that most agencies and landowners now understand the value of these features to bats and other wildlife and are implementing measures to maintain those values while still addressing public health and safety concerns. The 1988 listing rule stated that bats were often killed by vandals (Service 1988, p. 38459). However, significant changes in the public perception of bats are occurring. Educational efforts are making a difference, as evidenced by decreased vandalism at roost sites, measures being including in land use planning, reduced non-target fatalities during rabies control, and public interest and ownership in bat conservation efforts such as the hummingbird feeder monitoring project.

In both the United States and Mexico, public education, in the form of radio and television spots, and educational materials have been implemented. Agencies now receive calls for assistance in nonlethal solutions to bat issues. Often, the general public may be concerned about rabies or vampire bats, but outreach and education are improving the understanding and knowledge of bats concerning these issues. Vampire bat control is implemented in portions of the lesser long-nosed bat range in Mexico. This control is necessary because of potential impacts to humans and livestock, including the transmission of rabies. Such control can result in the indiscriminate killing of non-target bats, including lesser long-nosed bats (Johnson et al. 2014; p. 1920–1922). Because of the colonial roosting nature of lesser long-nosed bats, any roost lost or disturbed because of rabies control activities can affect the lesser long-nosed bat population. Mexico has focused efforts to reduce the mortality of non-target species in relation to vampire bat control (see chapter 4 of the SSA Report (Service 2017).

In summary, we determine that the viability of the lesser long-nosed bat is not being significantly affected by threats from scientific research or public recreational activities.

Factor C. Disease or Predation

Disease does not currently appear to be a significant risk factor for the lesser long-nosed bat. Emerging disease issues, such as those associated with white-nose syndrome, may become more significant; however our current scientific assessment indicates that white-nose syndrome will not affect this non-hibernating species. Therefore, because lesser long-nosed bats do not hibernate, we do not anticipate that white-nose syndrome will be a significant risk factor for lesser long-nosed bats (see chapter 4 of the SSA Report (Service 2017).

Predation contributes to the mortality of lesser long-nosed bats at roost sites. Likely predators include snakes, raccoons, skunks, ringtails, bobcats, coyotes, barn owls, great-horned owls, and screech owls. Specifically, barn owls have been observed preying on lesser long-nosed bats at the maternity roost at Organ Pipe Cactus National Monument for many years (Billings 2005; p. 11) and snakes have been observed preying on lesser long-nosed bats in Baja California Sur, Mexico (Frick 2017, pers. comm.). However, it is our professional judgement that at large aggregations, such as bat roosts, predation is an insignificant impact on the population. Therefore, we find that neither disease nor predation are currently or is likely in the future to affect the viability of the lesser long-nosed bat.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

The current listing of the lesser long-nosed bat in the United States and the former listing of the bat in Mexico as an endangered species have provided this species with some level of protection. Outside of laws generally protecting wildlife and their habitats, no specific laws or regulations protect this species in Mexico. As noted in Factor B above, rabies control activities have resulted in the mortality of the lesser long-nosed bats due to the lack of requirements to properly identify the target species. However, increased education and outreach is improving this situation in Mexico, and incidents of nontarget fatalities during rabies control have been reduced. In the United States, State laws and regulations provide some additional level of protection. For example, Arizona State Law in Arizona Revised Statute (ARS) Title 17 prohibits the taking of bats outside of a prescribed hunting season and, per Commission Order 14, there is no open hunting season on bats, meaning it is always illegal to take them. Provisions for special licenses to take bats and other restricted live wildlife are found in Arizona Game and Fish Commission Rule 12, Article 4 and are administered by the AGFD. However, this protection is for individual animals only, and does not apply to the loss or destruction of habitat. However, the loss and destruction of habitat has been and will be managed and adequate areas of suitable habitat remain undeveloped such that this lack of protection of habitat under State law does not result in a threat to the lesser long-nosed bat population.

More than 75 percent of the range of this species in the United States is on federally managed lands and these federal agencies have guidelines and requirements in place to protect lesser long-nosed bats and their habitats, particularly roost sites. As described above, roosts on Federal lands benefit from monitoring by agency personnel and a law enforcement presence resulting in these roosts being exposed to fewer potential impacts than if the roosts occurred elsewhere. Gating of

roosts on Federal lands is being implemented and evaluated. If the lesser long-nosed bat is delisted, protection of their roost sites and forage resources will continue on Federal lands because agency land-use plans and general management plans contain objectives to protect cave resources and restrict access to abandoned mines, both of which can be enforced by law enforcement officers. In addition, guidelines in these plans for grazing, recreation, off-road use, fire, etc., will continue to prevent or minimize impacts to lesser long-nosed bat forage resources. The Coronado National Forest's 2017 Land and Resource Management Plan (LRMP) includes standards and guidelines to retain and enhance areas with paniculate agaves in order to benefit the lesser long-nosed bat. The Cabeza Prieta National Wildlife Refuge Comprehensive Conservation Plan has identified an objective to install additional measures to protect the lesser long-nosed bat maternity roost on the refuge. The Bureau of Land Management has forage plant protections within the range of the lesser long-nosed bat, including avoidance measures to protect agave and saguaros. Organ Pipe Cactus National Monument and Cabeza Prieta National Wildlife Refuge protect hundreds of square miles of areas containing foraging plants for the bat within its refuge boundaries. We are currently working with the Department of Defense facilities at Fort Huachuca and Barry M. Goldwater Range to include actions in their Integrated Natural Resources Management Plans to continue with lesser long-nosed bat conservation activities. On Fort Huachuca, for example, they are implementing an Agave Management Plan that states that they will maintain a self-sustaining populations of *Agave palmeri* on Fort Huachuca to conserve the forage base of the lesser long-nosed bat and other species using agave.

As described above, roosts on Federal lands benefit from monitoring by agency personnel, or access is granted for monitoring by other entities, and a law enforcement presence resulting in these roosts being exposed to fewer potential impacts than they otherwise would be. Gating of roosts on Federal lands is being implemented and evaluated and, while the best design for such gates is still being developed, these gates do provide long-term protection of the sites. Further, outreach and education, particularly with regard to pollinator conservation, has increased and human attitudes regarding bats are more positive now than in the past; and the lesser long-nosed bat has demonstrated adaptability to potential adverse environmental conditions, such as changes in plant flowering phenology (see discussion under *Factor E,* below).

The Federal Cave Protection Act of 1988 prohibits persons from activities that ''destroy, disturb, deface, mar, alter, remove, or harm any significant cave or alters free movement of any animal or plant life into or out of any significant cave located on Federal lands, or enters a significant cave with the intent of committing any act described . . .'' Arizona statute (ARS 13–3702) makes it a class 2 misdemeanor to ''deface or damage petroglyphs, pictographs, caves, or caverns.'' Activities covered under ARS 13–3702 include ''kill, harm, or disturb plant or animal life found in any cave or cavern, except for safety reasons.'' The above laws and regulations will continue to protect lesser long-nosed bats and their habitats after delisting.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Ecosystems within the southwestern United States are thought to be particularly susceptible to climate change and variability (Strittholt et al. 2012, pp. 104–152; Munson et al. 2012, pp. 1–2; Archer and Predick 2008). Documented trends and model projections most often show changes in two variables: Temperature and precipitation. Recent warming in the southwest is among the most rapid in the nation, significantly more than the global average in some areas (Garfin et al. 2014, p. 463; Strittholt et al. 2012, pp. 104–152; Munson et al. 2012, pp. 1–2; Guido et al. 2009). Precipitation predictions have a larger degree of uncertainty than predictions for temperature, especially in the Southwest (Sheppard et al. 2002), but indicate reduced winter precipitation with more intense precipitation events (Global Climate Change 2009, pp. 129–134; Archer and Predick 2008, p. 24). Further, some models predict dramatic changes in Southwestern vegetation communities as a result of climate change (Garfin et al. 2014, p. 468; Munson et al. 2012, pp. 9–12; Archer and Predick 2008, p. 24). In the most recent assessment of climate change impacts by the Intergovernmental Panel on Climate Change (IPCC), the IPCC indicated that there would be a decrease in the number of cold days and nights and an increase in the number of warm days and warm nights (IPCC 2014, p. 53). This may would favor frost-intolerant lesser long-nosed bat forage species like saguaro and organ pipe cacti, but may also affect the blooming phenology of those same species. They also indicted that precipitation events would likely become more intense and that we are more likely to see climate-related extremes such as heat waves, droughts, floods, wildfires, etc. (IPCC 2014, p. 53).

The U.S. Geological Survey (USGS) produced a mapping tool that allows climate change projections to be downscaled to local areas including states, counties, and watershed units. We used this National Climate Change Viewer (USGS 2016) to compare past and projected future climate conditions for Pima, Santa Cruz, and Cochise counties, Arizona. The baseline for comparison was the observed mean values from 1950 through 2005, and 30 climate models were used to project future conditions for 2050 through 2074. We selected the climate parameters of April maximum temperature and August and December mean precipitation to evaluate potential effects on lesser long-nosed bat forage resources. These particular parameters were selected from those available because they represented those most likely to impact the survival and flowering phenology of individual forage species.

Similar to the more general climate change effects discussed above, the downscaled analysis also showed warming spring temperatures, which could result in an early blooming period for lesser long-nosed bat forage species (USGS 2016). Precipitation changes were evaluated for changes to monsoon and winter precipitation. In line with the general climate projections, changes during the evaluated time periods were greater for winter precipitation than for monsoon precipitation. Changes projected for monsoon precipitation were minimal, but projected to be reduced by approximately one inch per 100 days for winter precipitation (USGS 2016).

The best available information indicates that ongoing climate change will probably have some effect on lesser long-nosed bat forage resources. Such effects will occur as a result of changes in the phenology (periodic biological phenomena, such as flowering, in relation to climatic conditions) and distribution of lesser long-nosed bat's forage resources. How this affects the viability of the lesser long-nosed bat population is not clear. There is much uncertainty and a lack of information regarding the effects of climate change and specific impacts to forage for this subspecies. The biggest effect to the lesser long-nosed bat will occur if forage availability gets out of sync along the

''nectar trail'' such that bats arrive at the portion of the range they need to meet life-history requirements (migration, mating, birthing) and there are inadequate forage resources to support that activity. If the timing of forage availability changes, but changes consistently in a way that maintains the nectar trail, this subspecies is expected to adapt to those timing changes as stated above (see chapter 4 of the SSA Report (Service 2017). For example, as noted earlier, the resiliency of lesser long-nosed bats became evident in 2004, when a widespread failure of saguaro and organ pipe bloom occurred and lesser long-nosed bats were still, ultimately, able to subsist and raise young in southwestern Arizona in this atypical year. It is likely they did so by feeding more heavily on agaves (evident by agave pollen found on captured lesser long-nosed bats) than they typically do (see additional discussion under Factor A above). Although we are still not sure to what extent the environmental conductions described in climate change predictions will affect lesser long-nosed bat forage resource distribution and phenology, we have documented that lesser long-nosed bats have the ability to change their foraging patterns and food sources in response to a unique situation (Billings 2005; pp. 3–4), providing evidence that this species is more resourceful and resilient than may have been previously thought. We find that the lesser long-nosed bat is characterized by flexible and adaptive behaviors that will allow it to remain viable under changing climatic conditions.

Species Future Conditions and Viability

We evaluated overall viability of the lesser long-nosed bat in the SSA report (Service 2017) in the context of resiliency, redundancy, and representation. Species viability, or the ability to survive long term, is related to the species' ability to withstand catastrophic population and species-level events (redundancy); the ability to adapt to changing environmental conditions (representation); and the ability to withstand disturbances of varying magnitude and duration (resiliency). The viability of this species is also dependent on the likelihood of new threats or risk factors or the continuation of existing threats now and in the future that act to reduce a species' redundancy, resiliency, and representation.

As described in the SSA report, we evaluated the viability of the lesser long-nosed bat population at two timeframes, 15 years and 50 years. The 15-year timeframe represents the time it generally takes to document the effectiveness of various research, monitoring, and management approaches that have been or are implemented related to lesser long-nosed bat conservation. Therefore, the 15-year timeframe is a reasonable period of time within which we can predict outcomes of these activities in relation to the viability of the lesser long-nosed bat population. The 50-year timeframe is related primarily to the ability of various climate change models to reasonably and consistently predict or assess likely affects to lesser long-nosed bats and their forage resources. For each of these timeframes, we evaluated three future scenarios, a best-case scenario, a moderate-case scenario, and a worst-case scenario with respect to the extent and degree to which threats will affect the future viability of the lesser long-nosed bat population. We also determined how likely it would be that each of these three scenarios would actually occur. The SSA report details these scenarios and our analysis of the effects of these scenarios, over the two timeframes, on redundancy, resiliency, and representation of the lesser long-nosed bat population.

During our decision-making process, we evaluated our level of comfort making predictions at each of the two timeframes. Ultimately, while the SSA report evaluates both timeframes, the decision-makers could not reasonably rely on predictions of the future viability of the lesser long-nosed bat out to 50 years due to the uncertainty of climate change models and the difficulty of predicting what will happen in Mexico where the majority of this species' habitat occurs, but where we have less information with regard to the threats affecting the lesser long-nosed bats. In the SSA report, all three scenarios were evaluated over both time frames (Service 2017, pp. 52–56). The evaluation results of future viability in the SSA report were identical for both timeframes (high viability), except in the worst-case scenario where, unlike the moderate- and best-case scenarios, the viability was moderate for the 15-year timeframe and low for the 50-year timeframe. For each future scenario, we describe how confident we are that that particular scenario will occur. This confidence is based on the following confidence categories: Highly likely (greater than 90 percent sure of the scenario occurring); moderately likely (70 to 90 percent sure); somewhat likely (50 to 70 percent sure); moderately unlikely (30 to 50 percent sure); unlikely (10 to 30 percent sure); and highly unlikely (less than 10 percent sure).

The SSA report concluded that it is unlikely that the worst-case scenario will actually occur. The worst case scenario describes a drastic increase in negative public attitudes towards bats and lesser long-nosed bat conservation, a greater influence from white-nose syndrome, and the worst possible effects from climate change. Based on our experience and the past and ongoing actions of the public and the commitment of management agencies in their land-use planning documents to address lesser long-nosed bat conservation issues, both now and in the future in both the United States and Mexico, such drastic impacts are unlikely to occur (10 to 30 percent sure this scenario will occur). In fact, for the conditions outlined in the worst-case scenario, we find that certainty of the worst-case scenario occurring is closer to 10 percent than to 30 percent sure that this scenario would actually occur based on the commitment to conservation of this species and the adaptability of the lesser long-nosed bat.

Subsequent to the publication of the proposed delisting rule for the lesser long-nosed bat (82 FR 1665, January 6, 2017), we have been in communication with our public and agency conservation partners to determine the extent of their participation in the post-delisting monitoring of the lesser long-nosed bat. Conservation partners will continue to implement management plans, such as the Forest Service's LRMPs, Bureau of Land Management's Resource Management Plans, Department of Defense's Integrated Natural Resources Management Plan that will result in continued coordination and implementation of existing and future conservation actions related to the lesser long-nosed bat as appropriate and as resources are available. Such ongoing commitment to lesser long-nosed bat conservation has already been seen subsequent to the delisting of this bat in Mexico and our experience has been that it will also continue in the United States after delisting.

Our SSA evaluated the current status of the population in relation to the population's resiliency, redundancy, and representation (Service 2017; pp. 3–4). Resiliency addresses the population's health and ability to withstand stochastic events (numbers of individuals and population trajectory). Redundancy addresses the population's ability to withstand catastrophic events (number and distribution of population segments). Representation addresses diversity within the population (genetic

and habitat variation). We also evaluated future scenarios to assess the future viability of the populations in the foreseeable future. Although the worst-case scenario was evaluated in the SSA report, because we found that it was unlikely to actually occur, the focus of our consideration was on the scenarios that had the greatest likelihood of occurring, the best- and moderate-case scenarios, where redundancy, resiliency, and representation remain high regardless of the timeframe or scenario considered. Under the current condition for the lesser long-nosed bat, as well as in both the best-case (somewhat likely to occur) and moderate-case (moderately likely to occur) future scenarios, redundancy, resiliency, and representation of the lesser long-nosed bat population remain high and the viability of the subspecies is maintained (Service 2017, pp. 64–66). Current and future viability is based on the following findings of the high resiliency, redundancy, and representation. Multiple occupied roost sites occur within both the resident and migratory segments of the population. The numbers of bats at these roost sites have been characterized as stable or increasing. Lesser long-nosed bat numbers have been documented as increasing from approximately 1,000 rangewide at the time of listing to approximately 200,000 currently. This includes stable and increasing numbers of bats at all roost types—maternity, late-summer transition, and mating roosts. Redundancy is high because there are multiple roost sites of each type of roost in both the migratory and non-migratory segments of the population. Lesser long-nosed bats have shown the ability to move among roost sites based on ephemeral forage availability allowing the bats to adapt to the ever-changing availability of forage resources. Ramirez (2011, entire) investigated population structure of the lesser long-nosed bat through DNA sampling and analysis and reported that combined results indicated sampled individuals belong to single population including both the United States and Mexico. Consequently, individuals found in the northern migratory range (United States) and in Mexico should be managed as a single population. Because the lesser long-nosed bats in both the United States and Mexico are considered a single population, there is little overall genetic variation. However, because of the large range and migratory nature of this species, the lesser long-nosed bat occupies a tremendous variety of vegetation communities and habitat types. This overall high diversity of habitat provides high representation across the range (see chapter 5 of the SSA Report (Service 2017).

The future viability of this subspecies is dependent on a number of factors. First, an adequate number of roosts in the appropriate locations is needed. As detailed in the SSA report, adequate roosts of all types (maternity, mating, transition, and migratory) currently exist and are likely to exist into the foreseeable future (Service 2017; pp. 8–14). Second, sufficient available forage resources are located in appropriate areas, including in proximity to maternity roosts and along the ''nectar trail'' used during migration. The discussion above and the SSA report detail our analysis and determination that forage resources are adequate and that the lesser long-nosed bat is likely to adapt to any changes in forage availability in the future (Service 2017; pp. 15–20). In addition, the SSA report analyses the contribution of current and future management of threats to the subspecies' long-term viability. The future viability of the lesser long-nosed bat will also depend on continued positive human attitudes towards the conservation of bats, implementation of conservation actions protecting roost sites and forage and migration resources, and implementation of needed research and monitoring to inform adaptive management as discussed above and in our SSA report.

Determination

Section 4 of the Act and its implementing regulations, 50 CFR part 424, set forth the procedures for listing, reclassifying, or removing species from the Federal Lists of Endangered and Threatened Wildlife and Plants. ''Species'' is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct vertebrate population segment of fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). Once the ''species'' is determined, we then evaluate whether that species may be endangered or threatened because of one or more of the five factors described in section 4(a)(1) of the Act. We must consider these same five factors in reclassifying or delisting a species. The Act defines an ''endangered species'' as a species that is ''in danger of extinction throughout all or a significant portion of its range,'' and a ''threatened species'' as a species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The analysis of threats must include an evaluation of both the threats currently facing the species and the threats that are reasonably likely to affect the species in the foreseeable future. We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered or threatened for the following reasons: (1) The species is extinct; (2) the species has recovered and is no longer endangered or threatened; and/or (3) the original scientific data used at the time the species was classified were in error.

Lesser Long-Nosed Bat Determination of Status Throughout All of its Range

The total numbers of lesser long-nosed bats across its range are stable or increasing at nearly all roost sites being monitored based on the professional judgment of biologists and others involved in these efforts. While we acknowledge that the data we have does not allow us to draw statistically defensible population trend conclusions, the total number of bats currently documented is many times greater than the total number of bats documented at the time of listing in 1988. At the time of listing, fewer than 500 lesser long-nosed bats were estimated to remain in the United States; current estimates are greater than 100,000 bats. At the time of listing, the estimated rangewide population was fewer than 1,000 lesser long-nosed bats. Current range-wide estimates are approximately 200,000 lesser long-nosed bats. While this may, in large part, reflect a better approach to survey and monitoring in subsequent years, it changes our view of the danger of extinction of the species and gives us better information upon which to evaluate the status of the lesser long-nosed bat population.

This better information is related to the species' population size, the number of roosts, and its distribution. In addition, there have been increased efforts related to habitat protection (identification of roost sites and forage resources in planning efforts, implementation of protective measures for roosts and forage resources, increased awareness of habitat needs, etc.) and additional efforts for habitat protection are planned to be implemented in the future, regardless of the listing status of this subspecies. Threats identified at the time of listing are not as significant as thought or have been addressed to such an extent that they no longer threaten the lesser long-nosed bat population, now or in the future. For example, effects to agaves, a key lesser long-nosed bat forage resource, from prescribed burning and livestock grazing is not a significant impact to lesser long-nosed bat forage

availability (FWS 2016; p. 33–35). Vandalism and human disturbance has been reduced at roost sites due to actions implemented by land management and border management agencies, including the use of fencing and gates and land use planning (FWS 2016; pp. 28–32). Forage resource impacts from agave harvesting for tequila production and non-target impacts to lesser long-nosed bats from vampire bat control in Mexico have both been reduced due to ongoing outreach and education (FWS 2016, p. 32 and 38). Public support for bats has increased with ongoing education and outreach and this has resulted in the public being more supportive of actions taken to reduce threats to bats including the protection of roosts and forage resources (FWS 2016; pp. 45–46). This increased level of information related to population, roosts, and distribution, along with ongoing conservation efforts, combined with the current state of its threats, allow us to conclude that the subspecies is not in danger of extinction and is not expected to become endangered in the foreseeable future. Our thorough evaluation of the available data for occupancy, distribution, and threat factors, as well as the opinions of experts familiar with this subspecies, indicates a currently viable population status with a stable to increasing trend.

In the case of the lesser long-nosed bat, we have determined that, while the above threats may be affecting individuals or specific sites or areas within the range of the lesser long-nosed bat, they do not represent significant threats to the overall population of the lesser long-nosed bat. Therefore, after assessing the best available information, we conclude that the lesser-long nosed bat has recovered and no longer meets the definition of endangered or threatened under the Act. We conclude that the lesser long-nosed bat is not in danger of extinction throughout all of its range and we also find that the lesser long-nosed bat is not likely to be in danger of extinction throughout all of its range in the foreseeable future.

Lesser Long-Nosed Bat Determination of Status in Significant Portion of its Range

On July 1, 2014, we published a final policy interpreting the phrase ''significant portion of its range'' (SPR) (79 FR 37578) (SPR Policy). Aspects of that policy were vacated for species that occur in Arizona by the United States District Court for the District of Arizona. *Center for Biological Diversity* v. *Jewell,* No. CV–14–02506–TUC–RM (D. AZ. Mar. 29, 2017). Because this species occurs in Arizona, we are not relying on the portions of the SPR policy that were vacated by the court in this decision. Pursuant to the Act, a species may warrant listing if it is in danger of extinction or likely to become so throughout all or a significant portion of its range. We interpret the phrase ''significant portion of its range'' in the Act's definitions of ''endangered species'' and ''threatened species'' to provide an independent basis for listing a species in its entirety; thus there are two situations (or factual bases) under which a species would qualify for listing: A species may be in danger of extinction or likely to become so in the foreseeable future *throughout all of its range; or* a species may be in danger of extinction or likely to become so *throughout a significant portion of its range.* If a species is in danger of extinction throughout a significant portion of its range, the species, is an ''endangered species.'' The same analysis applies to ''threatened species.'' Having determined that the lesser long-nosed bat is not endangered or threatened throughout all of its range, we next consider whether there are any significant portions of its range in which the lesser long-nosed bat is in danger of extinction or likely to become so.

The procedure for analyzing whether any portion is a SPR is similar, regardless of the type of status determination we are making. When we conduct a SPR analysis, we first identify any portions of the species' range that warrant further consideration. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose in analyzing portions of the range that have no reasonable potential to be significant or in analyzing portions of the range in which there is no reasonable potential for the species to be endangered or threatened. To identify only those portions that warrant further consideration, we determine whether substantial information indicates that: (1) The portions may be ''significant''; and (2) the species may be in danger of extinction there or likely to become so within the foreseeable future. Depending on the biology of the species, its range, and the threats it faces, it might be more efficient for us to address the significance question first or the status question first. Thus, if we determine that a portion of the range is not ''significant,'' we do not need to determine whether the species is endangered or threatened there; if we determine that the species is not endangered or threatened in a portion of its range, we do not need to determine if that portion is ''significant.'' In practice, a key part of the determination that a species is in danger of extinction in a significant portion of its range is whether the threats are geographically concentrated in some way. If the threats to the species are affecting it uniformly throughout its range, no portion is likely to have a greater risk of extinction, and thus would not warrant further consideration. Moreover, if any concentration of threats apply only to portions of the range that clearly do not meet the biologically based definition of ''significant'' (*i.e.,* the loss of that portion clearly would not be expected to increase the vulnerability to extinction of the entire species), those portions would not warrant further consideration.

We identified portions of the lesser long-nosed bat's range that may be significant, and examined whether any threats are geographically concentrated in some way that would indicate that those portions of the range may be in danger of extinction, or likely to become so in the foreseeable future. Within the current range of the lesser long-nosed bat, some distinctions can be made between Mexico and the United States, such as the presence of an international border with associated differences in laws and culture, areas of different vegetation communities, areas of different management approaches, etc. However, we have not found that any of these geographic distinctions are characterized as areas where threats are concentrated. Therefore, our analysis indicates that the species is unlikely to be in danger of extinction or to become so in the foreseeable future in any geographic region within the range of the lesser long-nosed bat. The primary driver of the status of the species continues to be roost site disturbance or loss. This and other factors affecting the viability of the lesser long-nosed bat population as discussed above occur throughout the range of the bat. We have found no areas where the threats are concentrated in any geographic region. Therefore, we have not identified any portion of the range that warrants further consideration to determine whether they are a significant portion of its range.

We also evaluated representation across the lesser long-nosed bat's range to determine if certain areas were in danger of extinction, or likely to become so, due to isolation from the larger range. Ramirez (2011, entire) investigated population structure of the lesser long-nosed bat through DNA sampling and analysis and reported that combined results indicated sampled individuals belong to single population including both the United States and Mexico. Consequently, individuals

found in the northern migratory range (United States) and in Mexico should be managed as a single population. Additionally, the species' population has increased from an estimated 1,000 lesser long-nosed bats rangewide at the time of listing to over 200,000 currently.

Our analysis indicates that there is no geographic portion of the range that is in danger of extinction or likely to become so in the foreseeable future. Therefore, based on the best scientific and commercial data available, no portion warrants further consideration to determine whether the species may be endangered or threatened in a significant portion of its range.

We have determined that none of the existing or potential threats cause the lesser long-nosed bat to be in danger of extinction throughout all or a significant portion of its range, nor is the subspecies likely to become endangered within the foreseeable future throughout all or a significant portion of its range. We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that: (1) The species is extinct; (2) the species has recovered and is no longer endangered or threatened; or (3) the original scientific data used at the time the species was classified were in error. On the basis of our evaluation, we conclude that, due to recovery, the lesser long-nosed bat is not an endangered or threatened species. We therefore remove the lesser long-nosed bat from the Federal List of Endangered and Threatened Wildlife at 50 CFR 17.11(h).

Effects of the Rule

This final rule revises 50 CFR 17.11(h) by removing the lesser long-nosed bat from the Federal List of Endangered and Threatened Wildlife. The prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, no longer apply to this subspecies. Federal agencies are no longer required to consult with the Service under section 7 of the Act in the event that activities they authorize, fund, or carry out may affect the lesser long-nosed bat. Because no critical habitat was ever designated for the lesser long-nosed bat, this rule would not affect 50 CFR 17.95. State laws related to the lesser long-nosed bat will remain in place. State and Federal laws related to protection of habitat for the lesser long-nosed bat, such as those addressing effects to caves and abandoned mines, as well as protected plant species such as columnar cacti and agaves, will remain in place.

Future Conservation Measures

Section 4(g)(1) of the Act requires the Secretary of the Interior, through the Service and in cooperation with the States, to implement a system to monitor, for not less than 5 years, all species that have been recovered and delisted. The purpose of this requirement is to develop a program that detects the failure of any delisted species to sustain populations without the protective measures provided by the Act. If, at any time during the monitoring period, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

To fulfill the post-delisting monitoring requirement, we developed a draft post-delisting monitoring plan for the lesser long-nosed bat in coordination with the State wildlife agencies from Arizona and New Mexico. We will be publishing a notice of the availability of the draft post-delisting monitoring plan for comment shortly. We will continue to coordinate with other Federal agencies, State resource agencies, interested scientific organizations, and others as appropriate to implement an effective post-delisting monitoring plan for the lesser long-nosed bat.

Summary of Comments and Recommendations

In the proposed rule published on January 6, 2017 (82 FR 1665) in the **Federal Register**, we requested that all interested parties submit written comments on the proposal by March 7, 2017. We also contacted appropriate Federal and State agencies, Tribal entities, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. We did not receive any requests for a public hearing.

State and Peer Review Comments

Section 4(b)(5)(A)(ii) of the Act states that the Secretary must give actual notice of a proposed regulation under section 4(a) to the State agency in each state in which the species is believed to occur, and invite the comments of such agency. Section 4(i) of the Act directs that the Secretary will submit to the State agency a written justification for his or her failure to adopt regulations consistent with the agency's comments or petition. The Service submitted the proposed regulation to both the AGFD and the New Mexico Department of Game and Fish (NMGFD). We received comments supporting the proposed rule from both agencies.

In accordance with our peer review policy, which was published July 1, 1994 (59 FR 34270), we solicited expert opinion on the SS) from which the proposed delisting rule was developed. Specifically, we solicited peer review from six knowledgeable, independent individuals with scientific expertise and background related to bats in general and to lesser long-nosed bats specifically. We received responses from two of the invited peer reviewers. Editorial and clarifying comments, as well as additional data and supporting citations, have been incorporated into this final delisting rule and the SSA.

We reviewed all comments received from the peer reviewers and the State agencies for substantive issues and new information regarding the delisting of the lesser long-nosed bat. These comments are addressed below.

Comment (1): Both the NMGFD and the AGFD are supportive of the proposed rule and indicated that both the proposed rule and the Service's SSA provide sufficient justification for the removal of the lesser long-nosed bat from the List of Endangered and Threatened Wildlife. The AGFD reiterated supporting data and stated that they ''look forward to our continued collaboration in developing an adequate post-delisting monitoring plan and implementing those techniques that ensure the status of the lesser long-nosed bat continues to improve once removed from the regulatory protections of the Endangered Species Act.'' The NMGFD provided clarifying information and suggestions, which have been incorporated in the SSA and the final delisting rule.

Our Response: We appreciate the NMGFD and the AGFD's support and continued commitment to the conservation of the lesser long-nosed bat. We also look forward to working with both of these State agencies on post-delisting monitoring and adaptive management, if necessary, of the lesser long-nosed bat.

Comment (2): The AGFD commented on the issue of substantially reduced numbers at a major lesser long-nosed bat maternity roost in 2017 and what that might mean for our proposed delisting of this species.

Our Response: As described above, the largest known maternity roost for the lesser long-nosed bat experienced an 86 percent decline between 2016 and 2017. We do not have a complete understanding of what caused the fatality event in 2017 and what that ultimately means for the lesser long-nosed bat population. The decline was likely due to mortality, but it could be

the result of migrating females using other roosts in the area or resource conditions in Mexico resulted in fewer bats migrating northward. We do not know if this decline represents a permanent loss of these bats. We will work with our partners in Mexico and the United States to increase the monitoring effort at this roost, as well as consider roost counts at other maternity roosts in the region, and gather information on resource conditions in both the United States and Mexico. This will provide information needed to better understand what the causes and implications of the events of 2016 and 2017 are and what, if any, ramifications this has on the viability of the lesser long-nosed bat population. This roost is included in our draft post-delisting monitoring plan, so we will continue to monitor and evaluate this roost for the next 15 years and implement adaptive management actions as appropriate.

Despite this decline, significantly more lesser long-nosed bats remain than when we listed the species, and the threats are not as significant as we concluded at the time of listing. When looking at the overall data from the past 20 years and applying our best professional judgment, we find that the overall lesser long-nosed bat population trend is positive, a conclusion that our conservation partners in Mexico also relied upon when they delisted the lesser long-nosed bat in 2013. Consequently, stable and increasing numbers of lesser long-nosed bats, in conjunction with the various analyses included in our SSA have led us to conclude that the lesser long-nosed bat no longer meets the definition of threatened or endangered under the Endangered Species Act.

Comment (3): One peer reviewer expressed concern that habitat loss and climate change could create a catastrophic effect on resource availability in the southwestern United States. The reviewer also believed that food items are lacking along the migration route in the United States. Thus, the reviewer believed that the species should not be delisted at this time.

Our Response: We reviewed the best scientific and commercial information available when conducting the threats analysis. We acknowledge that climate change is likely to affect forage availability in the future, both in Mexico and the United States. However, we cannot predict at this time specifically how forage resources will be affected, and how lesser long-nosed bats are likely to respond to these changes. Loss of lesser long-nosed bat habitat and forage resources are a threat that does not appear to be as significant as described at the time this species was listed as an endangered species. In the SSA and this final delisting rule, we discuss the apparent flexibility and adaptability of the lesser long-nosed bat with regard to changes in forage availability. We acknowledge that the opportunity to observe this adaptability has been limited and may not represent future long-term changes in forage availability; however, it provides evidence of the ability of this species to maintain viability during local or seasonal changes in forage availability. We have determined that, while threats to forage availability may be affecting individuals or specific sites or areas within the range of the lesser long-nosed bat, they do not represent significant threats to the overall population of the lesser long-nosed bat.

Overall, the threats to foraging areas have been reduced since the species was listed under the Act. Foraging habitat for the species is primarily on public lands and is managed and conserved through inclusion in resource management plans as noted in Factor D above. Thus, land use plans, State regulatory mechanisms, and ongoing conservation measures support increased conservation efforts for the lesser long-nosed bat habitat and forage resources in the United States.

Comment (4): One peer reviewer suggested that we attempt to get better documentation related to the consistency and quality of data used to evaluate and describe the status of the lesser long-nosed bat in Mexico.

Our Response: We are committed to ongoing communication and coordination with our Mexican conservation partners. The draft post-delisting monitoring plan includes the use of available information on the status of the lesser long-nosed bat in Mexico to ensure that we consider the entire range of the species in assessing its status absent the protections of the Act. We consider the information we used during development of the SSA and the final delisting rule related to the 2013 delisting of the lesser long-nosed bat in Mexico, in conjunction with other data from Mexico provided during our SSA process, to be the best available scientific information at this time. We will work with our partners on both sides of the U.S.-Mexico border to update and improve the information regarding the status of the lesser long-nosed bat in Mexico.

Public Comments

During the public comment period for the proposed rule, we received comments from 19 individuals or organizations. Of these, six provided substantial comments which we address below.

Comment (6): Several commenters would support the Service in downlisting the lesser long-nosed bat to a threatened species, but do not support delisting.

Our Response: We assessed the status of the species based on the best available scientific and commercial information, and included expert input and review. Mexico completed a similar process in 2013 where they evaluated the current status of the lesser long-nosed bat in Mexico. The result of that analysis was the removal of the lesser long-nosed bat from Mexico's version of the endangered species list. We considered that determination when evaluating the range-wide status of the lesser long-nosed bat. We analyzed the information within the SSA and determined that the lesser long-nosed bat does not meet the definition of endangered nor does it meet the definition of a threatened species, because the future scenario's analysis indicate that the lesser long-nosed bat will retain its viability into the foreseeable future due to high resiliency, redundancy, and representation. In addition, the population is stable or increasing, threats are not as significant as previously believed or have been alleviated through management, and conservation actions continue to be implemented. Therefore, the lesser long-nosed bat is not in danger of extinction now or within the foreseeable future. We have determined that the lesser-long nosed bat has recovered and no longer meets the definition of endangered or threatened under the Act.

Comment (7): Several commenters requested that the Service explain the rationale it used to estimate the current population of the species. One commenter stated that the estimate regarding post-maternity population size in the proposed rule is not a defendable number.

Our Response: Counts of bats at nearly every known lesser long-nosed bat roost have occurred at least to some extent over the past 20 years in both the United States and Mexico. We cannot generate statistically rigorous population numbers or trend from these counts because limited resources has meant that roost counts do not always occur annually and, with the exception of a few sites, very rarely have multiple counts per year been completed. However, these counts have generally occurred multiple times over the past 20 years and they represent information that can be used to assess the status of

the population. To do this, we relied upon the professional judgement of those conducting the counts, supported by a data set that, although not statistically robust, is a long-term data set. This input has been that, in general, the trend in overall numbers has been stable or increasing in both the United States and Mexico (AGFD 2005 and 2016, entire; Medellín and Torres 2013, pp. 11–13; Buecher 2016, p. 10; Cerro 2012, p. 23). The number of lesser long-nosed bats at any given roost fluctuates considerably each year and among years making it crucial to have long-term data sets to assess the status of the lesser long-nosed bat population. We considered the overall roost counts for maternity sites and at late-summer transition roosts, understanding that there is likely some overlap between individuals within those two sets of data. We also considered count data from Mexico understanding that there is overlap of individuals within the migratory segment of the population that inhabits both the United States and Mexico. This has allowed us to estimate that the overall population is probably at least 200,000, especially considering that one maternity site has consistently been counted at over 100,000 bats annually for many years. It also allows us to support the conclusion given to us by researchers familiar with these roost sites that indicate increasing and stable populations at nearly all roost sites that are being monitored. A good example are roost sites on Fort Huachuca in the Huachuca Mountains of Arizona. Monitoring over the past 24 years indicates steady increases in the numbers of lesser long-nosed bats at these roosts. In addition, two roost sites that had been abandoned have been reoccupied (Sidner 2005; Buecher 2016; p. 17). However, we also have documented the abandonment of roost sites including roost sites in the Chiricahua and Santa Rita mountain ranges.

We believe that we have conservatively estimated the overall lesser long-nosed bat population to be at least 200,000. The count data used in the SSA and the proposed delisting rule represent more of an index of population size and not the exact number of lesser long-nosed bats that exist within its range. Again, we acknowledged that the population numbers used in the SSA and the proposed delisting rule do not represent actual population numbers. We are required to make decisions based on the best available scientific and commercial data and have used this count data to evaluate the current status of the species. While numbers fluctuate both within and between years, the count data we used was generally gathered using a consistent approach and over a relatively long period of time such that we believe this does provide an index of population size. The total number of bats currently being documented is many times greater than those numbers upon which the listing of this species relied, and while this may, in large part, reflect a better approach to survey and monitoring in subsequent years, it gives us better information upon which to evaluate the status of the lesser long-nosed bat population.

In addition, a documented expansion of the known range of the lesser long-nosed bat in the United States has occurred subsequent to listing. According to Bat Conservation International (lit 2017), recent reports from Dr. Keith Geluso at the University of Nebraska have identified the presence of lesser long-nosed bats near Gila, New Mexico. This is an expansion of over 100 miles north of known occurrences in Hidalgo County, NM. Additional data collected by Buecher Biological Consulting confirmed the presence of this species in the southern Big Burros Mountains at hummingbird feeders (HEG 2015, entire). These reports are approximately 100 miles north of the historic northern extent of their range in the Peloncillo and Big Hatchet Mountains.

Comment (8): Several commenters suggested that additional evaluation and quantitative analyses of the population size and trend is needed before a determination that downlisting or delisting can be supported.

Our Response: As stated in our response to the previous comment, we acknowledge that we do not have statistically rigorous roost count data that provides a statistically sound population estimate. Past, current, and future resources have not and are unlikely to support future roost counts at the intensity needed to provide such a population estimate. However, the count data we do have, in conjunction with the professional judgment of the biologists conducting these counts and of those involved in the management of roost sites, does provide us a picture of increased numbers and known roost sites subsequent to the listing of the lesser long-nosed bat in 1988. As stated in the proposed rule, there has been a steadily increasing effort related to the conservation of this subspecies for the last 20 years following the completion of the lesser long-nosed bat recovery plan. Better methods of monitoring have been developed. These monitoring efforts have led to an increase in the number of known roosts throughout its range. The 1988 listing rule emphasized low population numbers along with an apparent declining population trend. At this time, we have documented increased lesser long-nosed bat numbers and positive trends at most roosts sites, as well as an increased number of knowns roosts and an expansion of the range of this species in the United States.

Much of the debate as to the legitimacy of the 1988 listing of the lesser long-nosed bat centers around the population numbers and trends recorded from roost site monitoring. At the time of listing, population numbers and trends used by the Service in determining the endangered status of the lesser long-nosed bat showed low numbers and a declining trend (Wilson 1985). Information gathered since the listing show higher population numbers and a generally stable to increasing trend (Cockrum and Petryszyn 1991, AGFD 2005, entire, AGFD 2016, entire). Further, the increasing trend in Mexico warranted and resulted in the removal of the lesser long-nosed bat from Mexico's Law for Endangered Protection in 2013.

We anticipate that ongoing post-delisting monitoring will detect any significant changes in population health and allow for adaptive management responses, including possible re-listing, if necessary. As is the case with many listed species, we have not had, nor do we anticipate that we will have in the future, adequate resources to gather all the information we would like or feel is necessary to evaluate prior to delisting the lesser long-nosed bat. We rely on the best available scientific and commercial information. Based on this information, we have determined that the population of the lesser long-nosed bat is currently viable and will likely maintain viability into the future based on the analysis contained in our SSA and this final rule.

Comment (9): Several commenters remarked on and requested that the Service should more rigorously consider whether roost protections are likely to be maintained post-delisting in the absence of regulatory requirements of the Act.

Our Response: After delisting, the lesser long-nosed bat will continue to be a high priority for conservation activities due to its status in both New Mexico and Arizona's State Wildlife Action Plans (SWAP). New Mexico has the species identified as a Species of Greatest Conservation Need. In Arizona's SWAP, the lesser long-nosed bat is named as a special status species and monitoring roosts is a proposed activity in the plan. Further, the U.S.

Forest Service has the species identified as Regional Forester Sensitive, providing it with additional conservation status in all regional USFS National Environmental Policy Act analyses. These classifications and proposed conservation activities were not identified when the lesser long-nosed bat was listed in 1988.

We acknowledge that sustaining efforts of post-delisting monitoring can be challenging and subject to competing priorities for available resources. Nonetheless, we have designed the draft post-delisting monitoring plan to be realistic given limited resources and will continue to work with our conservation partners to obtain the resources necessary to implement post-delisting monitoring. As occurred prior to delisting, we anticipate protection and conservation of the lesser long-nosed bat will continue to be implemented as the result of existing management and land use plans, as well as other State and Federal laws related to protection of bats and their habitats, including caves used as roosts. These laws and plans will continue to be implemented and used to benefit the conservation of the lesser long-nosed bat following delisting. We acknowledge that the level of support for ongoing lesser long-nosed bat conservation actions changes over time and is often focused on species listed under the Act. However, we have reached out to our Federal and non-Federal lesser long-nosed bat conservation partners as we worked to address comments on and finalize the delisting rule for the lesser long-nosed bat to assess their level of participation in future conservation actions for this species. They have indicated that they will continue to implement conservation actions as appropriate and as resources are available.

Our discussion in Factor A above includes a number of specific examples of conservation actions that our conservation partners have and are implementing; many of which are regulatory requirements. We are confident that actions similar to those discussed above in this section will continue to benefit the conservation of lesser long-nosed bat even absent the regulatory protections of the Act as such actions have done in Mexico. Lesser long-nosed bat recovery has occurred because of the commitments of our conservation partners that have gone well beyond the requirements of the Act. The recovery of the lesser long-nosed bat is evidence of how effective species conservation can be when supported by a committed, active group of binational conservation partners.

Comment (10): One commenter suggested that gates are ineffective in protecting lesser long-nosed bat roosts.

Our Response: We are still developing the most appropriate gate design and implementation strategy for gates on lesser long-nosed bat roosts. Three efforts to physically protect roosts through the use of gates or barriers have been implemented (Bluebird and State of Texas). The experimental fence at the Bluebird Mine worked initially, but it was subsequently vandalized resulting in roost abandonment. The gate was repaired and there have been no subsequent breeches and the bats have recolonized the site. Gating at the State of Texas mine has had some success (the site is protected, but bat numbers have declined), but we still do not know how lesser long-nosed bats will adapt to gates over time or if gates will prove to be a viable option for lesser long-nosed bat roost protection, especially at roosts containing the largest numbers of bats. A protective gate was installed at the Cave of the Bells roost site. This site has not been occupied since gating (AGFD 2005, entire). It is not entirely clear if the gating was responsible for abandonment of this roost, but additional research has indicated that gating may be problematic for lesser long-nosed bats based on colony size and flight speeds. Bat gates are an excellent conservation tool for bat roosts, but they may not be as suitable for lesser long-nosed bats (Ludlow and Gore 2000). Further research, similar to efforts at Coronado National Memorial, is needed before the effectiveness of this tool can be determined (Bucci et al. 2003). Current efforts are underway to use the existing gate at Coronado National Memorial to determine a better gate design and configuration with regard to lesser long-nosed bats. Regardless, the gates do provide protection from disturbance and as such, benefit the long-term conservation of the lesser long-nosed bat.

Comment (11): Several commenters stated that with the on-going impact of illegal border activity occurring across the U.S.-Mexico border, abandoned mines and caves used by the bat are still at risk from disturbance.

Our Response: Patterns of cross-border traffic are continually changing and, while the level of use in proximity to roosts may rise and fall, roost sites nonetheless occur in areas where they are vulnerable to disturbance by border traffic. In general, recent data indicates that illegal border crossings have decreased. This may indicate a current downturn in illegal border activity, but this trend may reverse at any time. The roost monitoring proposed in our draft post-delisting monitoring plan will provide regular assessments of lesser long-nosed bat roosts and allow us to respond appropriately if threats or impacts from illegal border activities become an issue.

We have determined that, while activities associated with illegal border crossing may be affecting individuals or specific sites or areas within the range of the lesser long-nosed bat, they do not represent significant threats to the overall population of the lesser long-nosed bat.

Comment (12): One commenter stated that growing human populations and increased rate of urbanization within the range of the lesser long nosed bat will increase the prevalence of vandalism at roost sites.

Our Response: Lesser long-nosed bats can be affected directly by development which removes important foraging habitat, but also indirectly as growing numbers of people increase the potential for roost disturbance. We have specifically addressed the issue of development and urbanization in Factor A above. We have determined that, while human development and urbanization may be affecting individuals or specific sites or areas within the range of the lesser long-nosed bat, they do not represent significant threats to the overall population of the lesser long-nosed bat.

Comment (13): Several commenters suggested that the species' food resources are unstable and the species' resilience to the 2004 cactus bloom failure event was overstated.

Our Response: We have determined that there is a lack of evidence presented within the best available scientific and commercial information that these issues are or will have population-level effects on the lesser long-nosed bat. The threat to foraging areas has been reduced since the species was listed under the Act. A key to maintaining lesser long-nosed bat population viability into the future is assuring that forage species remain present and appropriately distributed across the landscape and available for the various life history requirements of the lesser long-nosed bat. Foraging habitat for the species is primarily on public lands and is conserved through inclusion in resource management plans. These plans provide guidance and measures to ensure that forage resources such as agaves and columnar cacti remain present in the landscape. For example, we are working with The Department of Defense facility at Fort Huachuca to continue their Agave Management Plan as part of their Integrated Natural Resources

Management Plan which states that it will maintain a self-sustaining populations of *Agave palmeri* on Fort Huachuca to conserve the forage base of the lesser long-nosed bat and other species using agave. The Coronado National Forest's 2017 LRMP includes standards and guidelines to retain and enhance areas with paniculate agaves in order to benefit the lesser long-nosed bat. The Bureau of Land Management has forage plant protections within the range of the lesser long-nosed bat, including avoidance measures to protect agave and saguaros. Organ Pipe Cactus National Monument and Cabeza Prieta National Wildlife Refuge protect hundreds of square miles of areas containing foraging plants for the bat within its refuge boundaries. We are confident that these efforts and protections will continue even after the lesser long-nosed bat is delisted.

Comment (14): One commenter suggested that lesser long-nosed bats may become dependent on artificial food resources (*i.e.,* hummingbird feeders), which may work as a temporary replacement of their natural food but are not sufficient as a sustainable food resource.

Our Response: As stated in the SSA, one interesting aspect of the foraging behavior of lesser long-nosed bats is the fact that they readily find and use hummingbird feeders as a forage resource (Buecher and Sidner 2013, Wolf 2006, Town of Marana 2017). Some hypothesize that the year-round presence of hummingbird feeders in southern Arizona and New Mexico support lesser long-nosed bats staying later in the year in these areas, perhaps even year-round. It is possible that this extra availability of forage resources may be one factor that has led to the lesser long-nosed bat's increased stability and progress towards recovery. The increase and permanent presence of hummingbird feeders at homes in southern Arizona and New Mexico may supply a consistent forage resource for these nectar-feeding bats that allows them to use and remain in areas when natural forage resources are absent or reduced (R. Sharp, 2013 pers. comm.). Alternatively, the long-term effects of staying longer before migrating southward and the questionable nutritional value of the sugar water in the hummingbird feeders are unknown and could actually be detrimental.

In 2006, in southern Arizona, there was a significant failure of blooming agaves. As a result, many members of the public reported that bats were using their hummingbird feeders that year. The Service, AGFD, and the Town of Marana initiated a citizen scientist program to track use of hummingbird feeders in 2007 based on Wolf (2006, entire) and, over the past approximately 10 years, the volunteer network of feeder watchers has grown to more than 100 individuals monitoring their hummingbird feeders across southern Arizona. This has resulted in a tremendous amount of data and some very interesting results.

The existence of this ongoing study related to lesser long-nosed bat use of hummingbird feeders provides us an opportunity to continue to assess and evaluate the potential benefits and negative effects of hummingbird feeders on the landscape within the range of the lesser long-nosed bat. Currently, there is no evidence that this resource in the landscape is negatively affecting the lesser long-nosed bat population.

Comment (15): Several commenters stated that the impacts of climate change to bat distributions are unknown at this time and that the SSA did not adequately acknowledge the threat of climate change.

Our Response: The lesser long-nosed bat SSA incorporates the best available scientific and commercial information related on the current state of our understanding of the potential effects of climate change on the lesser long-nosed bat. We acknowledge the limitations of the currently available information related to predicting the potential impacts of climate change on the lesser long-nosed bat specifically. However, we have determined that, while climate change may be affecting individuals or specific sites or areas within the range of the lesser long-nosed bat, it does not represent a significant threat to the overall population of the lesser long-nosed bat based upon the analysis we completed in the SSA.

We are committed to using the best available scientific and commercial information in our analysis of the current and future status of the lesser long-nosed bat. We acknowledge that ecosystems within the southwestern United States are thought to be particularly susceptible to climate change and variability (Strittholt et al. 2012, pp. 104–152; Munson et al. 2012, pp. 1–2; Archer and Predick 2008, p. 23). Documented trends and model projections most often show changes in two variables: temperature and precipitation. Recent warming in the southwest is among the most rapid in the nation, significantly more than the global average in some areas (Guido et al. 2009, pp. 3–5). Bagne and Finch (2012 and 2013; pp. 107–116; pp. 150–160) assessed the vulnerability of the lesser long-nosed bat to the effects of climate change in the areas of the Barry M. Goldwater Range (southwestern Arizona) and at Fort Huachuca (southeastern Arizona). They concluded that the lesser long-nosed bat was moderately vulnerable to declines related to global climate change. Vulnerability was increased by reliance on the quantity and timing of flowering of a limited number of plant species, while resilience is incurred by flexible migratory behaviors and the probable resilience of forage plant populations to increasing temperatures.

They also predicted that changes in climate are expected to exacerbate current threats. One of the primary factors related to the vulnerability of this species to climate change was the adaptability of non-native grasses and the potential changes in fire regime that are expected under most climate change scenarios. However, current climate change modeling efforts do not allow us to predict what the effects of this climate change will be beyond a relatively short timeframe. We are not able to conclude what the effects of climate change will be on the lesser long-nosed bat population distribution and viability given the current level of information we have related to climate change on forage resources such as saguaros and agaves. However, we acknowledge the potential for climate change to affect lesser long-nosed bat forage availability, and we have included an assessment of this issue as part of the draft post-delisting monitoring plan. This will provide us with information to make a better informed evaluation of the potential effects of climate change on lesser long-nosed bat forage resources. Results of this monitoring will allow us to formulate potential adaptive management actions to address these effects, or consider relisting the species if necessary.

The best available scientific and commercial information indicates that the current population condition of the lesser long-nosed bat appears to indicate that lesser long-nosed bats may be showing some resiliency with regard to fluctuating food plant flowering cycles.

Comment (16): Several comments expressed concern with regard to current regulations and laws not adequately protecting bats and caves.

Our Response: The Federal Cave Protection Act of 1988 prohibits persons from activities that ''destroy, disturb, deface, mar, alter, remove, or harm any significant cave or alters free movement of any animal or plant life into or out of any significant cave located on Federal lands, or enters a significant cave with the intent of committing any act described . . .'' Arizona Revised

Statute 13–3702 makes it a class 2 misdemeanor to ''deface or damage petroglyphs, pictographs, caves, or caverns.'' Activities covered under ARS 13–3702 include ''kill, harm, or disturb plant or animal life found in any cave or cavern, except for safety reasons.'' We acknowledge that these regulations are only as effective as their enforcement, but we are confident that our Federal and State partners will enforce these regulations to the best of their ability. We are currently aware of only one site where abandonment of the roost resulted from human disturbance. This issue was addressed through fencing and human disturbance has not been an issue since the fencing was installed.

Comment (17): Two commenters discussed the potential effects of wind energy development. One indicated that wind energy facilities were not adequately evaluated in the SSA and the proposed delisting rule.

Our Response: We are aware of lesser long-nosed bat fatalities from wind energy development facilities in both the United States and Mexico. However, because monitoring at these sites is not comprehensive and because this is an emerging threat without much information available specifically related to lesser long-nosed bats, it is difficult to determine the actual long-term impact of wind turbines on this species. Based on existing wind energy development, there are two wind energy facilities in Arizona (producing 268 MW of power) and one wind energy facility in New Mexico (producing 1,112 MW of power) within the range of the lesser long-nosed bat. The American Wind Energy Association (AWEA) has identified an additional six projects under development in New Mexico; however, none of these projects are within the range of lesser long-nosed bat. The AWEA has identified no additional projects under development in Arizona within the range of the lesser long-nosed bat. Through 2050, the U.S. Department of Energy's Wind Vision (2013) report, projects 5 and 15 gigawatts of wind generating capacity for Arizona and New Mexico respectively. However, based on wind resource maps from the National Renewable Energy Laboratory, measured at 80 meters above ground level, wind resources are limited within the range of the lesser long-nosed bat in either State. While we do not have any specific information related to wind energy development in Mexico, short- and medium term projects indicate that the development of wind power is expected to take an increasingly important position in Mexico's energy landscape. One source predicts that wind energy development in Mexico will increase four fold from 2016 to 2020.

The impact of wind energy development on lesser long-nosed bats is unknown and more attention must be paid to characterizing and avoiding potential impacts. Because lesser long-nosed bats are migratory, and impacts from wind energy facilities to migratory bats are well documented, the construction of new facilities should be carefully sited to avoid roosts and migratory flyways. Moreover, construction of sites within the range of the lesser long-nosed bat should be monitored and fatalities reported with adaptive management strategies in place to reduce fatalities over time.

Required Determinations

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

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 the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. Therefore, we solicited information from Native American Tribes during the comment period to determine potential effects on them or their resources that may result from the delisting of the lesser long-nosed bat, and we fully considered their comments in this final rule.

References Cited

A complete list of all references cited in this rule is available on *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0138, or upon request from the Field Supervisor, Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this document are the staff members of the Arizona Ecological Services Field Office, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

§ 17.11 [Amended]

■ 2. Amend § 17.11(h) by removing the entry for ''Bat, lesser long-nosed'' under MAMMALS from the List of Endangered and Threatened Wildlife.

Dated: March 8, 2018.

James W. Kurth,

Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2018–08121 Filed 4–17–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket Nos. 120328229–4949–02 and 150121066–5717–02]

RIN 0648–XG140

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; annual adjustment of Atlantic bluefin tuna Purse Seine and Reserve category quotas; inseason quota transfer from the Reserve category to the Longline category.

SUMMARY: NMFS is adjusting the Atlantic bluefin tuna (BFT) Purse Seine and Reserve category quotas for 2018, as it has done annually since 2015. NMFS also is transferring 44.5 metric tons (mt) of BFT quota from the Reserve category

to the Longline category after considering the applicable regulatory determination criteria. NMFS has decided that the quota transferred to the Longline category will be distributed to permitted Atlantic Tunas Longline vessels with recent fishing activity, rather than to all qualified Individual Bluefin Quota (IBQ) shares recipients. As a result of this transfer, each associated IBQ account will receive 1,102 lb (0.5 mt) of IBQ.

DATES: Effective April 13, 2018, through December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, Tom Warren, or Brad McHale, (978) 281–9260, or Carrie Soltanoff, (301) 427–8503.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014). NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

Annual Adjustment of the BFT Purse Seine and Reserve Category Quotas

In 2015, NMFS implemented a final rule that established the U.S. BFT quota and subquotas consistent with ICCAT Recommendation 14–05 (80 FR 52198, August 28, 2015). As a result, based on the currently codified U.S. quota of 1,058.79 mt (not including the 25 mt allocated by ICCAT to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area), the baseline Purse Seine, Longline, and Reserve category quotas are codified as 184.3 mt, 148.3 mt, and 24.8 mt, respectively. See § 635.27(a). For 2018 to date, NMFS has made the following inseason quota transfers: 14.3 mt from the General category December 2018 subquota period to the January 2018 subquota period (82 FR 60680, December 22, 2017) and 10 mt from the Reserve category to the General category (83 FR 9232, March 5, 2018), resulting in an adjusted 2018 Reserve category quota of 14.8 mt.

Pursuant to § 635.27(a)(4), NMFS has determined the amount of quota available to the Atlantic Tunas Purse Seine category participants in 2018, based on their BFT catch (landings and dead discards) in 2017. In accordance with the regulations, NMFS makes available to each Purse Seine category participant either 100 percent, 75 percent, 50 percent, or 25 percent of the individual baseline quota allocations based on the previous year's catch, as described in § 635.27(a)(4)(ii), and reallocates the remainder to the Reserve category. NMFS has calculated the amounts of quota available to the Purse Seine category participants for 2018 based on their individual catch levels in 2017 and the codified process adopted in Amendment 7. NMFS did not open the Purse Seine fishery in 2017 because there were no purse seine vessels permitted to fish for BFT and thus on catch in 2017. As a result, each Purse Seine category participant will receive 25 percent of the individual baseline quota amount, which is the required distribution even with no fishing activity under the current regulations. The individual baseline amount is 36.9 mt (184.3 mt divided by five Purse Seine category participants), 25 percent of which is 9.2 mt. Consistent with § 635.27(a)(4)(v)(C), NMFS will notify Atlantic Tunas Purse Seine category participants of the amount of quota available for their use this year through the IBQ electronic system established under § 635.15 and in writing.

By summing the individual available allocations, NMFS has determined that 46.1 mt are available to the Purse Seine category for 2018. Thus, the amount of Purse Seine category quota to be reallocated to the Reserve category is 138.2 mt (184.3 mt − 46.1 mt). This reallocation results in an adjusted 2018 Reserve category quota of 153 mt (14.8 mt + 138.2 mt), before any further transfers to other categories.

Quota Transfer

Under § 635.27(a)(9), NMFS has the authority to transfer quota among fishing categories or subcategories after considering the 14 regulatory determination criteria provided under § 635.27(a)(8). NMFS has considered all of these criteria, and discuss specific consideration of the criteria relevant for the quota transfer below.

NMFS considered the catches of the Longline category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii)). As of March 31, the Longline category has landed about 28.2 mt (19 percent) of its 148.3-mt baseline quota. Thus, this is not a situation in which NMFS is transferring quota to avoid the need for closure of the whole Longline category. However, as discussed in more detail in the next section, the additional quota will be distributed to active vessels in the Longline category to help vessel owners account for BFT catch while fostering conditions in which permit holders become more willing to lease IBQ to other vessels through the IBQ system.

Longline vessels must use IBQ to account for their incidental BFT landings and dead discards while fishing for swordfish and yellowfin tuna. In 2018, NMFS modified HMS regulations to require vessels in the pelagic longline fishery to account for bycatch of BFT using IBQ on a quarterly basis instead of on a trip-level basis (82 FR 61489, December 28, 2017). If a vessel has insufficient IBQ to account for such landings and dead discards within a quarter, it goes into ''quota debt.''

For the first fishing trip in a calendar year quarter, as defined at § 635.15(b)(3), a vessel is not allowed to fish with pelagic longline gear if it has outstanding quota debt or does not have the minimum amount of quota (*i.e.,* 276 lb (0.125 mt) to depart on a fishing trip in the Atlantic and 551 lb (0.25 mt) to depart on a fishing trip in the Gulf of Mexico). These minimum amounts were specified to allow the landing and accounting of one BFT, based on average fish weight for each area (*e.g.,* 551 lb of quota would allow for the landing and accounting of one BFT in the Gulf of Mexico). Without the quota transfer, active vessels may have difficulty accounting for their BFT catch within a quarter. Transferring 44.5 mt of quota from the Reserve category would provide limited additional opportunities to harvest available swordfish and yellowfin tuna without exceeding the BFT quota available to account for incidental BFT catch during those operations. Regarding the projected ability of the vessels fishing under the particular category quota (here, the Longline category) to harvest the additional amount of BFT before the end of the fishing year (§ 635.27(a)(8)(iii)), NMFS cannot predict if all of the 44.5 mt of quota will be used by December 31, given the highly variable nature (*i.e.,* temporally and spatially) of incidental BFT catch.

NMFS anticipates, however, that the amount of quota transferred is an amount sufficient to facilitate vessel trips within the next quarters and encourage leasing by other permit holders, without limiting NMFS' ability to meet other needs with the Reserve quota for the remainder of the year.

NMFS also considered the estimated amounts by which quotas for other gear categories of the fishery might be exceeded (§ 635.27(a)(8)(iv)) and the ability to account for all 2018 landings and dead discards. A small portion of the overall commercial BFT quota has been used in 2018 to date, consistent with the amount of quota used in the early months of previous years. NMFS will need to account for all 2018 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations and anticipates having sufficient quota to do that even with this transfer from the Reserve category.

This transfer is consistent with the current quotas, which were established and analyzed in the Atlantic BFT quota final rule (80 FR 52198, August 28, 2015), and with objectives of the 2006 Consolidated HMS FMP and amendments (§ 635.27(a)(8)(v) and (vi)). The adjusted Longline category quota of 192.8 mt remains within the ICCAT quota. The revised Longline category quota supports the broader objectives of Amendment 7, which include reducing BFT interactions and dead discards while maintaining an economically viable swordfish and yellowfin tuna directed fishery.

Regarding ''optimizing fishing opportunity'' (§ 635.27(a)(8)(x)), the ability of pelagic longline vessel owners to account for BFT with allocated quota or to lease IBQ at an affordable price is key to the success of the IBQ Program and thus to optimize fishing opportunity. An inseason transfer of quota to the Longline category would optimize fishing opportunity, contribute to full accounting for landings and dead discards, and reduce uncertainty in the fishery as a whole. Quota transferred from the Reserve category and distributed directly to active vessels should reduce situations where fishing opportunity for target species is constrained by the unavailability of quota (*e.g.,* because of BFT quota debt or a low IBQ balance) or, in the case of vessels with recent fishing activity that are not associated with IBQ shares, by not finding affordable quota (or sufficient quota) for lease. Detailed information is discussed below showing that without this transfer of quota, some otherwise active vessels will be unable to fish because of quota debt or low balance (below the minimum amount of allocation needed to fish) at the start of the second quarter. The quota transfer will also reduce vessel owner uncertainty about whether a vessel owner will have sufficient quota to account for future BFT catch. Without this inseason quota transfer, permit holders may be unnecessarily conservative at the beginning of the year, in a way that does not optimize fishing opportunities nor encourage the appropriate functioning of the IBQ leasing program. For example, vessel owners may fear that they will not have enough IBQ to account for BFT retained or discarded dead, and thus may feel they cannot lease IBQ to other vessels. If they do lease out quota, they may set the lease prices unnecessarily high to offset their perceived risks. An inseason distribution of IBQ to active vessels will reduce the perceived risk associated with leasing a portion of their IBQ to other vessels early in the year and will reduce uncertainty in their business plans for the year.

Regarding accounting for dead discards (§ 635.27(a)(8)(xi)) and variations in seasonal distribution or abundance, a quota transfer from the Reserve category to the Longline category would contribute to full accounting of BFT catch by vessels that accrue quota debt (*i.e.,* reduce quota debt), enhance the likelihood that share recipients will lease IBQ to others, and reduce uncertainty in the fishery as a whole. Transferring quota relatively early in 2018 helps to address the diversity of the fishery with respect to the timing of fishing activities in different geographic areas. A quota transfer later in the year may disadvantage those fishing early in the year. In addition, the first quarter of 2018 recently ended and any vessels that have gone into debt will not be able to fish beginning April 1 until they account for quota debt and obtain the minimum amount of allocation needed to fish with pelagic longline gear. Additional inseason transfers could occur later in the year and the additional quota at the beginning of the year helps equalize the distribution among the active vessels.

Based on the considerations above, NMFS is transferring 44.5 mt of the adjusted Reserve category quota to the Longline category. As a result of this quota transfer, the adjusted 2018 Reserve category quota is 108.5 mt (153 mt − 44.5 mt), and the adjusted 2018 Longline category quota is 192.8 mt.

Distribution of Transferred Quota Within the Longline Category

After transferring additional BFT quota inseason to the Longline category, NMFS may then distribute the quota either to all qualified IBQ share recipients (*i.e.,* share recipients who have associated their permit with a vessel) or only to permitted Atlantic Tunas Longline vessels with recent fishing activity, whether or not they are associated with IBQ shares. This decision may be based on information for the subject year and previous year, including the number of BFT landings and dead discards, the number of IBQ lease transactions, the average amount of IBQ leased, the average amount of quota debt, the annual amount of IBQ allocation, any previous inseason allocations of IBQ, the amount of BFT quota in the Reserve category, the percentage of BFT quota harvested by the other quota categories, the remaining number of days in the year, the number of active vessels fishing not associated with IBQ share, and the number of vessels that have incurred quota debt or that have low levels of IBQ allocation (§ 635.15(b)(9)). Discussion of the relevant information and justification for how NMFS is distributing the transferred quota in this action follows.

One hundred thirty-six IBQ share recipients were designated under Amendment 7, and the baseline Longline category quota is distributed to those share recipients at the beginning of the year, regardless of their fishing activity. Other permitted Longline vessels may also fish but do not automatically receive annual IBQ allocation from shares. NMFS has examined the logbook, Vessel Monitoring System (VMS), dealer, and electronic monitoring data for 2017 and for 2018 as of March 31, and has determined that 89 vessels have recent fishing activity and that, of those, 85 were IBQ share recipients. Any vessel activity in the pelagic longline fishery during this date range is sufficient to qualify as ''recent fishing activity'' (§ 635.15(b)(9)).

Preliminary data indicate that, in 2017, 58 Atlantic Tunas Longline vessels landed a total of 494 BFT (226,738 lb) and 93 BFT were discarded dead. Data from the IBQ system indicate that in 2018 through March 31, 25 Atlantic Tunas Longline vessels landed a total of 122 BFT (59,134 lb). These landings and dead discards (as well as VMS data that document BFT released alive) indicate that pelagic longline vessels have been interacting with BFT in 2017 (and early 2018). The vessels

have been accounting for BFT using IBQ, as required by the regulations. It is likely that there will continue to be pelagic longline interactions with BFT and a need for vessels to account for the BFT retained and discarded dead in 2018. Distributing only to active vessels provides a focused, more efficient distribution of quota to those that need it and will help reduce uncertainty and facilitate better business decisions and a more effective leasing program for the remainder of the year. NMFS notes that this is only a small influx of quota to facilitate effective leasing and more certainty in operational decisions at the beginning of the year.

There were 118 IBQ lease transactions in the relevant time period analyzed (85 in 2017; 33 in 2018 through March 31), with 55 distinct share recipients leasing. A total of 200,823 lb were leased (156,148 lb in 2017; 44,675 lb in 2018 through March 31). Seventeen IBQ lessors did not have recent fishing activity. Overall, the average amount of IBQ leased was 1,837 lb in 2017 with an average lease price of $1.67 per pound, and 1,354 lb in 2018 through March 31 with an average lease price of $2.84 per pound (weighted average). In discussions with vessel operators, some have indicated that the ex-vessel price of BFT was variable, and relatively low, and that they essentially made little or no money from BFT given expenses including the cost to lease IBQ. Data indicate that the ex-vessel price of BFT from pelagic longline vessels ranged from $0.01 to $35 per pound, with an average of $4.95 per pound. There were four active vessels that were not associated with IBQ shares that leased quota from share recipients in order to fish with pelagic longline gear. Fifteen distinct vessels had quota debt at any given point in 2017, with an average of 900 lb. Nine vessels had quota debt at any given point in 2018 through March 31, with an average of 1,526 lb. This price and leasing information demonstrates that the leasing market is active, vessels are paying out of pocket to obtain additional IBQ as needed, and that BFT landings are generally not profitable. It also indicates that influxes of quota inseason were helpful in facilitating the effective functioning of the IBQ Program and system. Furthermore, share recipients that are not actively fishing are earning some revenue through leasing to those vessels that are fishing (*i.e.,* from 5 such vessels in 2015 to 17 vessels from January 1, 2017 through March 31, 2018). These trends further support distribution of quota to Atlantic Tunas Longline vessels with recent fishing activity in order to facilitate accounting for BFT catch or reducing the likelihood of accrued quota debt, while helping to lower any additional cost of leasing.

The annual amount of Longline category quota allocated in the IBQ system for 2017 was the baseline Longline category quota of 148.3 mt plus the 45-mt transfer that was effective February 28, 2017, for a total of 193.3 mt (not including the 25 mt for the Northeast Distant Gear Restricted Area). The annual amount of Longline category quota currently allocated in the IBQ system for 2018 is the baseline Longline category quota of 148.3 mt. NMFS has not made any inseason transfers to the Longline category thus far in 2018. As described above, the amount of quota in the Reserve category following this action's reallocation from the Purse Seine category is 153 mt. As described in the Quota Transfer section above, a small portion of the overall commercial BFT quota has been used in 2018 to date, consistent with the amount of quota used in the early months of previous years. Thus, substantial quota remains available in the Reserve category for future transfers, as appropriate.

NMFS has determined that distribution of quota only to Atlantic Tunas Longline vessels with recent fishing activity fulfills IBQ Program objectives. Such a distribution would provide transferred quota only to the vessels that have recently fished and are therefore most likely to need quota in order to account for BFT interactions. This would include the four Atlantic Tunas Longline vessels with recent fishing activity that are not associated with IBQ shares, as well as the 85 IBQ share recipients with recent fishing activity (representing 63 percent of all IBQ share recipients). For comparison, if the 44.5 mt were distributed to all qualified IBQ share recipients, each would receive 721 lb (0.33 mt) rather than 1,102 lb (0.5 mt) to each of the 89 vessels with recent fishing activity. Some inactive share recipients participate in the IBQ Program through leasing out quota; however, a majority of inactive share recipients (36 of 51) did not lease out quota in the period analyzed. After considering this information, NMFS has decided to distribute the 44.5 mt of quota transferred from the Reserve to the Atlantic Tunas Longline vessels with recent fishing activity.

For those vessels with recent fishing activity that are not associated with valid (*i.e.,* unexpired) permits at the time of the quota transfer, the IBQ will be transferred, but will not be usable by the vessel owner (*i.e.,* may not be leased or used to account for BFT) unless and until the vessel is associated with a valid permit. When a qualified IBQ share recipient with recent fishing activity receives inseason quota, the quota will be designated as either Gulf of Mexico (GOM) IBQ, Atlantic (ATL) IBQ, or both GOM and ATL IBQ, according to the share recipient's regional designations. Those vessels that are participating in the voluntary Deepwater Horizon Oceanic Fish Restoration Project repose period through June 30, 2018, and that have recent fishing activity, would receive a distribution of inseason quota once the repose period ends. For vessels with recent fishing activity that are not qualified IBQ share recipients, NMFS will assign the distributed quota a regional designation based on where the majority of the vessel's ''recent fishing activity'' occurred for the relevant period analyzed (either GOM or ATL).

NMFS anticipates that it will announce additional BFT quota adjustments during 2018 for all quota categories, to provide reasonable fishing opportunities throughout the year. An ICCAT recommendation adopted at the annual meeting in November 2017 for western Atlantic BFT management would result in an increase to the baseline U.S. BFT quota (*i.e.,* from 1,058.79 mt to 1,247.86 mt) and subquotas for 2018, and NMFS will undertake domestic implementation of that recommendation through rulemaking in the near future. NMFS also anticipates that some underharvest of the 2017 adjusted U.S. BFT quota will be carried forward to 2018 and placed in the Reserve category, in accordance with the regulations, also in mid-2018 (when complete 2017 catch information is available and finalized). Subsequent notices will be published in the **Federal Register.** In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281–9260, or access *hmspermits.noaa.gov,* for updates.

Monitoring and Reporting

NMFS will continue to monitor the BFT fisheries, including the pelagic longline fishery, closely through the mandatory landings and catch reports. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT through the electronic BFT dealer reporting system as well as through the online IBQ system. Pelagic longline vessels are required to enter BFT dead discard information through the IBQ system and confirm the accuracy of dealer-reported data. Pelagic longline vessels are also required to report BFT catch through VMS, as well as through the online IBQ system.

Longline category permit holders are reminded that all BFT discarded dead must be reported through VMS, and accounted for in the online IBQ system, consistent with requirements at § 635.15(a).

If needed, subsequent adjustments will be published in the **Federal Register.** In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281–9260, or access *hmspermits.noaa.gov* for updates on quota monitoring and inseason adjustments.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of and an opportunity for public comment on, the transfer from the Reserve category to the Longline category for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP, as amended, provide for inseason adjustments to quotas and other aspects of BFT fishery management, to respond to the diverse range of factors which may affect BFT fisheries, including ecological (*e.g.,* rebuilding, or the migratory nature of HMS) and commercial (*e.g.,* optimizing fishing opportunity, or reducing bycatch).

NMFS has determined that adjustments to the Reserve and Longline category BFT quotas are warranted. This transfer is consistent with the current quotas, which were established and analyzed in the Atlantic BFT quota final rule (80 FR 52198, August 28, 2015), and with objectives of the 2006 Consolidated HMS FMP and amendments. The adjusted Longline category quota of 192.8 mt remains within the ICCAT quota. The revised Longline category quota supports the broader objectives of Amendment 7, which include reducing BFT interactions and dead discards while maintaining an economically viable swordfish and yellowfin tuna directed fishery. Transferring quota relatively early in 2018 helps to address the diversity of the fishery with respect to the timing of fishing activities in different geographic areas. A quota transfer later in the year may disadvantage those fishing early in the year.

Affording prior notice and opportunity for public comment to implement the quota transfer is impracticable. The transfer of 44.5 mt of quota from the Reserve category to the Longline category needs to happen early in the year to facilitate effective leasing and more certainty in operational decisions. NMFS only recently received updated data from the 2017 fishery, as it recently closed, and from the first couple of months of the 2018 fishery. If NMFS were to offer an opportunity for public comment, it would unnecessarily preclude fishing opportunities for some vessel operators, particularly those that fish early in the fishing season. In addition, the first quarter of 2018 has ended, and some vessels that have gone into debt or have a low balance (below the minimum amount of allocation needed to fish) are not able to fish, as of April 1, until they account for quota debt and obtain the minimum amount of allocation needed to fish with pelagic longline gear. Without this inseason quota transfer, permit holders may be unnecessarily conservative in a way that does not optimize fishing opportunities nor encourage the appropriate functioning of the IBQ leasing program, which is contrary to the public interest. As explained earlier, NMFS conducted notice-and-comment rulemaking on the underlying regulations that set forth the criteria used for this action, and therefore notice-and-comment rulemaking is not necessary for this inseason action.

Delays in adjusting the Reserve and Longline category quotas would adversely affect those permitted Atlantic Tunas Longline vessels that would otherwise have an opportunity to reduce or resolve quota debt, lease quota to other vessels, as well as delay potential beneficial effects on the ability for vessel operators to make business plans for their future. NMFS is trying to balance providing opportunity to the pelagic longline fishery, with the reduction of BFT bycatch, and delaying this action would be contrary to the public interest. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under §§ 635.15(b), 635.15(f), 635.27(a)(4) and (a)(7), 635.27(a)(8) and (9), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: April 13, 2018.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–08125 Filed 4–13–18; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170817779–8161–02]

RIN 0648–XG158

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; 2018 and 2019 Harvest Specifications for Groundfish; Correction

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

ACTION: Temporary rule; correction.

SUMMARY: NMFS is correcting the final 2018 and 2019 harvest specifications for groundfish in the Bering Sea and Aleutian Islands management area (BSAI). The amounts of Atka mackerel specified for the Amendment 80 sector in the Central Aleutian District (CAI) and the Western Aleutian District (WAI) were incorrect.

DATES: Effective April 18, 2018, through 2400 hours, Alaska local time (A.l.t) December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Need for Correction

NMFS published the final 2018 and 2019 BSAI groundfish harvest specifications on February 27, 2018 (83 FR 8365). The document contains incorrect amounts of Atka mackerel specified for the Amendment 80 sector in the CAI and the WAI. These corrections are necessary to provide the correct information about the amount of Atka mackerel allocated to the Amendment 80 sector in these districts, and to avoid confusion by the fishery participants.

Correction

In the **Federal Register** of February 27, 2018 (83 FR 8365) the Amendment 80 sector allocation in the CAI for 2018 and 2019 did not account for the 75 metric ton incidental catch allowance (ICA), and the Amendment 80 sector allocation in the WAI for 2018 and 2019 did not account for the 20 metric ton ICA. Therefore, Table 6 and Table 7 of the final 2018 and 2019 BSAI groundfish harvest specifications are republished as follows:

TABLE 6—FINAL 2018 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2018 Allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District [5]	Western Aleutian District
TAC	n/a	36,500	21,000	13,500
CDQ reserve	Total	3,906	2,247	1,445
	A	1,953	1,124	722
	Critical Habitat	n/a	674	433
	B	1,953	1,124	722
	Critical Habitat	n/a	674	433
Non-CDQ TAC	n/a	32,595	18,753	12,056
ICA	Total	800	75	20
Jig [6]	Total	159	0	0
BSAI trawl limited access	Total	3,164	1,868	0
	A	1,582	934	0
	Critical Habitat	n/a	560	0
	B	1,582	934	0
	Critical Habitat	n/a	560	0
Amendment 80 sector	Total	28,472	16,810	12,036
	A	14,236	8,405	6,018
	Critical Habitat	n/a	5,043	3,611
	B	14,236	8,405	6,018
	Critical Habitat	n/a	5,043	3,611

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to 50 CFR part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to December 31.

[5] Section 679.20(a)(8)(ii)(C)(*1*)(*i*) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of Steller sea lion critical habitat; section 679.20(a)(8)(ii)(C)(*1*)(*ii*) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and section 679.20(a)(8)(ii)(C)(*2*) requires the TAC in Area 543 shall be no more than 65 percent of ABC in Area 543.

[6] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and the ICA. NMFS set the amount of this allocation for 2018 at 0.5 percent. The jig gear allocation is not apportioned by season.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 7—FINAL 2019 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATION OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2019 Allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District [5]	Western Aleutian District [5]
TAC	n/a	33,780	24,895	13,825
CDQ reserve	Total	3,614	2,664	1,479
	A	1,807	1,332	740
	Critical Habitat	n/a	799	444
	B	1,807	1,332	740
	Critical Habitat	n/a	799	444
non-CDQ TAC	n/a	30,166	22,231	12,346
ICA	Total	800	75	20
Jig [6]	Total	147	0	0
BSAI trawl limited access	Total	2,922	2,216	0
	A	1,461	1,108	0
	Critical Habitat	n/a	665	0
	B	1,461	1,108	0
	Critical Habitat	n/a	665	0
Amendment 80 sectors [7]	Total	26,297	19,941	12,326
	A	13,148	9,970	6,163
	Critical Habitat	n/a	5,982	3,698
	B	13,148	9,970	6,163
	Critical Habitat	n/a	5,982	3,698

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to 50 CFR part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to December 31.

[5] Section 679.20(a)(8)(ii)(C)(*1*)(*i*) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of Steller sea lion critical habitat; section 679.20(a)(8)(ii)(C)(*1*)(*ii*) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and section 679.20 (a)(8)(ii)(C)(*2*) requires the TAC in Area 543 shall be no more than 65 percent of ABC in Area 543.

[6] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and the ICA. NMFS set the amount of this allocation for 2019 at 0.5 percent. The jig gear allocation is not apportioned by season.

[7] The 2019 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2018. NMFS will post 2019 Amendment 80 allocations when they become available in December 2018.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This action corrects errors made in the allocations to the Amendment 80 sector of Atka mackerel in the CAI and WAI districts of the BSAI. This correction does not change operating practices in the fisheries. Corrections should be made as soon as possible to avoid confusion for participants in the fisheries.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 13, 2018.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–08123 Filed 4–17–18; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 75
Wednesday, April 18, 2018

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.

FEDERAL TRADE COMMISSION

16 CFR Part 410

RIN 3084–AB44

Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission (''Commission'') seeks comment on the proposed repeal of its Trade Regulation Rule Concerning the Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets (''Picture Tube Rule'' or ''Rule''). This Notice of Proposed Rulemaking (''NPR'') provides background on the Picture Tube Rule and this proceeding, discusses public comments received by the Commission in response to its Advance Notice of Proposed Rulemaking (''ANPR''), and solicits further comment on the proposed repeal of the Rule.

DATES: Written comments must be received on or before May 14, 2018. Parties interested in an opportunity to present views orally should submit a written request to do so as explained below, and such requests must be received on or before May 14, 2018.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Picture Tube Rule (No. P174200)'' on your comment and file your comment online at is *https://ftcpublic.commentworks.com/ftc/picturetuberule* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610, Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: John Andrew Singer, Attorney, (202) 326–3234, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The Commission finds that using expedited procedures in this rulemaking will serve the public interest. Specifically, such procedures support the Commission's goals of clarifying, updating, or repealing existing regulations without undue expenditure of resources, while ensuring that the public has an opportunity to submit data, views, and arguments on whether the Commission should amend or repeal the Rule. Because written comments should adequately present the views of all interested parties, the Commission is not scheduling a public hearing or roundtable. However, if any person would like to present views orally, he or she should follow the procedures set forth in the **DATES**, **ADDRESSES**, and **SUPPLEMENTARY INFORMATION** sections of this document. Pursuant to 16 CFR 1.20, the Commission will use the procedures set forth in this document, including: (1) Publishing this NPR; (2) soliciting written comments on the Commission's proposal to repeal the Rule; (3) holding an informal hearing, if requested by interested parties; (4) obtaining a final recommendation from staff; and (5) announcing final Commission action in a document published in the **Federal Register**. Any motions or petitions in connection with this proceeding must be filed with the Secretary of the Commission.

I. Background

The Commission promulgated the Picture Tube Rule in 1966 [1] to prevent deceptive claims regarding the size of television screens and to encourage uniformity and accuracy in marketing. When the Commission adopted the Rule, it expressed concern about consumer confusion regarding whether a television's advertised dimension represented the actual viewable area of the convex-curved cathode ray tube or included the viewable area of the picture tube plus non-viewable portions of the tube, such as those behind a casing. In addition, the Commission concluded that most consumers thought of the sizes of rectangular shaped objects, like television screens, in terms of their length or width, not their diagonal dimension.[2]

Based on these facts, the Rule sets forth the means to non-deceptively advertise the dimensions of television screens.[3] Specifically, marketers must base any representation of screen size on the horizontal dimension of the actual, viewable picture area unless they disclose the alternative method of measurement (such as the diagonal dimension) clearly, conspicuously, and in close connection and conjunction to the size designation.[4] The Rule also directs marketers to base the measurement on a single plane, without taking into account any screen curvature,[5] and includes examples of both proper and improper size representations.[6]

II. Regulatory Review

The Commission reviews its rules and guides periodically to seek information about their costs and benefits, regulatory and economic impact, and general effectiveness in protecting consumers and helping industry avoid deceptive claims. These reviews assist the Commission in identifying rules and guides that warrant modification or repeal. The Commission last reviewed the Rule in 2006, leaving it unchanged.[7]

In its 2017 ANPR initiating the review of the Rule, the Commission solicited comment on, among other things: The economic impact of and the continuing need for the Rule; the Rule's benefits to consumers; and the burdens it places on industry, including small businesses.[8] The Commission further solicited comment, and invited the submission of data, regarding how consumers understand dimension claims for television screens, including: Whether consumers understand the stated dimensions; whether the dimensions are

[1] 31 FR 3342 (Mar. 3, 1966).

[2] *Id.*

[3] 16 CFR 410.1.

[4] The Rule provides that ''any referenced or footnote disclosure of the manner of measurement by means of the asterisk or some similar symbol does not satisfy the 'close connection and conjunction' requirement of this part.'' *Id.,* Note 2.

[5] *Id.,* Note 1.

[6] *Id.,* Note 2.

[7] 71 FR 34247 (Jun. 14, 2006).

[8] 82 FR 29256 (Jun. 28, 2017).

limited to the screen's viewable portion; and whether the dimensions are based on a single-plane measurement that does not include curvature in the screen. The Commission also solicited input on whether advances in broadcasting and television technology, such as the introduction of curved screen display panels and changing aspect ratios (*e.g.,* from the traditional 4:3 to 16:9), create a need to modify the Rule. Finally, the Commission requested comment regarding whether the Rule should address viewable screen size measurement reporting tolerances and rounding.[9]

The Commission received two comments in response,[10] both urging the Commission to repeal the Rule. In this NPR, the Commission discusses those comments and proposes repealing the Rule.

III. Issues Raised by Commenters to the ANPR

Both commenters characterized the Rule as an unnecessary relic from when televisions used curved cathode ray tubes and asserted the Rule is no longer needed to prevent consumer deception about television screen sizes.

An individual consumer, Jonathan Applebaum, stated that, unlike 50 years ago, comparative information about televisions, including screen size, is now widely available to consumers on the internet and by visiting retail showrooms. He also stated that, due to advances in technology, overall picture quality, not screen size, drives consumers' purchasing decisions. Specifically, in addition to screen size, consumers consider pixels, aspect ratios, screen material, backlighting, contrast, and refresh rate. He also noted that since the Commission introduced the Rule, many different devices, such as computer monitors and cellphones, are capable of receiving programming once only available on televisions. To include these types of devices in the scope of the Rule would require the Commission to expand its coverage significantly. However, he urged the Commission not to do so because the relevant information already is readily available in the marketplace.

A trade association representing the U.S. consumer technology industry, the Consumer Technology Association (CTA), commented that when the Commission adopted the Rule in 1966, televisions used curved cathode ray tubes, and manufacturers often placed portions of screens behind casings. Now, however, televisions with fully viewable, single plane, flat screens have become ''ubiquitous.'' [11] CTA further stated diagonal measurement is now the marketplace standard, with consumers expecting a screen's diagonal measurement to be the size advertised.[12] Therefore, CTA asserted there is no evidence that repealing the Rule would change this universal practice. Nor is there any basis to conclude that consumers expect any representation of screen size other than the diagonal measurement.[13] CTA concluded that even the modest cost to the industry for complying with the Rule does not justify its retention.[14]

Alternatively, if the Commission were to retain the Rule, CTA urged the Commission not to modify it or expand its coverage. Since marketers of devices such as computer monitors, tablets, and smartphones already represent viewing screen size based on the screen's diagonal measurement, CTA asserted that no consumer benefit would accrue from expanding the Rule to include such devices. Nor would there be any consumer benefit from modifying the Rule to make a screen's diagonal measurement the default measurement since it is already the marketplace standard.[15] CTA also stated the Rule should not address television screen aspect ratios because changing ratios do not affect how manufacturers take the diagonal measurement of a television screen.[16]

IV. Staff Observations

Commission staff visited retail stores, reviewed newspaper circulars, and surfed websites offering televisions for sale. Staff observed that virtually every television had a flat screen and that the entire screen was visible. Staff further observed that marketers advertised the size of every television screen, as well as the viewing screens for devices such as computer monitors, tablets, and cellphones, using a diagonal measurement.

V. Basis for Proposed Repeal of the Rule

Section 18 of the FTC Act, 15 U.S.C. 57a, authorizes the Commission to promulgate, amend, and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1). The Commission regularly reviews its rules to ensure they are up-to-date, effective, and not overly burdensome, and has repealed a number of trade regulation rules after finding they were no longer necessary to protect consumers.[17] Comments in the record and staff's observations suggest that current conditions support repealing the Rule. Specifically, as explained in detail below: (1) The Rule has not kept up with changes in the marketplace; (2) mandatory screen measurement instructions are no longer necessary to prevent consumer deception; and (3) manufacturers are not making deceptive screen size claims, which is consistent with the fact that the Commission has not brought any enforcement actions against marketers making such claims in more than 50 years.

A. The Rule Has Not Kept Up With Changes in the Marketplace

Since the Commission adopted the Rule in 1966, there have been substantial changes in television screen technology, particularly in the past decade. The Rule appears to be neither necessary nor appropriate in light of these changes.

In 1966, television screens had cathode ray tubes (CRTs).[18] CRT tubes are convex, *i.e.,* the screen's apex is closest to the viewer, and the screen curves away from the viewer.[19] Portions of CRT-based television screens did not provide a viewable image.[20] Further, because of their design, *e.g.,* televisions built into consoles, portions of CRT-

[9] *Id.* at 29257–58.

[10] The comments are located at: *https://www.ftc.gov/policy/public-comments/2017/07/initiative-707*. Jonathan Applebaum (#3) and Consumer Technology Association (''CTA'') (#4) submitted comments.

[11] CTA at 5–6. CTA asserts that only a ''tiny percentage'' of televisions sold today in the United States have curved screens. *Id.* at 9. According to CTA, modern curved screen televisions have concave screens (as opposed to the convex curvature for cathode ray tube screens), and a single-plane measurement of a concave screen actually understates the viewable picture size. CTA therefore asserts that the small number of curved screen televisions in the marketplace and the consistent understatement of a concave screen's size mean that these types of screens do not warrant any special treatment. *Id.*

[12] *Id.* at 4–5, 7.

[13] *Id.* at 7–8.

[14] *Id.* at 8.

[15] *Id.* at 8–9.

[16] *Id.* at 9–10.

[17] *See, e.g.,* 16 CFR part 419 (games of chance) (61 FR 68143 (Dec. 27, 1996)) (rule outdated; violations largely non-existent; and rule has adverse business impact); 16 CFR part 406 (used lubricating oil) (61 FR 55095 (Oct. 24, 1996)) (rule no longer necessary, and repeal will eliminate unnecessary duplication); 16 CFR part 405 (leather content of belts) (61 FR 25560 (May 22, 1996)) (rule unnecessary and duplicative; rule's objective can be addressed through guidance and case-by-case enforcement); and 16 CFR part 402 (binoculars) (60 FR 65529 (Dec. 20, 1995)) (technological improvements render rule obsolete).

[18] CTA at 4.

[19] *See id.* at 9.

[20] *Id.* at 4; 31 FR at 3342.

based television screens often were not visible.[21]

There have been significant changes in television screen technology, particularly in the past decade.[22] Due to these changes, flat screen televisions are ubiquitous today.[23] As staff observed, virtually all televisions available in the marketplace today have flat screens,[24] in which the viewable image covers the entire surface. Moreover, these televisions are surrounded by thin bezels, not casings or console walls, which do not obscure any of the screen.[25] Consequently, technological change appears to have rendered the Rule obsolete.[26]

B. Mandatory Screen Measurement Instructions Are No Longer Necessary To Prevent Consumer Deception

In 1966, the Commission found that television marketers represented screen size using a variety of inconsistent and, at times, deceptive, methods.[27] To create clarity and uniformity in the marketplace, the Rule mandated that marketers use the single-plane horizontal dimension of the viewable portion of the television screen as the default measurement.[28] The Commission stated that consumers best understood the size of rectangular objects like television screens based upon their horizontal or vertical dimensions and thus made the horizontal measurement the Rule's default but allowed marketers to use other measurements so long as their use was properly disclosed.[29]

In the over 50 years since the Rule's promulgation, the record demonstrates that the industry standard for representing television screen size has been the screen's diagonal dimension.[30] All of the televisions for sale that staff recently observed listed the screen's diagonal dimension. The record, including staff's observations, also suggests a universal practice of using the diagonal dimension for the viewing screen in devices not covered by the Rule (*e.g.,* computer monitors, tablets, and smartphones).[31] The ubiquity of the diagonal dimension and the comments suggest that consumers expect to compare diagonal dimensions. Therefore, were the Commission to repeal the Rule, television marketers do not appear to have an incentive to switch to using a measurement other than the now customary diagonal dimension.[32] Thus, absent the Rule, it is highly unlikely that marketers would change their screen size claims to make claims that would confuse consumers.[33]

C. The Record Contains No Information Indicating Manufacturers Are Making Deceptive Screen Size Claims

The record lacks evidence of deception supporting retaining the Rule. The Commission received only two comments in response to the ANPR, both urging the Commission to repeal the Rule because it is obsolete and unnecessary. The Commission received no comments advocating for the Rule's retention or submitting information indicating that manufacturers are making deceptive screen size claims. Therefore, the record provides no basis for concluding that maintaining the Rule is necessary to prevent deception. Specifically, in the over 50 years since its adoption, the Commission has never brought an enforcement action against marketers making such claims.[34]

D. Preliminary Conclusions

For the reasons described above, the Commission preliminarily concludes that the Rule is outdated and no longer necessary to protect consumers. Nothing in the record suggests that repealing the Rule would likely result in any consumer deception. Therefore, the record suggests that even the minimal costs associated with the Rule for businesses now outweigh any benefits.[35] Should the Commission discover any deception concerning television screen size, it can address that marketing on a case-by-case basis through enforcement actions brought under Section 5(a) of the FTC Act, 15 U.S.C. 45(a), rather than through imposing an industry-wide trade regulation rule.[36]

VI. Request for Comments

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before May 14, 2018. Write ''Picture Tube Rule (No. P174200)'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public FTC website, at *https://www.ftc.gov/policy/public-comments*.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/picturetuberule,* by following the instruction on the web-based form. If this Notice appears at *http://www.regulations.gov,* you also may file a comment through that website.

If you file your comment on paper, write ''Picture Tube Rule (No. P174200)'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610, Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610, Washington, DC 20024. If possible, please submit your paper comment to the Commission by courier or overnight service.

[21] CTA at 4; 31 FR at 3342.

[22] CTA at 5.

[23] *Id.*

[24] *Id.* at 5, 9. Staff observed a handful of concave curved screen televisions, where the apex of the screen's curve is farthest from the viewer, and the sides of the screen curve towards the viewer, are available for purchase. Though introduced with some fanfare, the popularity of concave screen televisions is waning, and it appears that only a single manufacturer currently produces them. *See, e.g.,* Alex Cranz, *The Curved TV Gimmick Might Finally Be Dead,* Gizmodo (Jan. 4, 2017), *https://gizmodo.com/the-curved-tv-fimmick-might-finally-be-dead-1790743745;* David Katzmaier, *Curved TV Isn't Dead Yet. Thanks, Samsung,* Cnet (Feb. 23, 2017), *www.cnet.com/news/curved-tv-isnt-dead-yet-thanks-samsung.* Unlike with convex CRT television screens, the Rule's single-plane measurement requirement is not necessary to prevent consumer deception regarding the screen size of concave screen televisions. If anything, the single-plane measurement of a concave television screen understates its effective viewable picture size. *See, e.g., www.rtings.com/tv/curved-vs-flat-tvs-compared* (providing a demonstrative illustration that, at a distance of 8 feet from the screen, a concave screen measured as 55 inches on a single-plane basis has an effective screen size of 55.8 inches) (Aug. 2, 2017).

[25] CTA at 5.

[26] *See, e.g.,* 60 FR 65529–30 (Dec. 20, 1995) (Binocular Rule repealed where technological improvements rendered rule obsolete).

[27] 31 FR at 3342–43 (former 16 CFR 410.1 and 410.2(e)).

[28] *Id.* (former 16 CFR 410.3(b)); *see also* 16 CFR 410.1.

[29] 31 FR at 3342–43 (former 16 CFR 410.2(d)).

[30] CTA at 7.

[31] *Id.* at 5–7.

[32] *Id.*

[33] *Id.* at 7–8.

[34] *See, e.g.,* Part 419 (Games of Chance) (61 FR 68143 (Dec. 27, 1996) (Rule repealed where violations largely non-existent). In the unlikely event that, after the repeal of the Rule, the Commission should discover deceptive marketing concerning television screen size, it can address that on a case-by-case basis through enforcement actions brought under Section 5(a) of the FTC Act, 15 U.S.C. 45(a). *See also, e.g.,* Part 405 (leather content of belts) (61 FR 25560 (May 22, 1996) (after repeal, former rule's objective could be addressed through case-by-case enforcement).

[35] CTA at 7–8.

[36] *Id.* at 3; *see also, e.g.,* 61 FR 25560 (May 22, 1996) (repealing Leather Belt Rule where Commission concluded rule's objective can be addressed through case-by-case enforcement).

Because your comment will be placed on the publicly accessible FTC website at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rules 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 14, 2018. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy*.

A. Questions

The Commission seeks comment on the costs, benefits, and market effects of repealing the Rule, and particularly the cost on small businesses. Please identify any data and empirical evidence that supports your answer. Comments opposing the proposed repeal should explain the reasons they believe the Rule is still needed and, if appropriate, suggest specific alternatives.

1. Have changes in technology made the Rule unnecessary?
2. Do television marketers uniformly use the diagonal dimension of the viewing screen when representing screen size?
3. Is there any basis to conclude that, if the Commission repeals the Rule, television marketers will use a measurement other than the diagonal dimension of a screen to represent its size?
4. What would be the benefits and costs of the Rule's continuance to consumers?
5. Will repealing the Rule increase the likelihood of any consumer deception regarding the size of television screens and, if so, why?
6. What are the benefits and costs of the Rule's repeal to businesses subject to its requirements, particularly small businesses?
7. Should the Commission address deceptive acts or practices concerning how television marketers represent screen size through case-by-case enforcement rather than through an industry-wide trade regulation rule?

B. Proposed Effective Date of Repeal

The Commission proposes to repeal the Rule effective 90 days after publication of its Final Rule Notice. The Commission seeks comment on whether such an effective date provides sufficient notice to those affected by the proposed repeal of the Rule.

VII. Communications to Commissioners or Their Advisors by Outside Parties

Pursuant to Commission Rule 1.18(c)(1), the Commission has determined that communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner advisor shall be subject to the following treatment. Written communications and summaries or transcripts of oral communications shall be placed on the rulemaking record if the communication is received before the end of the comment period on the staff report. They shall be placed on the public record if the communication is received later. Unless the outside party making an oral communication is a member of Congress, such communications are permitted only if advance notice is published in the Weekly Calendar and Notice of ''Sunshine'' Meetings.[37]

VIII. Regulatory Flexibility Act and Regulatory Analysis

Under Section 22 of the FTC Act, 15 U.S.C. 57b–3, the Commission must issue a preliminary regulatory analysis for a proceeding to amend a rule only when it: (1) Estimates that the amendment will have an annual effect on the national economy of $100 million or more; (2) estimates that the amendment will cause a substantial change in the cost or price of certain categories of goods or services; or (3) otherwise determines that the amendment will have a significant effect upon covered entities or upon consumers. The Commission has preliminarily determined that the rescission of the Rule will not have such effects on the national economy; on the cost of televisions; or on covered parties or consumers. Accordingly, the proposed repeal of the Rule is exempt from Section 22's preliminary regulatory analysis requirements.

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, requires that the Commission conduct an analysis of the anticipated economic impact of the proposed amendments on small entities. The purpose of a regulatory flexibility analysis is to ensure that an agency considers the impacts on small entities and examines regulatory alternatives that could achieve the regulatory purpose while minimizing burdens on small entities. Section 605 of the RFA, 5 U.S.C. 605, provides that such an analysis is not required if the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities. The Commission believes that the repeal of the Rule would not have a significant economic impact upon small entities because the Rule's repeal will eliminate any regulatory compliance costs regarding representations of the screen size of televisions. In the Commission's view, a repeal of the Rule should not have a significant or disproportionate impact on the costs of small entities that sell televisions. These entities appear to provide consumers with the screen size as measured by a television's manufacturer and that typically appears on a television's packaging. In addition,

[37] *See* 15 U.S.C. 57a(i)(2)(A); 16 CFR 1.18(c).

the Commission is not aware of any existing federal laws or regulations that address the measurement of television screens and that would conflict with the repeal of the Rule.

Therefore, based on available information, the Commission certifies that repealing the Rule as proposed will not have a significant economic impact on a substantial number of small entities. To ensure the accuracy of this certification, however, the Commission requests comment on the economic effects of the proposed repeal of the Rule, including whether the proposed repeal will have a significant impact on a substantial number of small entities. Specifically, the Commission seeks comment on the number of entities that would be affected by the proposed repeal of the Rule, the number of these companies that are small entities, and the average annual burden for each entity.

IX. List of Subjects

Advertising, Electronic funds transfer, Television, Trade practices

■ For the reasons stated in the preamble, and under the authority of 15 U.S.C. 57a, the Commission proposes to remove 16 CFR part 410.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2018–08003 Filed 4–17–18; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0215]

RIN 1625–AA00

Safety Zone for Fireworks Display; Upper Potomac River, Washington Channel, Washington, DC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone for certain waters of the Upper Potomac River. This action is necessary to provide for the safety of life on navigable waters during a fireworks display in the Washington Channel at Washington, DC on May 10, 2018. This proposed rulemaking would prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before May 2, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2018–0215 using the Federal eRulemaking Portal at *http://www.regulations.gov*. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Ronald Houck, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On February 27, 2018, The Wharf DC of Washington, DC notified the Coast Guard that it will be conducting a fireworks display on May 10, 2018, at 9 p.m. Details of the event were provided to the Coast Guard by the event sponsor on March 23, 2018. The fireworks display will be conducted by Pyrotecnico, Inc. and launched from a barge located within the waters of the Washington Channel, at The Wharf DC in Washington, DC. Hazards from the fireworks display include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The COTP has determined that potential hazards associated with the fireworks to be used in this display would be a safety concern for anyone within 200 feet of the fireworks barge.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters of the Washington Channel before, during, and after the scheduled events. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a temporary safety zone in the Washington Channel on May 10, 2018. The safety zone will cover all navigable waters of the Washington Channel within 200 feet of the fireworks barge located within an area bounded on the south by latitude 38°52′30″ W, and bounded on the north by the Francis Case (I–395) Memorial Bridge, located at Washington, DC. The safety zone would be enforced from 8:30 p.m. until 10 p.m. on May 10, 2018. The duration of the safety zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed 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 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, duration, and time-of-day of the safety zone. Although vessel traffic will not be able to safely transit around this safety zone, the impact would be for 1.5 hours during the evening when vessel traffic in Washington Channel is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about 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 proposed rule would 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 IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination 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 proposed rule involves a safety zone lasting less than 2 hours that would prohibit entry within a portion of the Washington Channel. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination 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 proposed 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.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov*. If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice*.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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, and 160.5; and; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0215 to read as follows:

§ 165.0215 Safety Zone for Fireworks Display; Upper Potomac River, Washington Channel, Washington, DC.

(a) *Definitions.* As used in this section:

(1) *Captain of the Port* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

(2) *Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the safety zone described in paragraph (b) of this section.

(b) *Location.* The following area is a safety zone: All navigable waters of the Washington Channel within 200 feet of the fireworks barge located within an area bounded on the south by latitude 38°52′30″ W, and bounded on the north by the Francis Case (I–395) Memorial Bridge, located at Washington, DC. All coordinates refer to datum NAD 1983.

(c) *Regulations.* The general safety zone regulations found in 33 CFR 165 subpart C apply to the safety zone created by this section.

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Maryland-National Capital Region. All vessels underway within this safety zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the safety zone must first obtain authorization from the Captain of the Port Maryland-National Capital Region or designated representative. To request permission to transit the area, the Captain of the Port Maryland-National Capital Region and or designated representatives can be contacted at telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Maryland-National Capital Region or designated representative and proceed as directed while within the zone.

(4) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(d) *Enforcement.* This section will be enforced from 8:30 p.m. until 10 p.m. on May 10, 2018.

Dated: April 12, 2018.

L.P. Harrison, Jr.,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2018–08091 Filed 4–17–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2018–0142; FRL–9976–96—Region 4]

Air Plan Approval; Kentucky; 2008 Ozone NAAQS Interstate Transport SIP Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve Kentucky's February 28, 2018, draft State Implementation Plan (SIP) submission pertaining to the ''good neighbor'' provision of the Clean Air Act (CAA or Act) for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) that was submitted by Kentucky for parallel processing. The good neighbor provision requires each state's SIP to address the interstate transport of air pollution in amounts that contribute significantly to nonattainment, or interfere with maintenance, of a NAAQS in any other state. In this action, EPA is proposing to approve Kentucky's draft submission demonstrating that no additional emission reductions are necessary to address the good neighbor provision for the 2008 ozone NAAQS beyond those required by the Cross-State Air Pollution Rule Update (CSAPR Update) federal implementation plan (FIP). Accordingly, EPA is proposing to approve Kentucky's draft submission as partially addressing the requirements of the good neighbor provision for the 2008 ozone NAAQS, and resolving any obligation remaining under the good neighbor provision after promulgation of the CSAPR Update FIP. EPA is proposing this action because it is consistent with the CAA.

DATES: Comments must be received on or before May 18, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. at EPA–R04–OAR–2018–0142 *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, 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.*

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SUPPLEMENTARY INFORMATION:

I. Background

On March 27, 2008 (73 FR 16436), EPA promulgated an ozone NAAQS that revised the levels of the primary and secondary 8-hour ozone standards from 0.08 parts per million (ppm) to 0.075 ppm. Pursuant to CAA section 110(a)(1), within three years after promulgation of a new or revised NAAQS (or shorter, if EPA prescribes), states must submit SIPs that meet the applicable requirements of section 110(a)(2). EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. One of the structural requirements of section 110(a)(2) is section 110(a)(2)(D)(i), also known as the ''good neighbor'' provision, which generally requires SIPs to contain adequate provisions to prohibit in-state emissions activities from having certain adverse air quality effects on neighboring states due to interstate transport of air pollution. There are four sub-elements, or ''prongs,'' within section 110(a)(2)(D)(i) of the CAA. CAA section 110(a)(2)(D)(i)(I) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from emitting any air pollutant in amounts that will

contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in another state. The two provisions of this section are referred to as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance). Section 110(a)(2)(D)(i)(II) requires SIPs to contain adequate provisions to prohibit emissions that will interfere with measures required to be included in the applicable implementation plan for any other state under part C to prevent significant deterioration of air quality (prong 3) or to protect visibility (prong 4). This proposed action addresses only prongs 1 and 2 of section 110(a)(2)(D)(i).[1]

On July 17, 2012, Kentucky submitted a SIP submission to EPA, addressing a number of the CAA requirements for the 2008 8-hour ozone NAAQS infrastructure SIPs. With respect to the interstate transport requirements of 110(a)(2)(D)(i)(I), EPA disapproved the submission, effective April 8, 2013 (78 FR 14681). In the notice, EPA explained that the disapproval of the good neighbor portion of the Commonwealth's infrastructure SIP submission did not trigger a mandatory duty for EPA to promulgate a FIP to address these requirements. *Id.* at 14683. Citing the D.C. Circuit's decision *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 41 (D.C. Cir. 2012) (*EME Homer City I*), EPA explained that the court concluded states have no obligation to make a SIP submission to address the good neighbor provision for a new or revised NAAQS until EPA first defines a state's obligations pursuant to that section. Therefore, because a good neighbor SIP addressing the 2008 ozone standard was not at that time required, EPA indicated that its disapproval action would not trigger an obligation for EPA to promulgate a FIP to address the interstate transport requirements. On April 29, 2014, the Supreme Court issued a decision reversing and vacating the D.C. Circuit's decision in *EME Homer City I. EPA* v. *EME Homer City Generation, L.P.,* 133 S. Ct. 2857 (2013). EPA subsequently finalized a determination that the FIP obligation was triggered on the date of the judgment issued in *EPA* v. *EME Homer City Generation,* or on June 2, 2014. *See* 81 FR 74504, 74513 (October 26, 2016).[2]

In October 2016, EPA promulgated the CSAPR Update to address the requirements of CAA section 110(a)(2)(D)(i)(I) concerning interstate transport of air pollution for the 2008 ozone NAAQS. *See* 81 FR 74504 (October 26, 2016). In the CSAPR Update rulemaking, EPA determined that air pollution transported from Kentucky would unlawfully affect other states' ability to attain or maintain the 2008 8-hour ozone NAAQS and established an ozone season nitrogen oxide (NO_X) budget for Kentucky's electricity generating units (EGUs).[3] In particular, EPA found that Kentucky was linked to four maintenance-only receptors in Harford County, Maryland; Richmond County, New York; Hamilton County, Ohio; and Philadelphia County, Pennsylvania. Kentucky EGUs meeting the CSAPR applicability criteria are consequently subject to CSAPR FIPs that require participation in the CSAPR NO_X Annual Trading Program, the CSAPR sulfur dioxide (SO_2) Group 1 Trading Program, and the CSAPR NO_X Ozone Season Group 2 Trading Program.[4]

In the CSAPR Update, EPA found that the CSAPR FIP for Kentucky and 20 other states may provide only a partial remedy with respect to the good neighbor provision requirements as to the 2008 8-hour ozone NAAQS. EPA's analysis showed persisting downwind air quality problems after implementation of the CSAPR Update in 2017, including two of the receptors to which Kentucky was linked in Harford County, Maryland, and Richmond County, New York. Because EPA's analysis showed persisting downwind air quality problems and did not assess available emissions reductions after 2017, EPA could not definitively conclude, without further analysis, that the CSAPR Update fully addressed the requirements of the good neighbor provision in upwind states, including Kentucky. *See* 81 FR at 74521.

On October 27, 2017, EPA issued a memorandum[5] with technical information and related analyses to assist states with developing SIPs to address the remaining section 110(a)(2)(D)(i)(I) requirements for the 2008 8-hour ozone NAAQS. In the technical analysis related to the October 2017 Transport Memo, EPA used detailed air quality analyses to identify locations in the U.S. where EPA anticipates there will be nonattainment or maintenance problems for the 2008 8-hour ozone NAAQS in the year 2023 (these are identified as nonattainment or maintenance receptors, respectively). This analysis used the Comprehensive Air Quality Model with Extensions (CAMx version 6.40)[6] to model the 2011 base year, and 2023 future base case emissions scenarios to identify projected nonattainment and maintenance sites with respect to the 2008 8-hour ozone NAAQS.[7] The updated modeling data released with the October 2017 Transport Memo is the most up-to-date information EPA has developed to inform the Agency's analysis of downwind air quality problems for the 2008 8-hour ozone NAAQS.[8] EPA's updated modeling for the 2023 future base case emissions scenarios indicates that there are no monitoring sites, outside of California, that are projected to have nonattainment or maintenance problems with respect to the 2008 ozone NAAQS in 2023.

[1] All other infrastructure SIP elements for Kentucky for the 2008 8-hour ozone NAAQS were addressed in separate rulemakings. *See* 78 FR 14681 (March 7, 2013) and 79 FR 65143 (November 3, 2014).

[2] On April 30, 2013, Sierra Club filed a petition for review of EPA's final action disapproving Kentucky's good neighbor SIP in the Sixth Circuit based on the Agency's conclusion that the FIP obligation was not triggered by the disapproval of Kentucky's good neighbor SIP. *Sierra Club* v. *EPA,* Case No. 13–3546 (6th Cir., filed Apr. 30, 2013). Following the Supreme Court decision, EPA requested, and the Sixth Circuit granted, vacatur and remand of the portion of EPA's final action on Kentucky's good neighbor SIP that determined that the FIP obligation was not triggered by the disapproval. *See* Order, *Sierra Club* v. *EPA,* Case No. 13–3546 (Mar. 13, 2015), ECF No. 74–1. On October 24, 2016 (81 FR 74513), EPA issued a final action correcting the portion of the Kentucky disapproval notice indicating that the FIP obligation would not be triggered by the SIP disapproval, but rather on the date of the Supreme Court's judgment. EPA explained that the FIP obligation was not triggered as of the date of the SIP disapproval because the controlling law as of that date was the DC Circuit decision in *EME Homer City I,* which held that states had no obligation to submit a SIP and EPA had no authority to issue a FIP until EPA first quantified each state's emission reduction obligation under the good neighbor provision. Rather, EPA concluded that the FIP obligation was triggered when the Supreme Court clarified the state and federal obligations with respect to the good neighbor provision.

[3] CSAPR Update, 81 FR at 74507–08.

[4] 40 CFR 52.38(a)(2)(i), (b)(2), (b)(2)(iii); 52.39(b); 52.940(a), (b); 52.941(a).

[5] Memorandum, Stephen D. Page, Supplemental Information on the Interstate Transport State Implementation Plan Submissions for the 2008 Ozone National Ambient Air Quality Standards under Clean Air Action Section 110(a)(2)(D)(i)(I) (October 2017 Transport Memo).

[6] CAMx v6.40 was the most recent public release version of CAMx at the time EPA updated its modeling in fall 2017. ''Comprehensive Air Quality Model with Extensions version 6.40 User's Guide'' Ramboll Environ, December 2016. *http://www.camx.com/.*

[7] For the updated modeling, EPA used the construct of the modeling platform (*i.e.,* modeling domain and non-emissions inputs) that we used for the Notice of Data Availability (NODA) modeling, except that the photolysis rates files were updated to be consistent with CAMx v6.40. The NODA Air Quality Modeling Technical Support Document describing the modeling platform is available at *https://www.epa.gov/airmarkets/notice-data-availability-preliminary-interstate-ozone-transport-modeling-data-2015-ozone.*

[8] October 2017 Transport Memo.

II. Kentucky's Draft SIP Submission

On February 28, 2018, Kentucky provided a draft SIP submission to address the remaining interstate transport obligations for the 2008 8-hour ozone NAAQS, which contains a demonstration [9] that the emission reductions required by the CSAPR Update are adequate to prohibit emissions within Kentucky from significantly contributing to nonattainment, or interfering with the maintenance, of downwind states with respect to the 2008 ozone NAAQS. This demonstration shows that, based on the Commonwealth's current and projected emissions, air quality modeling data, and on-the-books state and federal measures reducing ozone precursor emissions, including the CSAPR Update FIP, emissions from Kentucky will not significantly contribute to nonattainment, or interfere with the maintenance, of downwind states with respect to the 2008 ozone NAAQS in 2023.

In its February 28, 2018, draft submission, Kentucky reviewed air quality modeling and data files that EPA disseminated in the October 2017 Transport Memo, which indicated that the air quality problems at monitors to which Kentucky was linked in the CSAPR Update would be resolved in 2023. Kentucky's draft SIP submission agrees with the October 2017 Transport Memo's preliminary projections, and provides information intended to demonstrate that use of the modeling is appropriate. In addition, the draft submission contains air quality modeling conducted by Alpine Geophysics, LLC, that concludes that none of the nonattainment and maintenance receptors identified in the CSAPR Update are predicted to be in nonattainment or have issues with maintenance in 2023. Additionally, Kentucky cites information related to emissions trends—such as reductions in ozone precursor emissions and controls on Kentucky sources—as further evidence that, after implementation of all on-the-books measures including those identified in the CSAPR Update, emissions from the Commonwealth will no longer contribute significantly to nonattainment or interfere with maintenance of the 2008 8-hour ozone NAAQS in any other state.

Kentucky requests that EPA approve the draft SIP submission and find that Kentucky is not required to make any further reductions, beyond those required by the CSAPR Update, to address its statutory obligation under CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS.[10]

III. EPA's Analysis of Kentucky's Draft Submission

In Kentucky's draft submission, the Commonwealth relies on modeling performed by EPA, which was summarized in the October 2017 Transport Memo, in support of its conclusion that the emissions reductions required by the CSAPR Update are adequate to prohibit emissions within Kentucky from significantly contributing to nonattainment, or interfering with the maintenance, of downwind states with respect to the 2008 ozone NAAQS. Accordingly, before undertaking the specific analysis of Kentucky's SIP submittal, it is helpful to understand how EPA developed the October 2017 Transport Memorandum. EPA applied the same four-step framework used in previous federal regulatory actions addressing interstate transport of ozone pollution, including most recently the CSAPR Update. While some aspects of these previous regulatory actions have been challenged in court—and some aspects of these challenges have been upheld—each of these rulemakings essentially followed the same four-step interstate transport framework to quantify and implement emission reductions necessary to address the interstate transport requirements of the good neighbor provision. These steps are described in the following four paragraphs.

(1) Identifying downwind air quality problems relative to the 2008 ozone NAAQS. EPA has historically identified downwind areas with air quality problems considering monitored ozone data where appropriate and air quality modeling projections to a future compliance year. In the CSAPR Update, the Agency identified not only those areas expected to be in nonattainment with the ozone NAAQS, but also those areas that may struggle to maintain the NAAQS, despite clean monitored data or projected attainment.

(2) Determining which upwind states are ''linked'' to these identified downwind air quality problems and thereby warrant further analysis to determine whether their emissions violate the good neighbor provision. In CSAPR and the CSAPR Update, EPA identified such upwind states as those modeled to contribute at or above a threshold equivalent to one percent of the applicable NAAQS. Upwind states linked to one of these downwind nonattainment or maintenance areas were then evaluated to determine what level of emissions reductions, if any, should be required of each state.

(3) For states linked to downwind air quality problems, identifying upwind emissions on a statewide basis that significantly contribute to nonattainment or interfere with maintenance of a standard. In all of EPA's prior rulemakings addressing interstate ozone pollution transport, the Agency apportioned emission reduction responsibility among multiple upwind states linked to downwind air quality problems by considering feasible NO_X control strategies and using cost-based and air quality-based criteria to quantify the amount of a linked upwind state's emissions that significantly contribute to nonattainment or interfere with maintenance in another state.

(4) For states that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind, implementing the necessary emission reductions within the state. EPA has done this by requiring affected sources in upwind states to participate in allowance trading programs (*e.g.,* the CSAPR NO_X Ozone Season Group 2 Trading Program) to achieve the necessary emission reductions.

EPA's proposed action on Kentucky's draft submission is based on a finding that 2023 is a reasonable analytic year for evaluating ozone transport problems with respect to the 2008 ozone NAAQS and that interstate ozone transport air quality modeling projections for 2023 indicate that Kentucky is not expected to significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in downwind states. As explained in more detail in the following paragraphs, EPA's selection of 2023 as a reasonable analytic year is supported by an assessment of attainment dates for the 2008 ozone NAAQS and feasibility for control strategies to reduce NO_X in CSAPR Update states, including Kentucky. EPA's assessment of NO_X control strategy feasibility prioritizes NO_X control strategies in CSAPR Update states that would be additional to those strategies that were already quantified into CSAPR Update emissions budgets. EPA proposes that 2023 is an appropriate future analytic year because it is the first ozone season for which significant new cost-effective post-combustion controls to reduce NO_X

[9] As discussed above, EPA previously disapproved the portion of the Kentucky's July 17, 2012, SIP submission as it related to prongs 1 and 2. *See* 78 FR 14681 (March 7, 2013).

[10] EPA is parallel processing Kentucky's draft SIP submittal. As discussed in more detail in Section IV, below, final approval of Kentucky's submission is contingent on Kentucky's submission of a final SIP submittal that does not differ significantly from the draft.

could be feasibly installed across the CSAPR Update region, and thus represents the timeframe that is as expeditious as practicable for upwind states to implement additional emission reductions. EPA's analysis of steps 1 and 2 for the 2023 analytic year indicates that there are no expected eastern nonattainment or maintenance receptors for the 2008 ozone NAAQS in this future year. Together, these findings support EPA's proposed approval of Kentucky's SIP submittal, which is based on the determination that Kentucky is not expected to significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in downwind states in 2023.

A. Additional Information Regarding Selection of an Analytic Year

One of the first steps in conducting air quality modeling analysis to evaluate steps 1 and 2 of the four-step interstate transport framework is selecting a future analytic year. In determining the appropriate future analytic year for purposes of assessing remaining interstate transport obligations for the 2008 ozone NAAQS, including Kentucky's, EPA considered two primary factors: Attainment dates and NO_X control feasibility.

First, EPA considered the downwind attainment dates for the 2008 ozone NAAQS. In *North Carolina* v. *EPA,* the D.C. Circuit held that emissions reductions required by the good neighbor provision should be evaluated considering the relevant attainment dates of downwind nonattainment areas impacted by interstate transport.[11] The next attainment dates for the 2008 ozone NAAQS will be July 20, 2021, for nonattainment areas classified as serious and July 20, 2027, for nonattainment areas classified as severe.[12] Because the various attainment deadlines are in July, which is in the middle of the ozone monitoring season for all states, data from the calendar year prior to the attainment date (*e.g.,* data from 2020 for the 2021 attainment date and from 2026 for the 2027 attainment date) are the last data that can be used to demonstrate attainment with the NAAQS. In all cases, the statute provides that areas should attain as expeditiously as practicable.[13]

Second, EPA considered the timeframes that may be required for implementing further emissions reductions as expeditiously as practicable. In considering potential emissions reductions, EPA notes that emissions levels are already expected to decline in the future through implementation of existing local, state and federal emissions reduction programs. This is an important consideration because the U.S. Supreme Court and the D.C. Circuit Court have both held that EPA may not require emissions reductions greater than necessary to achieve attainment and maintenance of the NAAQS in downwind areas.[14] Therefore, if new controls cannot be implemented feasibly for several years and air quality will likely be cleaner in the future, EPA should evaluate air quality in a future year to ensure that any potential emissions reductions would not over-control relative to the identified ozone problem. Accordingly, it is reasonable to evaluate downwind air quality, and identify any remaining receptors, in the year in which EPA expects additional emissions reductions, if any, to be implemented.

For its analysis of NO_X control feasibility, EPA believes that the feasibility of control strategies should reflect the time needed to plan for, install, and test new EGU and non-EGU NO_X reduction strategies across multiple states. This conclusion is based on previous interstate ozone transport analyses showing that multiple upwind states are typically linked to identified eastern downwind ozone problems.[15] In particular, EPA's assessment in the CSAPR Update indicated that, with respect to the Harford and Richmond receptors to which Kentucky was linked, eight other states and the District of Columbia would continue to be linked to the Harford receptor and seven other states would continue to be linked to the Richmond receptor after implementation of the CSAPR Update in 2017.[16] Thus, to evaluate potential upwind obligations for one of several states linked to a common downwind air quality problem, EPA believes the most appropriate approach is to evaluate potential NO_X control strategies on a regional, rather than state-specific, basis.

Further, EPA believes that the feasibility of new emissions controls should be considered on multiple upwind source categories in order to ensure that the Agency properly evaluates NO_X reduction potential and cost-effectiveness (at step 3 of the framework) from all reasonable control measures (including beyond the EGU sector). Major NO_X emissions come from multiple anthropogenic source categories, such as electric utilities and industrial facilities. As commenters noted during the development of the CSAPR Update, EGUs in the eastern U.S. have been the subject of regulation to address interstate ozone pollution transport and have made significant financial investments to achieve emission reductions. While EPA evaluates additional control feasibility for EGUs in the discussion that follows, non-EGU source categories may also be well-positioned to cost-effectively reduce NO_X relative to EGUs, including non-EGUs that currently do not report emissions to EPA under 40 CFR part 75 and for which EPA's information concerning emissions levels, existing control efficiencies, and further emissions reduction potential is therefore more uncertain.[17]

In establishing the CSAPR Update EGU NO_X ozone season emission budgets, EPA quantified the emission reductions achievable from all NO_X control strategies that were feasible within one year and cost-effective at a marginal cost of $1,400 per ton of NO_X removed.[18] These EGU NO_X control strategies were: Fully operating existing Selective Catalytic Reduction (SCR), including both optimizing NO_X removal by existing, operational SCRs and turning on and optimizing existing idled SCRs; installing state-of-the-art NO_X combustion controls; and shifting generation to existing units with lower-NO_X emission rates within the same state. For the purposes of this proposed action on Kentucky's draft submission, EPA considers these NO_X control strategies to have been appropriately evaluated in the CSAPR Update rulemaking. Further, the Agency believes that the resulting CSAPR Update emission budgets are being appropriately implemented under the CSAPR NO_X Ozone Season Group 2

[11] 531 F.3d 896, 911–12 (D.C. Cir. 2008) (holding that EPA must coordinate interstate transport compliance deadlines with downwind attainment deadlines).

[12] While there are no areas (outside of California) that are classified as either serious or severe, these classifications (and the associated attainment dates) are required under the statute in the event that the many downwind moderate nonattainment areas fail to attain by their attainment date of July 20, 2018.

[13] *See* CAA section 181(a)(1).

[14] *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584, 1600–01 (2014); *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118, 127 (D.C. Cir. 2015).

[15] *See* 81 FR 74504 (October 26, 2016).

[16] *See* EPA's Air Quality Assessment Tool from the CSAPR Update in the docket for this rulemaking.

[17] *See* Assessment of Non-EGU NO_X Emission Controls, Cost of Controls, and Time for Compliance Final technical support document (TSD) from the CSAPR Update in the docket for this rulemaking.

[18] The CSAPR Update was signed on September 7, 2016—approximately 8 months before the beginning of the 2017 ozone season on May 1.

allowance trading program. Therefore, EPA has focused its further assessment on feasibility of controls that were deemed to be infeasible to install for the 2017 ozone season in the CSAPR Update for purposes of identifying an appropriate future analytic year rather than reassessing controls previously analyzed.

EPA identified, but did not account for, the following two EGU NO_X control strategies in establishing the CSAPR Update emissions budgets because implementation by 2017 was not considered feasible: Installing new SCRs and selective non-catalytic reduction (SNCR) controls. In the CSAPR Update, EPA found that EGU SCR post-combustion controls can achieve up to 90 percent reduction in EGU NO_X emissions. In 2017, these controls were in widespread use by EGUs in the east. In the 22 state CSAPR Update region, approximately 59 percent of coal-fired EGU heat input and 64 percent of natural gas-fired EGU generation was equipped with SCR.[19] Installing new SCR controls for EGUs not already equipped with such controls generally involves conducting an engineering review of the facility and awarding a procurement contract; obtaining a construction permit; installing the control technology; and obtaining an operating permit.[20] The total time associated with navigating these steps is estimated to be up to 39 months for an individual power plant installing SCR on more than one boiler.[21] However, for the purposes of evaluating the installation timing for new SCR controls at the fleet-level, rather than the unit-level, within the CSAPR Update region, EPA believes more time would be needed. As explained more fully below, EPA determined that a minimum of 48 months is a reasonable time to allow for the coordination of outages, shepherding of labor and material supply, and identification of retrofit projects. This time frame would facilitate multiple power plants with multiple boilers to conduct all stages of post-combustion and combustion control project planning, installation and operation.

Scheduled curtailment, or planned outage, for pollution control installation would be necessary to complete either SCR or SNCR projects. Given that peak demand and rule compliance would both fall in the ozone-season, sources would likely try to schedule installation projects for the shoulder season (*i.e.,* the spring and/or fall when electricity demand is lower than in the peak summer season) when reserve margins are higher and compliance requirements are not yet in effect. If multiple units were under the same timeline to complete the retrofit projects as soon as feasible from an engineering perspective, this could lead to bottlenecks of scheduled outages as each unit is trying to start and finish in roughly the same compressed time. Thus, any compliance timeframe that would assume installation of new SCR or SNCR controls should allow multiple shoulder seasons to accommodate scheduling of curtailment for control installation purposes and better accommodate the regional nature of the program.

In addition to the coordination of scheduled curtailment, an appropriate compliance timeframe should accommodate the additional coordination of labor and material supply necessary for any fleet-wide mitigation efforts. The total construction labor for an SCR system associated with a 500 megawatt (MW) EGU is in the range of 300,000 to 500,000 man-hours, with boilermakers[22] accounting for approximately half of this time.[23] SNCR, while generally having shorter project time frames of 10 to 13 months from bid solicitation to start-up, share similar labor and material resources and therefore are linked to the timing of SCR installation planning. In recent industry surveys, one of the largest shortages of union craft workers was for boilermakers. This shortage of skilled boilermakers is expected to rise due to an anticipated nine percent increase in boilermaker labor demand growth by 2026, coupled with expected retirements and comparatively low numbers of apprentices joining the workforce.[24] The shortage of and demand for skilled labor, including other craft workers critical to pollution control installation, is pronounced in the manufacturing industry. The Association of Union Constructors (TAUC) conducted a survey of identified labor shortages where boilermakers were second to most frequently reported skilled labor market with a labor shortage.[25] Moreover, the natural disasters of Hurricane Harvey and wildfires in 2017 are expected to further tighten the labor supply market in manufacturing in the near term.[26] EPA considered these tight labor market conditions (which were compounded by Hurricane Irma) for the manufacturing roles critical, and combined with fleet-level mitigation initiatives, would likely lead to some sequencing and staging of labor pool usage, rather than simultaneous construction across all efforts. Allowing a timeframe that exceeds the demonstrated single-unit installation is therefore appropriate for fleet-wide programs.

In addition to labor supply, NO_X post-combustion control projects also require materials and equipment such as steel and cranes. Sheet metal workers used in steel production are also reported as having well above an average supply-side shortage of labor. This—coupled with growth in steel demand estimated at three percent in 2018 and the simultaneous growth in global economies—puts upward pressure on demand for steel.[27] Similarly, cranes are critical for installation of SCRs, which often need to be lifted hundreds of feet in the air. Cranes are also facing higher demand during periods of economic growth with companies reporting a shortage in both equipment and manpower.[28] [29] This tightening labor, materials, and equipment atmosphere combined with the regional aspect of a pollution transportation program puts upward pressure on installation timetables relative to what has been historically demonstrated at the unit-level.

The time lag identified between planning and in-service date of SCR and SNCR operations also illustrates that conditions sometimes lead to

[19] Heat input is a proxy for the distribution of electricity generation across the evaluated EGUs.

[20] Final Report: Engineering and Economic Factors Affecting the Installation of Control Technologies for Multipollutant Strategies (''Engineering and Economic Factors Report''), EPA–600/R–02/073, October 2002 (available at *https://nepis.epa.gov/Adobe/PDF/P1001G0O.pdf*).

[21] Engineering and Economic Factors Report, Table 3–1.

[22] A boilermaker is a trained and skilled craftsman who produces steel fabrications (in this context, boilers).

[23] *See* Engineering and Economic Factors Report, Table 3–1.

[24] Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, Boilermakers, on the internet at *https://www.bls.gov/ooh/construction-and-extraction/boilermakers.htm* (last modified on January 30, 2018).

[25] Union Craft Labor Supply Survey, The Association of Union Constructors, Exhibit 4–2 at page 29, available at *https://www.tauc.org/files/2017_TAUC_UNION_CRAFT_LABOR_SUPPLY_REVISEDBC_FINAL.pdf* (2017).

[26] Skilled Wage Growth Less Robust, Worker Shortage Still and Issue. Industry Week (October 23, 2017), available at *http://www.industryweek.com/talent/skilled-wage-growth-less-robust-worker-shortage-still-issue.*

[27] Worldsteel Short Range Outlook (October 16, 2017), available at *https://www.worldsteel.org/media-centre/press-releases/2017/worldsteel-Short-Range-Outlook-2017-2018.html.*

[28] *Seattle Has Most Cranes in the Country for 2nd Year in a Row—and Lead is Growing,* Seattle Times (July 11, 2017), available at *https://www.seattletimes.com/business/real-estate/seattle-has-most-cranes-in-the-country-for-2nd-year-in-a-row-and-lead-is-growing/.*

[29] *See* Rider Levett Bucknall Crane Index—January 2018 in the docket for this rulemaking.

installation times of 4 years or longer. For instance, SCR projects for units at Ottumwa, Columbia, and Oakley Generating Station were all being planned by 2014. However, these projects had estimated in-service dates ranging between 2018 and 2021.[30] Completed projects, when large in scale, also illustrate how timelines can extend beyond the bare minimum necessary for a single unit when the project is part of a larger multi-unit air quality initiative. For instance, Big Bend in Florida recently completed a multi-faceted project that involved adding SCRs to all four units, converting furnaces, making overfire air changes, and making windbox modifications. The completion time from the initial planning stages was a decade.[31]

While individual unit-level SCR and SNCR projects can average 39 and 10 months respectively going from bid to start up, a comprehensive and regional emissions reduction effort requires more time to accommodate the labor, materials, and outage coordination. And since these post-combustion control strategies share similar input resources and are part of regional reduction programs rather than unit-specific technology mandates, the timeframes for one are inherently linked to another. This means that SNCR projects cannot simply be put on an early schedule because of the reduced construction timing without impacting the available resources to SCRs and the potential start dates of those projects. Given the market and regulatory circumstances in which EPA evaluated this effort, it determined that 4 years would be a reasonable time to coordinate the planning and completion of any mitigation efforts necessary in this instance.

In the CSAPR Update, EPA also evaluated the feasibility of NO_X controls on non-EGUs in the eastern United States, finding that there was greater uncertainty in the assessment of non-EGU point-source NO_X mitigation potential as compared to EGUs.[32] EPA explained in the CSAPR Update that more time was required for states and EPA to improve non-EGU point source data, including data on existing control efficiencies, additional applicable pollution control technologies, and installation times for those control technologies. Further, using the best information available to EPA, which was submitted for public comment with the proposed CSAPR Update, EPA found that there were more non-EGU point sources than EGU sources and that these sources on average emit less NO_X than EGUs. The implication was that there were more individual sources to control and there were relatively fewer emissions reductions available from each source, reducing the cost-effectiveness of controls. Further, another factor influencing uncertainty was that EPA lacks sufficient information on the capacity and experience of suppliers and major engineering firms' supply chains to determine if they would be able to install the required pollution controls for non-EGU sources in less than 48 months. Considering these factors, EPA found substantial uncertainty regarding whether significant aggregate NO_X mitigation would be achievable from non-EGU point sources to address the 2008 ozone NAAQS any earlier than the timelines noted in EPA's analysis of new EGU post-combustion control feasibility.

Finally, in the CSAPR Update, EPA also identified one EGU NO_X control strategy that was considered feasible to implement within one year but was not cost-effective at a marginal cost of $1,400 per ton of NO_X removed: Specifically, turning on existing idled SNCRs. In the CSAPR Update, EPA identified a marginal cost of $3,400 per ton as the level of uniform control stringency that represents turning on and fully operating idled SNCRs.[33] However, the CSAPR Update finalized emission budgets using $1,400 per ton control stringency, finding that this level of stringency represented the control level at which incremental EGU NO_X reductions and corresponding downwind ozone air quality improvements were maximized with respect to marginal cost. In finding that use of the $1,400 control cost level was appropriate, EPA established that the more stringent emission budget level reflecting $3,400 per ton (representing turning on idled SNCR) yielded fewer additional emission reductions and fewer air quality improvements relative to the increase in control costs. In other words, based on information available at that time, establishing emission budgets at $3,400 per ton was not determined to be cost-effective for addressing good neighbor provision obligations for the 2008 ozone NAAQS. 81 FR 74550 (Oct. 26, 2016). EPA believes that its assessment of turning on and fully operating SNCRs was appropriately evaluated in the CSAPR Update with respect to addressing interstate ozone pollution transport for the 2008 ozone NAAQS. Accordingly, in this proposal EPA is not prioritizing the assessment of this control strategy in terms of identifying an appropriate future analytic year.

For these reasons, EPA believes it is appropriate to assume that planning for, installing, and commencing operation of new controls for both EGUs and non-EGUs would take up to 48 months following promulgation of a final rule requiring appropriate emission reductions. Specifically, EPA believes that it is reasonable to assume that the installation of new post-combustion controls for state- or regional-level fleets of EGUs or controls for non-EGU point sources may take up to 4 years following promulgation of a final rule.[34] For purposes of conducting updated modeling to determine in what year future emissions reductions might be implemented, EPA, therefore, considered the timeframe in which a future rulemaking that might require such emissions reductions would likely be finalized. While EPA is subject to several statutory and court-ordered deadlines to address the requirements of the good neighbor provision for the 2008 ozone NAAQS, EPA does not believe that it is feasible, at this point, to finalize action requiring emission reductions for any state prior to the start of the 2018 ozone season (*i.e.,* May 1, 2018).[35] Accordingly, implementation of any of the control strategies considered herein is likely not feasible until during or after the 2022 ozone season. Considering the time to implement the controls with the time to promulgate a final rule, EPA believes that such reductions are unlikely to be implemented for a full ozone season until 2023.

While 2023 is later than the next attainment date for nonattainment areas classified as Serious (July 20, 2021), as explained earlier, EPA does not believe it is likely that emissions control requirements could be promulgated and implemented by the serious area attainment date. Likewise, EPA also

[30] 2014 EIA Form 860, Schedule 6, Environmental Control Equipment.

[31] *Big Bend's Multi-Unit SCR Retrofit.* Power Magazine. March 1, 2010. Available at *http://www.powermag.com/big-bends-multi-unit-scr-retrofit/.*

[32] *See* Assessment of Non-EGU NO_X Emission Controls, Cost of Controls, and Time for Compliance Final TSD from the CSAPR Update in the docket for this rulemaking.

[33] *See* EGU NO_X Mitigation Strategies Final Rule TSD, docket ID EPA–HQ–OAR–2015–0500–0554, available at *www.regulations.gov.*

[34] *See* 81 FR 74562 (October 26, 2016).

[35] Using the 2023 analytic year also allowed EPA to begin the updated analysis using the data sets originally developed for the January 2017 NODA (82 FR 1733, January 6, 2017), which we revised in response to stakeholder feedback. Accordingly, EPA initiated its analysis more quickly than if a different year had been chosen, which might have delayed subsequent rulemaking actions and therefore emissions reductions.

believes that it would not be reasonable to assume that emissions reductions could be postponed to the attainment date for nonattainment areas classified as severe (July 20, 2027) because the statute instructs states to attain the NAAQS as expeditiously as practicable. Accordingly, EPA believes implementation of additional emission reductions would be as expeditiously as practicable in light of relevant attainment dates.

In conclusion, in selecting its future analytic year for the air quality modeling, EPA balanced considerations such as attainment dates in downwind states, including the obligation to attain as expeditiously as practicable, EPA's obligation to avoid unnecessary over-control of upwind state emissions, the timeframe in which any necessary emissions reductions could be feasibly implemented, and the timeframe required for rulemaking to impose any such emissions reductions that might be required. In light of these considerations, EPA believes that 2023 is a reasonable year to assess downwind air quality to evaluate any remaining requirements under the good neighbor provision for the 2008 ozone NAAQS.

B. EPA's Air Quality Modeling

EPA used the Comprehensive Air Quality Model with Extensions (CAMx v6.40) [36] for modeling the updated emissions in 2011 and 2023.[37] EPA used outputs from the 2011 and 2023 model simulations to project base period 2009–2013 average and maximum ozone design values to 2023 at monitoring sites nationwide. EPA's modeling guidance [38] recommends that model predictions from the ''3 x 3'' array of grid cells surrounding the location of the monitoring site be used in the projection of future year design values. EPA used this approach for projecting design values for the updated 2023 modeling. In addition, in light of comments on the January 2017 NODA and other analyses, EPA also projected 2023 design values based on a modified version of this approach for those monitoring sites located in coastal areas. In brief, in the alternative approach, EPA eliminated from the design value calculations those modeling data in grid cells not containing a monitoring site that are dominated by water (*i.e.,* more than 50 percent of the land use in the grid cell is water).[39] [40]

When identifying areas with potential downwind air quality problems, EPA's updated modeling used the same ''receptor'' definitions as those developed during the CSAPR rulemaking process and used in the CSAPR Update.[41] That is, EPA identified nonattainment receptors as those monitoring sites with current measured values exceeding the NAAQS that also have projected (*i.e.,* in 2023) average design values exceeding the NAAQS. EPA identified maintenance receptors as those monitoring sites with current measured values below the NAAQS and projected average and maximum design values exceeding the NAAQS. EPA also identified as maintenance receptors those monitoring sites with projected average design values below the NAAQS but with projected maximum design values exceeding the NAAQS. As with past application of receptor definitions, EPA considered all nonattainment receptors to also be maintenance receptors because a monitoring site with a projected average design value above the standard necessarily also has a projected maximum design value above the standard.

EPA's 2023 updated modeling, using either the ''3 x 3'' approach or the alternative approach described above for projecting design values for monitoring sites in coastal areas, indicates that there are no monitoring sites outside of California that are projected to have nonattainment or maintenance problems with respect to the 2008 ozone NAAQS in 2023.[42] Specifically for Kentucky, EPA's modeling for the CSAPR Update showed that emissions from Kentucky were linked to 2017 maintenance receptors in Harford Co., MD, Hamilton Co., OH, Philadelphia Co., PA, and Richmond Co., NY. As indicated above, EPA's updated 2023 modeling shows that these monitoring sites—along with all other sites outside of California—will have nonattainment and/or maintenance problems resolved with respect to the 2008 ozone NAAQS in 2023.

C. Conclusions

As discussed above, Kentucky's draft submission demonstrates that emission activities from the State will not contribute significantly to nonattainment or interfere with maintenance of the 2008 8-hour ozone NAAQS in any other state after implementation of all on-the-books measures, including the CSAPR Update. EPA's modeling indicates that there are no monitoring sites (outside of California) that are projected to have nonattainment or maintenance problems with respect to the 2008 ozone NAAQS in 2023, and EPA's analysis supports the use of 2023 as the proper analytic year. Kentucky has provided information that shows the use of this modeling is appropriate in this context, such as emissions trends data and information about on-the-books controls that supports the likelihood of reduced emissions from Kentucky between 2017 and 2023. For example, Kentucky's submission notes that retirements of coal-fired units at the E.W. Brown Generating Station and the Elmer Smith Plant are planned to occur before 2023, which means that emissions of NO_X from Kentucky sources will be even lower than EPA's modeling projects. In addition, Kentucky's draft submission contains air quality modeling conducted by Alpine Geophysics, LLC, that similarly concludes that none of the nonattainment and maintenance receptors identified in the CSAPR Update are predicted to be in nonattainment or have issues with maintenance in 2023.

Because Kentucky is not linked to any downwind nonattainment or maintenance receptors in 2023, EPA is proposing to approve Kentucky's draft SIP submission and to determine that—after implementation of all on-the-books measures, including the CSAPR

[36] CAMx v6.40 was the most recent public release version of CAMx at the time EPA updated its modeling in Fall 2017. Comprehensive Air Quality Model with Extension version 6.40 User's Guide,'' Ramboll Environ, December 2016, available at *http://www.camx.com/*. For the emissions information, *see* TSD: *Additional Updates to Emissions Inventories for the Version 6.3, 2011 Emissions Modeling Platform for the Year* 2023, October 2017. Available at *https://www.epa.gov/air-emissions-modeling/2011-version-63-platform.*

[37] For the updated modeling, EPA used the construct of the modeling platform (*i.e.,* modeling domain and non-emissions inputs) that we used for the NODA modeling, except that the photolysis rates files were updated to be consistent with CAMx v6.40. The NODA Air Quality Modeling Technical Support Document describing the modeling platform is available at *https://www.epa.gov/airmarkets/notice-data-availability-preliminary-interstate-ozone-transport-modeling-data-2015-ozone.*

[38] Draft Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, PM2s, and Regional Haze (Dec. 13, 2014), available at *http://www.epa.gov/ttn/scram/guidance/guide/Draft_O3-PM-RH_Modeling_Guidance-2014.pdf.*

[39] A model grid cell is identified as a ''water'' cell if more than 50 percent of the grid cell is water based on the 2006 National Land Cover Database. Grid cells that meet this criterion are treated as entirely over water in the Weather Research Forecast (WRF) modeling used to develop the 2011 meteorology for EPA's air quality modeling.

[40] The base period and 2023 average and maximum design values at individual monitoring sites for both the ''3 x 3'' approach and the alternative approach affecting coastal sites are available in a file at *https://www.epa.gov/airmarkets/october-2017-memo-and-information-interstate-transport-sips-2008-ozone-naaqs.* This file also contains 2014–2016 measured design values.

[41] *See* 81 FR 74530 (October 26, 2016).

[42] This information is available at *https://www.epa.gov/airmarkets/october-2017-memo-and-information-interstate-transport-sips-2008-ozone-naaqs.*

Update—emissions from the Commonwealth will no longer contribute significantly to nonattainment or interfere with maintenance of the 2008 8-hour ozone NAAQS in any other state.HD1P≤IV. Parallel Processing

Parallel processing refers to a concurrent state and federal proposed rulemaking action. Generally, the state submits a copy of the proposed regulation or other revisions to EPA before conducting its public hearing. EPA reviews this proposed state action, and prepares a notice of proposed rulemaking. EPA's notice of proposed rulemaking is published in the **Federal Register** during the same timeframe that the state is holding its public hearing. The state and EPA then provide for concurrent public comment periods on both the state action and federal action, respectively. If the state's formal SIP revision is changed from the draft SIP revision, EPA will evaluate those changes and may publish another notice of proposed rulemaking. A final rulemaking action by EPA will occur only after the SIP revision has been adopted by Kentucky and submitted formally to EPA for incorporation into the SIP.

The Commonwealth of Kentucky, through the Kentucky Division for Air Quality (DAQ), requested parallel processing of the February 28, 2018 draft SIP revision regarding the ''good neighbor'' provision of the CAA. This revision was noticed for public comment by the Commonwealth on March 1, 2018, and is not yet state-effective. Through this proposed rulemaking, EPA is proposing parallel approval of this draft SIP revision.

Once the February 28, 2018, draft revision is state-effective, Kentucky will need to provide EPA with a formal SIP revision that meets the requirements outlined in 40 CFR part 51 Appendix V ''Criteria for Determining the Completeness of Plan Submissions.'' After Kentucky submits the formal SIP revision (including a response to any public comments raised during the State's public participation process), EPA will evaluate the revision. If the formal SIP revision is changed from the draft SIP revision, EPA will evaluate those changes for significance. If any such changes are found by EPA to be significant, then the Agency intends to re-propose the action based upon the revised submission.

While EPA may not be able to have a concurrent public comment process with the Commonwealth, the DAQ-requested parallel processing allows EPA to begin to take action on the Commonwealth's draft SIP submission in advance of the formal SIP submission. As stated above, the final rulemaking action by EPA will occur only after the SIP submission has been: (1) Adopted by Kentucky; (2) submitted formally to EPA for incorporation into the SIP; and (3) evaluated for changes.

V. EPA's Proposed Action

EPA is proposing to approve Kentucky's February 28, 2018, draft SIP submission and to find that Kentucky is not required to make any further reductions, beyond those required by the CSAPR Update, to address its statutory obligation under CAA section 110(a)(2)(D)(i)(I) for the 2008 8-hour ozone NAAQS. If EPA finalizes approval of this draft submission, Kentucky's obligations under 110(a)(2)(d)(i)(I) will be fully addressed through the combination of the CSAPR Update FIP and the demonstration showing that no further reductions are necessary. As a result, EPA is also proposing to amend the regulatory text at 40 CFR 52.940(b)(2) to reflect that the CSAPR Update represents a full remedy with respect to Kentucky's transport obligation for the 2008 ozone NAAQS. EPA requests comment on this proposed action.

EPA's proposed approval is contingent on Kentucky's submission of a final SIP revision that does not differ significantly from the February 28, 2018 draft. Should Kentucky not submit such a final SIP revision to EPA or should EPA not be able to approve a final revision, EPA will undertake further action to address any outstanding obligations that Kentucky may have under 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS. The Agency has made the preliminary determination that this proposed action is consistent with the CAA.

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone,, Reporting and recordkeeping requirements.

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

Dated: April 9. 2018.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

[FR Doc. 2018–08137 Filed 4–17–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[WT Docket No. 10–4; FCC 18–35]

Improvement of Wireless Coverage Through the Use of Signal Boosters

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission proposes additional steps to enhance the usefulness of signal boosters in improving access to wireless service while continuing to guard against unacceptable interference to the operations of wireless providers. The proposals are intended to extend additional benefits to users of both Provider-Specific and Wideband Consumer Signal Boosters. Thus, the Commission proposes to expand the service bands on which all Consumer Signal Boosters may operate, develop consumer advisory requirements suitable for any embedded Consumer Signal Boosters (whether Provider-Specific or Wideband), and facilitate enterprise use of both Provider-Specific Consumer Signal Boosters and Wideband Consumer Signal Boosters.

DATES: Interested parties may file comments on or before May 18, 2018, and reply comments on or before June 18, 2018.

ADDRESSES: You may submit comments, identified by WT Docket No. 10–4, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the Commission's Electronic Comment Filing System (ECFS): *http://fjallfoss.fcc.gov/ecfs2/.* See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Generally, if more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Amanda Huetinck at *Amanda.huetinck@fcc.gov,* of the Wireless Telecommunications Bureau, Mobility Division, (202) 418–7090. For additional information concerning the PRA information collection requirements contained in this document, contact Cathy Williams at (202) 418–2918 or send an email to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Further Notice of Proposed Rulemaking* (*Second Further Notice*) in WT Docket No. 10–4, FCC 18–35, released on March 23, 2018. The complete text of the *Second Further Notice,* including all Appendices, is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW, Room CY–A157, Washington, DC 20554, or by downloading the text from the Commission's website at *https://apps.fcc.gov/edocs_public/attachmatch/FCC-18-35A1.pdf.*

Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *FCC504@fcc.gov* or calling the Consumer and Government Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

I. Second Further Notice

A. Additional Spectrum Bands

1. In the *Report and Order,* adopted on February 20, 2013 (WT Docket No. 10–4) (*Report and Order),* the Commission authorized the use of Consumer Signal Boosters in the wireless radio service spectrum bands that were being used for the provision of commercial wireless services at the time: Cellular (824–849 MHz and 869–894 MHz), Broadband PCS (1850–1915 MHz and 1930–1995 MHz), AWS–1 (1710–1755 MHz and 2110–2155 MHz), 700 MHz Lower A through E (698–746 MHz) and Upper C (746–757 MHz and 776–787 MHz) Blocks, and 800 MHz Enhanced Specialized Mobile Radio (ESMR) (817–824 MHz and 862–869 MHz). Recognizing that ''subscriber-based services may be offered in additional bands in the future,'' the Commission also stated that, ''[a]s consumer demand for signal boosters in these bands arises,'' it would seek comment on ''how best to expand our signal booster framework to accommodate such additional bands.''

2. To ensure that Consumer Signal Boosters continue to meet the needs of American telecommunications users, no matter what type of mobile device they use or on what band(s) that device operates, the Commission seeks comment on whether and how the Commission can expand the number of spectrum bands for which Consumer Signal Boosters are authorized. The Commission specifically seeks comment on whether to permit the operation of Consumer Signal Boosters in certain additional wireless radio service spectrum bands and how its technical rules would need to be amended to accommodate the additional bands.

3. In determining which, if any, new bands are appropriate for use with Consumer Signal Boosters, the Commission considers: (1) Whether the band is used to provide services to consumers or other non-licensee users such as public safety responders (assuming they are using commercial spectrum rather than spectrum specifically designated for public safety); (2) whether a meaningful number of the licensees in the band will consent to Consumer Signal Booster operation; (3) the impact of other technologies and operations both within the band and in adjacent bands and whether Consumer Signal Booster operation would harm other users within the band or in adjacent bands (and vice versa); and (4) whether the current technical rules for signal boosters must be adjusted to

accommodate any such new service bands.

4. With this criteria in mind, the Commission specifically seeks comment on whether it should authorize the operation of Consumer Signal Boosters in the 600 MHz (617–652 MHz and 663–698 MHz), WCS (2305–2320 MHz and 2345–2360 MHz), and BRS/EBS (2495–2690 MHz) bands. Commenters should address how each consideration identified above weighs for or against including any of the proposed bands in its Consumer Signal Booster rules. Are there any other considerations that the Commission should take into account in determining whether new bands are appropriate for use with Consumer Signal Boosters? Are there other bands it should consider adding to its Consumer Signal Booster rules? To the extent that commenters support adding other bands to its Consumer Signal Booster rules, they should address the above listed considerations, and any others that commenters demonstrate are relevant, in relation to those specific band(s) as well.

5. Further, are there costs associated with adding additional spectrum bands to the signal booster regime? What would be the benefits, quantifiable and otherwise, of permitting operation of Consumer Spectrum Boosters on additional bands? Are there any changes the Commission would need to make to its Consumer Signal Booster requirements and technical specifications to accommodate any additional bands that may be added to the rules? How can it balance the risk of releasing into the market Consumer Signal Boosters with the ability to operate on bands for which not all licensees have consented with the benefit to consumers of using the devices on the networks for which there is consent? Finally, the Commission also urges commenters to provide suggestions for other ways to expand the use of safe and reliable Consumer Signal Boosters.

B. Embedded Consumer Signal Boosters

6. Despite the success of the Consumer Signal Booster regulatory regime, it appears that businesses that wish to embed Consumer Signal Boosters within vehicles have been stymied by section 20.21(f)(1)'s requirement that advisories be placed on the outside packaging of the device and on a label affixed to the device. Because these Consumer Signal Boosters are embedded within a vehicle, and the consumer neither has access to nor sees the device or its packaging, these businesses, as a practical matter, are unable to comply with section 20.21(f)(1).

7. In light of the evolving use of Consumer Signal Boosters and the Commission's desire to encourage technological innovation, the Commission proposes to amend section 20.21(f)(1) for embedded Consumer Signal Boosters to provide alternative advisory language to that now found in section 20.21(f)(1)(iv)(A)(*1*) as well as an alternative to providing the advisory on the device and its packaging, as required by section 20.21(f)(1)(iii)–(iv). The Commission seek to strike a balance between providing flexibility in the Consumer Signal Booster marketplace and retaining the protections offered by the labeling requirement.

8. To achieve this goal, the Commission proposes that in lieu of placing the required advisory on the device and its packaging, vehicle manufacturers, distributors, and retailers of embedded Consumer Signal Boosters instead be required to provide an alternative advisory to consumers in any materials provided at vehicle delivery, as well as to consumers when they register their vehicle with the vehicle manufacturer. The Commission emphasizes that these manufacturers, distributors, and retailers would remain responsible for ensuring that the alternative advisory is provided in any on-line, point-of-sale marketing materials and in any print or on-line owner's manual, as required by section 20.21(f)(1)(i)–(ii).

9. Under the proposal, the alternative advisory would provide all the same warnings to consumers, including that they must register the embedded signal booster with and receive the consent of the appropriate wireless provider(s), and it additionally would include instructions for the consumer on how to disable the device for the specific vehicle. To provide maximum flexibility to manufacturers, distributors, and retailers of vehicles with embedded signal boosters, the Commission proposes to permit them both to craft their own processes for their customers to disable the device and to insert a description of that process into the advisory but would expect that the chosen mode be one that the average consumer easily can undertake.

10. The Commission seeks comment on the above approach and asks commenters to provide information on the costs of complying with such a requirement. Do the benefits of providing an alternative delivery method for the advisory language for embedded Consumer Signal Boosters justify the costs that would be involved? Is the alternative advisory language sufficient to provide adequate notice to consumers? Is the method of delivery—via materials at vehicle delivery and in response to consumer registration of their vehicle with the vehicle manufacturer—a sufficient means of ensuring that consumers receive the advisory? Is this approach the best way the Commission can reduce the burden on businesses that wish to embed signal boosters in vehicles while ensuring consumers receive all necessary information? Is there a better way that the Commission can achieve this goal? If so, what is that approach and why is it superior? Commenters should discuss the costs and benefits of any proposals.

11. In addition, how can the Commission address the situation where a vehicle owner who has complied with all obligations associated with the embedded Consumer Signal Booster in his vehicle sells the vehicle to a third party in a private transaction? Would a new signal booster registration be required for this new user? How can the Commission ensure that the new owner will satisfy the requirements for signal booster operation? What would be the responsibilities of a manufacturer, distributor, and/or retailer that has complied with all of its associated obligations for the original sale in such a scenario? Are there any other rules that the Commission would need to revise to achieve its goal of balancing the limitations faced in connection with providing sufficient information about operation in connection with embedded signal boosters with ensuring that the owner of the vehicle meets all the applicable obligations? Are there other types of embedded uses that the Commission should consider? If so, what other considerations are there? Finally, are there any other considerations regarding embedded Consumer Signal Boosters for which the Commission has not accounted and should?

12. The Commission also seeks comment on how to treat waivers of section 21.20(f)(1) that it has granted to several companies for this purpose (WT Docket No. 10–4) (Labeling Waivers) following any rule change it adopts based upon the record compiled in response to the *Second Further Notice.* The Commission recognizes that its proposed rules differ from the waiver conditions, and, if the rules are adopted, the manufacturers party to the Labeling Waivers would need to alter their practices as a result. The Commission seeks comment on how it should handle the transition from the requirements of the Labeling Waivers to those of the proposed rules. How can the Commission best balance the

importance of timely compliance with the rule changes with the realities of their business? For example, should it require compliance by the production year following the rules' adoption so manufacturers are not forced to alter their manufacturing parameters mid-production?

C. Enterprise Use

13. The rules adopted in the *Report and Order* were designed specifically to benefit the general consumer, and they have worked well to that end. In the associated *Second Report and Order,* released March 23, 2018 (WT Docket No. 10–4) (*Second Report and Order*), the Commission provided flexibility for enterprise (*i.e.,* any non-individual, such as a small business, public safety entity, school, hospital, or governmental organization) and individual subscribers of a wireless provider to operate a Provider-Specific Consumer Signal Booster for non-personal use on that provider's spectrum. In the *Second Further Notice,* the Commission considers whether and how to expand that flexibility to permit different types of enterprise entities to take advantage of the benefits of both Provider-Specific and Wideband Consumer Signal Boosters, while continuing to ensure that all signal boosters function safely on those networks and without causing harmful interference. Specifically, the Commission examines whether and how to enable enterprises (and individuals) to operate either type of Consumer Signal Booster—Provider-Specific or Wideband—on a provider's spectrum without subscribing to the provider's service. The Commission generally seeks comment on whether it should expand access to Consumer Signal Boosters in this way.

14. The Commission observes that, to effect such a change and achieve the related public interest benefits, it would need to amend its Consumer Signal Booster rules both to: (1) Eliminate the personal use restriction on Wideband Consumer Signal Boosters, and (2) prescribe a method for non-subscribers to register a Consumer Signal Booster (whether Provider-Specific or Wideband) with and receive the consent of all relevant wireless providers.

1. Wideband Consumer Signal Booster Personal Use Restriction

15. The personal use restriction guards against unauthorized operation of a signal booster on a wireless provider's network, while also providing a streamlined consent and registration process for consumers. This risk of unauthorized operation is present for Wideband Consumer Signal Boosters because they can operate on spectrum licensed to multiple wireless providers. While the personal use restriction was devised to stem this risk while providing convenience to consumers, it also effectively prevents enterprise use of Wideband Consumer Signal Boosters, thereby denying a crucial tool for improving wireless service access to a range of entities—including businesses of all sizes, public safety entities (using commercial spectrum), educational institutions, and others.

16. On December 21, 2016, Wilson Electronics, LLC, filed a Petition for Further Rulemaking asking the Commission to eliminate the personal use restriction on the operation of Wideband Consumer Signal Boosters and adopt a multi-provider registration requirement for Wideband Consumer Signal Boosters (WT Docket No. 10–4). On March 3, 2017, the Wireless Telecommunications Bureau sought comment on the Wilson Petition (WT Docket No. 10–4) (*Wilson Public Notice*). Commenters responding to the *Wilson Public Notice* almost uniformly supported elimination of the personal use restriction for both types of boosters. They argued that Consumer Signal Boosters offer enterprises a cost-effective way to boost signal coverage for employees and customers, that expanding access to these devices will promote public safety, and that the NPS has negated any potential interference concerns.

17. Based upon the success of the Consumer Signal Booster rules thus far and the record before it, the Commission proposes to eliminate the personal use restriction on Wideband Consumer Signal Boosters and requests comment on this proposal. What are the potential benefits of eliminating the personal use restriction on Wideband Consumer Signal Boosters? Are there quantifiable economic benefits associated with this proposal? Would removal of this restriction on Wideband Consumer Signal Boosters increase the likelihood of harmful interference to wireless providers' networks? Are there, as one commenter claims, different and possibly more extensive technical and performance issues? Are there other possible costs associated with the possible removal of the personal use restriction on Wideband Consumer Signal Boosters? How might any costs or adverse effects balance against any benefits resulting from this proposed rule change? The Commission requests that commenters provide as much documentation and detail as possible in their comments on this proposal so that it can fairly evaluate the issues.

2. Subscriber Relationship

18. Under the current rules, operators must be subscribers of the wireless provider on whose spectrum they use a Consumer Signal Booster and may register only with said provider. To use a Wideband Consumer Signal Booster for multiple providers under its current rules, a subscriber of each provider must register that same device with each respective provider.

19. Accordingly, even if the Commission eliminates the personal use restriction for Wideband Consumer Signal Boosters as proposed, enterprise users still would be unable to operate a Wideband booster across multiple providers' spectrum unless they subscribed to each provider. The Commission therefore considers whether and how to permit non-subscribers to operate Provider-Specific or Wideband Consumer Signal Boosters and proposes a means for non-subscribers to register with and receive consent from providers to which they do not subscribe, while ensuring that providers maintain control over their networks.

20. Section 301 of the Communications Act requires a valid FCC license to operate a radio frequency transmitting device, such as a signal booster. The Commission in the *Report and Order* noted that wireless providers must retain sufficient control over Consumer Signal Boosters to avoid violating Section 310(d) of the Act and thus authorized Consumer Signal Boosters under wireless providers' blanket licenses and required that signal booster operators be subscribers who must obtain the consent of their wireless provider and register their Consumer Signal Booster with that provider. By all accounts, this framework has worked as intended, and wireless providers have retained required control of their operations, with interference to wireless networks being almost nonexistent.

21. The Commission proposes to extend this paradigm so that a non-subscriber may operate a Consumer Signal Booster under the provider's blanket license subject to an arrangement with the provider. This arrangement would serve as a substitute for the subscriber relationship while retaining the consent and registration components of its framework. Similar to a subscriber agreement, such an arrangement could include any appropriate rights, restrictions, and obligations the provider believes it must impose on the non-subscriber. In this way, wireless providers would continue to maintain control over their licensed spectrum in compliance with section

310(d) while enterprise users and individuals would have the flexibility to operate boosters across wireless networks, including taking advantage of any alternative approaches to facilitating the operation of Consumer Signal Boosters by non-subscribers.

22. The Commission also proposes that non-subscriber registrants would have to agree to and accept certain terms established by the wireless provider on whose spectrum the Consumer Signal Booster would operate. The details of the arrangement between the wireless provider and a non-subscriber registrant generally would be left to the wireless providers to implement, but at minimum the Commission proposes that any such arrangement must require that the registrant:

- Prior to operation, obtain the consent of the licensee for any network operating in the range of the signal booster;
- Prior to operation, register the signal booster with the licensee for any network on which the booster will be operated;
- Operate the Consumer Signal Booster only with approved antennas, cables, and/or coupling devices as specified by the manufacturer of the booster;
- Operate the signal booster only on frequencies used for the provision of subscriber-based services, as specified in section 20.21(e)(3);
- Because operation of Consumer Signal Boosters is on a secondary, non-interference basis to primary services licensed for the frequency bands on which they transmit, upon request of an FCC representative or a licensee experiencing harmful interference,
  - Cooperate in determining the source of the interference, and
  - If necessary, deactivate the signal booster immediately, or as soon as practicable, if immediate deactivation is not possible;
- Use a signal booster that meets the Network Protection Standard in Section 20.21(e);
- Use a signal booster that is appropriately labeled as required by Section 20.21(f); and
- Not deactivate any features of the signal booster that are designed to prevent harmful interference to wireless networks. These features must be enabled and operating at all times that the signal booster is in use.

23. The Commission seeks comment on these proposed terms. Are they adequate to achieve its goals? More specifically, is the requirement that operators receive consent of all providers ''operating in the range of the signal booster'' feasible? What costs would this requirement entail for the purchasers/operators of Consumer Signal Boosters? The Commission seeks comment on whether wireless providers may charge a registration fee to non-subscribers. Should it set up a system for registrants to determine which providers are in range of their signal booster? Should the providers themselves set up such a system? Should the Commission include any additional protections for consumers? How could these arrangements be enforced against a non-subscriber? Are there other ways in which the Commission can ease the registration and consent requirements for small businesses? If a commenter suggests alternative or additional terms, or a different approach to the establishment of an arrangement between a wireless provider and a non-subscriber Consumer Signal Booster registrant, its comments should explain the purpose and feasibility of such different or additional terms, and should also address how any arrangement meets the requirements of sections 301 and 310(d) of the Communications Act.

24. As with the current subscriber framework, the Commission intends that this registration process (which also would include the establishment of the relationship between the wireless provider and the non-subscriber Consumer Signal Booster operator) would constitute the provider's consent to the non-subscriber registrant's operation of the signal booster. To be clear, the signal booster's operator would need to register with each and every provider on whose network the signal booster might operate. The registered operator would remain responsible for the signal booster as defined by the Commission's rules, while other users could utilize the signal booster without registering. If an individual chose to operate a booster for his personal use on his subscribing provider's network, however, the individual simply would follow the current framework and register only with that provider. The Commission seeks comment on this proposed framework. Does it achieve the goals of expanding access to Consumer Signal Boosters while adequately providing licensees with control over their networks? Is there a better way to achieve this goal?

25. If the Commission allows individuals and enterprises to register with and seek consent from wireless providers other than those to which they subscribe, it observes it also must alter the required advisory language for Consumer Signal Boosters, specifically the statement that ''BEFORE USE, you MUST REGISTER THIS DEVICE with *your* wireless provider and have *your* provider's consent. Most wireless providers consent to the use of signal boosters. Some providers may not consent to the use of this device on their network. If you are unsure, contact *your* provider.'' The Commission proposes to alter this language to make clear to purchasers that any Consumer Signal Booster must be registered with one or more wireless providers and that it may not be used with any provider in the absence of their prior consent. The Commission also proposes to include language directing signal booster purchasers/operators to an FCC web page that will guide them to determine with which provider(s) they must register and from whom they must receive consent before initiating any operation of the signal booster. The Commission preliminarily anticipates that the FCC web page would include tools so that a Consumer Signal Booster purchaser/operator could determine whether it needed to register with only one, or with multiple providers and to assist the purchaser/operator in identifying which providers might be within range of the signal booster when operated. The Commission seeks comment on this proposal. Is it likely to promote compliance with its requirements for Consumer Signal Boosters or might it instead lead to purchasers, particularly individuals, ignoring the requirements? Is there a simpler way to include the required information in an advisory that accompanies the Consumer Signal Boosters? Is there a more efficient way for signal booster purchasers/operators to obtain this information?

26. The Commission also considers what action it should take with respect to Mobile Consumer Signal Boosters if it moves forward with its overall proposal. While Mobile Consumer Signal Boosters generally are used by consumers for their personal use and only on their own provider's mobile network (*e.g.,* in their personal car), other non-personal uses across multiple wireless providers' spectrum are possible as well. For example, commercial bus or train lines that travel across multiple markets may choose to deploy a mobile booster for their passengers' use. The Commission proposes that such enterprises would be required to register their Mobile Consumer Signal Boosters with all providers within range of the signal booster, even though the number of such wireless providers may well be larger than those for a fixed signal booster, as the bus or train would be

moving through multiple markets. Would imposing this registration requirement for mobile signal boosters be burdensome on entities like bus and train lines, or would it simply be considered a requirement of doing business? Is there an alternative way to address the need for registration of mobile signal boosters that would maintain the integrity of its registration and consent requirement?

27. Finally, the Commission seeks comment on whether either or both of its proposals above (to eliminate the personal use restriction for Wideband Consumer Signal Boosters and to allow non-subscribers to operate Consumer Signal Boosters on the networks of all wireless providers) require any additional rule changes. For example, would either proposal require any technical rule changes? Are enterprise users likely to place their Consumer Signal Boosters in locations that are more prone to causing interference, for example, outdoors or on top of tall buildings? Should the Commission consider placing restrictions on where Consumer Signal Boosters may be operated? Is there a technical reason to limit how many Consumer Signal Boosters one operator may deploy? Sprint, for example, points out that using multiple Consumer Signal Boosters to cover a large industrial, retail, or other facility is not ideal, ''as the performance of the boosters is not optimized for such deployments.'' Are there any other considerations?

II. Procedural Matters

A. Paperwork Reduction Act Analysis

28. The *Second Further Notice* contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

29. The Initial Regulatory Flexibility Analysis (IRFA) is in Appendix D of the *Second Further Notice.*

B. Initial Regulatory Flexibility Analysis

30. As required by the RFA, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the rule revisions proposed in the *Second Further Notice.* The analysis is found in Appendix D of the *Second Further Notice.* The Commission requests written public comment on the analysis. Comments must be filed in accordance with the same deadlines as comments filed in response to the *Second Further Notice,* and must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the *Second Further Notice,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the RFAs.

C. Ex Parte Presentations

31. This proceeding shall continue to be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the Commission's Electronic Comment Filing System (ECFS) available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

32. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

III. Ordering Clauses

33. Accordingly, *it is ordered,* pursuant to Sections 1, 4(i), 4(j), 7, 301, 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157, 301, 302, and 303, that the *Second Further Notice of Proposed Rulemaking* in WT Docket No. 10–4 *is adopted.*

34. *It is further ordered* that, pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on the *Second Further Notice of Proposed Rulemaking* on or before 30 days after publication in the **Federal Register** and reply comments on or before 60 days after publication in the **Federal Register**.

35. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the *Second Further Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 20

Communications common carriers, Communications equipment, Radio.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison. Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 20 as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICES

■ 1. The authority citation for Part 20 continues to read as follows:

Authority: 47 U.S.C. 151, 152(a) 154(i), 157, 160, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316,

316(a), 332, 610, 615, 615a, 615b, 615c, unless otherwise noted.

■ 2. Amend § 20.21 by revising paragraphs (a), (f), (g), and (h) to read as follows:

§ 20.21 Signal boosters.

(a) *Operation of Consumer Signal Boosters.*—(1) *For personal use by a subscriber.* A subscriber in good standing of a commercial mobile radio service system may operate a Consumer Signal Booster under the authorization held by the licensee providing service to the subscriber, provided that the subscriber complies with paragraphs (a)(1)(i) through (a)(1)(vi) of this section. Failure to comply with all applicable rules in this section and all applicable technical rules for the frequency band(s) of operation voids the authority to operate the Consumer Signal Booster.

(i) Prior to operation, the subscriber obtains the consent of the licensee providing service to the subscriber;

(ii) Prior to operation, the subscriber registers the Consumer Signal Booster with the licensee providing service to the subscriber;

(iii) The subscriber only operates the Consumer Signal Booster with approved antennas, cables, and/or coupling devices as specified by the manufacturer of the Consumer Signal Booster;

(iv) The subscriber operates the Consumer Signal Booster on frequencies used for the provision of subscriber-based services as specified by paragraph (e)(3) of this section;

(v) The Consumer Signal Booster complies with paragraphs (e), (f), (g), and (h) of this section and § 2.907 of this chapter; and

(vi) The subscriber may not deactivate any features of the Consumer Signal Booster that are designed to prevent harmful interference to wireless networks. These features must be enabled and operating at all times the signal booster is in use.

(2) *For non-personal use.* An individual or non-individual may operate a Consumer Signal Booster under the authorization held by the licensee(s) of the spectrum on which the Consumer Signal Booster operates, provided that the operator complies with paragraphs (a)(2)(i) through (a)(2)(vi) of this section. Failure to comply with all applicable rules in this section and all applicable technical rules for the frequency band(s) of operation voids the authority to operate the Consumer Signal Booster.

(i) Prior to operation, the operator obtains the consent of the licensee(s) of the spectrum on which the Consumer Signal Booster operates;

(ii) Prior to operation, the operator registers the Consumer Signal Booster with the licensee(s) of the spectrum on which the Consumer Signal Booster operates;

(iii) The operator only operates the Consumer Signal Booster with approved antennas, cables, and/or coupling devices as specified by the manufacturer of the Consumer Signal Booster;

(iv) The operator operates the Consumer Signal Booster on frequencies used for the provision of subscriber-based services as specified by paragraph (e)(3) of this section;

(v) The Consumer Signal Booster complies with paragraphs (e), (f), (g), and (h) of this section and § 2.907 of this chapter; and

(vi) The operator may not deactivate any features of the Consumer Signal Booster that are designed to prevent harmful interference to wireless networks. These features must be enabled and operating at all times the signal booster is in use.

* * * * *

(f) *Signal Booster Labeling Requirements.*

(1) Consumer Signal Boosters.

(i) Consumer Signal Booster manufacturers, distributors, and retailers must ensure that all signal boosters include the following advisory:

This is a CONSUMER device.

BEFORE USE, you MUST REGISTER THIS DEVICE with the appropriate wireless provider(s) and have that provider's consent. Most wireless providers consent to the use of signal boosters. Some providers may not consent to the use of this device on their network. Please visit *www.fcc.gov/X* to determine the provider(s) with which you must register and from which you must receive consent.

You MUST operate this device with approved antennas and cables as specified by the manufacturer. Antennas MUST be installed at least 20 cm (8 inches) from any person.

You MUST cease operating this device immediately if requested by the FCC or a licensed wireless service provider.

WARNING. E911 location information may not be provided or may be inaccurate for calls served by using this device.

(ii) The label for Consumer Signal Boosters certified for fixed indoor operation also must include the following language:

This device may be operated ONLY in a fixed location for in-building use.

(iii) These advisories must be included:

(A) In on-line, point-of-sale marketing materials,

(B) In any owner's manual and installation instructions (whether in print or on-line),

(C) On the outside packaging of the device, and

(D) On a label affixed to the device.

(iv) In lieu of the requirements of paragraphs (f)(1)(i), and (f)(1)(iii)(C and (D) of this section, vehicle manufacturers, vehicle distributors, and vehicle retailers of vehicles with embedded Consumer Signal Boosters must use the following alternative advisory in any materials provided at vehicle delivery and when the consumer registers the vehicle with the vehicle manufacturer:

This vehicle contains a CONSUMER SIGNAL BOOSTER device.

BEFORE USE, you MUST REGISTER THIS SIGNAL BOOSTER DEVICE with the appropriate wireless provider(s) and have that provider's consent. Most wireless providers consent to the use of signal boosters. Some providers may not consent to the use of this device on their network. Please visit *www.fcc.gov/X* to determine with which provider(s) you must register and from which you must receive consent.

If a wireless provider does not consent to the use of this device on its network, or if you are directed to cease operating the device by the FCC or a licensed wireless service provider, you MUST [*manufacturer, distributor, and/or retailer insert instruction to consumer*].

WARNING. E911 location information may not be provided or may be inaccurate for calls served by using this device.

(v) A Consumer Signal Booster label may contain an acknowledgement that particular provider(s) have given their consent for all consumers to use the device. Such an acknowledgement shall be inserted prior to, ''Some providers may not consent to the use of this device on their network.'' The remaining language of the advisory shall remain the same.

(2) *Industrial Signal Boosters.* (i) Industrial Signal Booster manufacturers, distributors, and retailers must ensure that all signal boosters, include the following advisory:

WARNING. This is NOT a CONSUMER device. It is designed for installation by FCC LICENSEES and QUALIFIED INSTALLERS. You MUST have an FCC LICENSE or express consent of an FCC Licensee to operate this device. Unauthorized use may result in significant forfeiture penalties, including penalties in excess of $100,000 for each continuing violation.

(g) *Marketing and Sale of Signal Boosters.* Except as provided in § 2.803

of this chapter, no person, manufacturer, distributor, or retailer may market (as defined in § 2.803 of this chapter) any Consumer Signal Booster that does not comply with the requirements of this section to any person in the United States or to any person intending to operate the Consumer Signal Booster within the United States.

(h) *Registration.* (1) Each licensee consenting to the operation of a Consumer Signal Booster must establish a free registration mechanism for subscribers and register all, including non-subscriber, Consumer Signal Boosters to which it consents. A licensee must establish a registration mechanism within 90 days of consenting to the operation of a Consumer Signal Booster. At a minimum, a licensee must collect:

(i) The name of the Consumer Signal Booster owner and/or operator, if different individuals;

(ii) The make, model, and serial number of the device;

(iii) The location of the device; and

(iv) The date of initial operation.

Licensee consent is voluntary and may be withdrawn at the licensee's discretion.

(2) In addition, for any non-subscriber registration, at a minimum, the registrant must:

(i) Prior to operation, obtain the consent of the licensee for any network operating in the range of the signal booster;

(ii) Prior to operation, register the signal booster with the licensee for any network on which the booster will be operated;

(iii) Operate the Consumer Signal Booster only with approved antennas, cables, and/or coupling devices as specified by the manufacturer of the booster;

(iv) Operate the signal booster only on frequencies used for the provision of subscriber-based services, as specified by paragraph (e)(3) of this section;

(v) Because operation of Consumer Signal Boosters is on a secondary, non-interference basis to primary services licensed for the frequency bands on which they transmit, upon request of an FCC representative or a licensee experiencing harmful interference,

(A) Cooperate in determining the source of the interference, and

(B) If necessary, deactivate the signal booster immediately, or as soon as practicable, if immediate deactivation is not possible;

(vi) Use a signal booster that meets the Network Protection Standard as required by paragraph (e) of this section;

(vii) Use a signal booster that is appropriately labeled as required by paragraph (f) of this section; and

(viii) Not deactivate any features of the signal booster that are designed to prevent harmful interference to wireless networks. These features must be enabled and operating at all times the signal booster is in use.

[FR Doc. 2018–08030 Filed 4–17–18; 8:45 am]

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Notices

Federal Register

Vol. 83, No. 75

Wednesday, April 18, 2018

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

Designation for the Jamestown, North Dakota; Lincoln, Nebraska; and Memphis, Tennessee Areas

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: AMS is announcing the designations of Grain Inspection, Inc. (Jamestown); Lincoln Grain Inspection Service, Inc. (Lincoln); and Midsouth Grain Inspection Service (Midsouth) to provide official services under the United States Grain Standards Act (USGSA), as amended. The realignment of offices within the U.S. Department of Agriculture authorized by the Secretary's Memorandum dated November 14, 2017, eliminates the Grain Inspection, Packers and Stockyard Administration (GIPSA) as a standalone agency. The grain inspection activities formerly part of GIPSA are now organized under AMS.

DATES: *Applicable Date:* April 1, 2018.

ADDRESSES: Mark Wooden, Compliance Officer, USDA, AMS, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.

FOR FURTHER INFORMATION CONTACT: Mark Wooden, 816–659–8413, *Mark.J.Wooden@ams.usda.gov* or *FGISQACD@ams.usda.gov.*

Read Applications: All applications and comments are available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

SUPPLEMENTARY INFORMATION: In the September 5, 2017, **Federal Register** (82 FR 41911–41914), GIPSA requested applications for designation to provide official services in the geographic areas serviced by Jamestown, Lincoln, and Midsouth. Applications were due by October 5, 2017.

The current official agencies, Lincoln and Midsouth, were the only applicants for designation to provide official services in their respective areas. As a result, GIPSA did not ask for additional comments.

The current official agency, Jamestown, applied for most of the territory within its current geographic area except for a small eastern portion. North Dakota Grain Inspection Service, Inc. (North Dakota) applied for the small eastern portion of Jamestown's territory.

AMS evaluated the designation criteria in section 7(f) of the USGSA (7 U.S.C. 79(f)) and determined that Jamestown, Lincoln, Midsouth, and North Dakota are qualified to provide official services in the geographic areas specified in the **Federal Register** on September 5, 2017. These designations to provide official services in the specified areas of Lincoln and Midsouth are effective April 1, 2018, to March 31, 2023.

The designation to provide official services in the specified area by Jamestown is effective April 1, 2018, to March 31, 2023. Jamestown's geographic area is amended as follows:

Jamestown

Pursuant to Section 7(f)(2) of the USGSA, the following geographic area, in the States of Minnesota and North Dakota, is assigned to this official agency.

In Minnesota

Traverse, Grant, Douglas, Todd, Morrison, Mille Lacs, Kanabec, Pine, Big Stone, Stevens, Pope, Stearns, Benton, Isanti, Chisago, Swift, Kandiyohi, Meeker, Wright, Sherburne, Anoka, Lac Qui Parle, and Chippewa Counties.

In North Dakota

Bounded on the north by Interstate 94 east to U.S. Route 85; U.S. Route 85 north to State Route 200; State Route 200 east to U.S. Route 83; U.S. Route 83 southeast to State Route 41; State Route 41 north to State Route 200; State Route 200 east to State Route 3; State Route 3 north to the northern Wells County line, the northern Wells and Eddy County lines east; the eastern Eddy County line south to the northern Griggs County line; the northern Griggs county line east to State Route 32; bounded on the east by State Route 32 south to State Route 45; State Route 45 south to State Route 200; State Route 200 west to State Route 1; State Route 1 south to Interstate 94; Interstate 94 East to State Route 1; State Route 1 south to the Dickey County line; bounded on the South by the southern Dickey County line west to U.S. Route 281; U.S. Route 281 north to the Lamoure County line; the southern Lamoure County line; the southern Logan County line west to State Route 13; State Route 13 west to U.S. Route 83; U.S. Route 83 south to the Emmons County line; the southern Emmons County line; the southern Sioux County line west to State Route 49; State Route 49 north to State Route 21; State Route 21 west to the Burlington-Northern line; the Burlington-Northern line northwest to State Route 22; State Route 22 south to U.S. Route 12; U.S. Route 12 west-northwest to the North Dakota State line; and bounded on the west by the western North Dakota State line north to Interstate 94.

The following grain elevators are not part of this geographic area assignment and are assigned to Minot Grain Inspection, Inc.: Benson Quinn Company, Underwood, McLean County and SRS Commodities, Washburn, McLean County, North Dakota.

The designation to provide official services in the specified area by North Dakota remains effective from January 1, 2016, to December 31, 2020. North Dakota's geographic area is amended effective April 1, 2018, as follows:

North Dakota

Pursuant to Section 7(f)(2) of the USGSA, the following geographic area, in the States of Illinois, Indiana, Michigan, Minnesota, North Dakota, and Ohio is assigned to this official agency.

In Illinois

Bounded on the east by the eastern Cumberland County line; the eastern Jasper County line south to State Route 33; State Route 33 east-southeast to the Indiana-Illinois State line; the Indiana-Illinois State line south to the southern Gallatin County line; bounded on the south by the southern Gallatin, Saline, and Williamson County lines; the southern Jackson County line west to U.S. Route 51; U.S. Route 51 north to State Route 13; State Route 13 northwest to State Route 149; State Route 149 west to State Route 3; State Route 3 northwest to State Route 51; State Route 51 south to the Mississippi River; and bounded on the west by the Mississippi River north to the northern Calhoun County line; bounded on the north by the northern and eastern Calhoun County lines; the northern and eastern

Jersey County lines; the northern Madison County line; the western Montgomery County line north to a point on this line that intersects with a straight line, from the junction of State Route 111 and the northern Macoupin County line to the junction of Interstate 55 and State Route 16 (in Montgomery County); from this point southeast along the straight line to the junction of Interstate 55 and State Route 16; State Route 16 east-northeast to a point approximately 1 mile northeast of Irving; a straight line from this point to the northern Fayette County line; the northern Fayette, Effingham, and Cumberland County lines.

In Indiana

Bartholomew, Blackford, Boone, Brown, Carroll (south of State Route 25), Cass, Clinton, Delaware, Fayette, Fulton (bounded on east by eastern Fulton County line south to State Route 19; State Route 19 south to State Route 114; State Route 114 southeast to eastern Fulton County line), Grant, Hamilton, Hancock, Hendricks, Henry, Howard, Jay, Johnson, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Randolph, Richmond, Rush (north of State Route 244), Shelby, Tipton, Union, and Wayne Counties.

In Michigan

Bounded on the west by State Route 127 at the Michigan-Ohio State line north to State Route 50; bounded on the north by State Route 50 at State Route 127 east to the Michigan State line; the Michigan state line south to the Michigan-Ohio State line.

In Minnesota

Koochiching, St. Louis, Lake, Cook, Itasca, Norman, Mahnomen, Hubbard, Cass, Clay, Becker, Wadena, Crow Wing, Aitkin, Carlton, Wilkin, and Otter Tail Counties, except those export port locations within the State, which are serviced by AMS.

In North Dakota

Bounded on the north by the northern Steele County line from State Route 32 east; the northern Steele and Trail County lines east to the North Dakota State line; bounded on the east by the eastern North Dakota State line; bounded on the south by the southern North Dakota State line west to State Route 1; and bounded on the west by State Route 1 north to Interstate 94; Interstate 94 west to State Route 1; State Route 1 north to State Route 200; State Route 200 east to State Route 45; State Route 45 north to State Route 32; State Route 32 north.

In Ohio

The northern Ohio State line east to the to the Ohio-Pennsylvania State line; bounded on the east by the Ohio-Pennsylvania State line south to the Ohio River; bounded on the south by the Ohio River south-southwest to the western Scioto County line; and bounded on the west by the western Scioto County line north to State Route 73; State Route 73 northwest to U.S. Route 22; U.S. Route 22 west to U.S. Route 68; U.S. Route 68 north to Clark County; the northern Clark County line west to Valley Pike Road; Valley Pike Road north to State Route 560; State Route 560 north to U.S. 36; U.S. 36 west to eastern Miami County Line; eastern Miami County line to Northern Miami County line; Northern Miami County line west to Interstate 75; Interstate 75 north to State Route 47; State Route 47 northeast to U.S. Route 68 (including all of Sidney, Ohio); U.S. Route 68 north to the southern Hancock County line; the southern Hancock County line west to the western Hancock, Wood and Lucas County lines north to the Michigan-Ohio State line; the Michigan-Ohio State line west to State Route 127; plus all of Darke County.

North Dakota's assigned geographic area does not include the export port locations inside the State of Ohio area which are serviced by AMS.

The following grain elevators are not part of this geographic area assignment and are assigned to Titus Grain Inspection, Inc.: The Andersons, Delphi, Carroll County; Frick Services, Inc., Leiters Ford, Fulton County; and Cargill, Inc., Linden, Montgomery County, Indiana.

Interested persons may obtain official services by contacting these agencies at the following telephone numbers:

Official agency	Headquarters location and telephone	Designation start	Designation end
Jamestown	Jamestown, ND, 701–252–1290	4/1/2018	3/31/2023
Lincoln	Lincoln, NE, 402–435–4386	4/1/2018	3/31/2023
Midsouth	Memphis, TN, 901–942–3216	4/1/2018	3/31/2023
North Dakota	Fargo, ND, 701–293–7420	1/1/2016	12/31/2020

Section 7(f) of the USGSA authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79 (f)).

Dated: April 13, 2018.

Greg Ibach,

Under Secretary, Marketing and Regulatory Programs.

[FR Doc. 2018–08102 Filed 4–17–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Request for Applications: The Community Forest and Open Space Conservation Program

AGENCY: Forest Service, Department of Agriculture.

ACTION: Request for applications.

SUMMARY: The U.S. Department of Agriculture, Forest Service, State and Private Forestry, Cooperative Forestry staff, requests applications for the Community Forest and Open Space Conservation Program (Community Forest Program or CFP). This is a competitive grant program whereby local governments, qualified nonprofit organizations, and Indian tribes are eligible to apply for grants to establish community forests through fee simple acquisition of private forest land from a willing seller. The purpose of the program is to establish community forests by protecting forest land from conversion to non-forest uses and provide community benefits such as sustainable forest management, environmental benefits including clean air, water, and wildlife habitat; benefits from forest-based educational programs; benefits from serving as models of effective forest stewardship; and recreational benefits secured with public access.

Eligible lands for grants funded under this program are private forest that is at least five acres in size, suitable to

sustain natural vegetation, and at least 75 percent forested. The lands must also be threatened by conversion to non-forest uses, must not be held in trust by the United States on behalf of any Indian Tribe, must not be Tribal allotment lands, must be offered for sale by a willing seller, and if acquired by an eligible entity, must provide defined community benefits under CFP and allow public access.

DATES: Interested local government and nonprofit applicants must submit applications to the State Forester. Tribal applicants must submit applications to the appropriate Tribal government officials. All applications, either hardcopy or electronic, must be received by State Foresters or Tribal governments by June 29, 2018. State Foresters or Tribal government officials must forward applications to the Forest Service Region, Northeastern Area, or International Institute of Tropical Forestry by July 27, 2018.

ADDRESSES: All local government and qualified nonprofit organization applications must be submitted to the State Forester of the State where the property is located. All Tribal applications must be submitted to the equivalent Tribal government official. Applicants are encouraged to contact and work with the Forest Service Region, Northeastern Area or International Institute of Tropical Forestry, and State Forester or equivalent Tribal government official when developing their proposal. Applicants must consult with the State Forester and equivalent Tribal government official prior to requesting technical assistance for a project. The State Forester's member roster may be found on *www.stateforesters.org/about/who-we-are.* All applicants must also send an email to *communityforest@fs.fed.us* to confirm an application has been submitted for funding consideration.

State Foresters and Tribal government officials shall submit applications, either electronic or hardcopy, to the appropriate Forest Service Regional/Area/Institute contact noted below.

Northern and Intermountain Regions

Regions 1 and 4

(ID, MT, ND, NV, UT)

Janet Valle, U.S. Forest Service, 324 25th St., Ogden, UT 84401, 801–625–5258 (phone), 801–625–5716 (fax), *jvalle@fs.fed.us.*

Rocky Mountain Region

Region 2

(CO, KS, NE, SD, WY)

Claire Harper, U.S. Forest Service, 740 Simms Street, Golden, CO 80401, 303–895–6157 (phone), 303–275–5754 (fax), *claireharper@fs.fed.us.*

Southwestern Region

Region 3

(AZ, NM)

Alicia San Gil, U.S. Forest Service, 333 Broadway SE, Albuquerque, NM 87102, 505–842–3289 (phone), 505–842–3165 (fax), *agsangil@fs.fed.us.*

Pacific Southwest Region

Region 5

(CA)

Miranda Hutten, U.S. Forest Service, 1323 Club Drive, Vallejo, CA 94592, 707–562–9025 (phone), 707- 562–9054 (fax), *mlhutten@fs.fed.us.*

(Hawaii, Guam, American Samoa, Federated States of Micronesia and other Pacific Islands)

Katie Friday, 60 Nowelo St. Hilo, HI 96720, 808–854–2620 (phone), 503–808–2469 (fax), *kfriday@fs.fed.us.*

Pacific Northwest, and Alaska Regions

Regions 6 and 10

(AK, OR, WA)

Brad Siemens, U.S. Forest Service, 120 Southwest 3rd Ave, Portland, OR 97204, 503–808–2353 (phone), 503–808–2469 (fax), *btsiemens@fs.fed.us.*

Southern Region

Region 8

(AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA)

Mike Murphy, U.S. Forest Service, 1720 Peachtree Rd. NW, Suite 700B 850S North, Atlanta, GA 30309, 404–347–5214 (phone), 404–347–2776 (fax), *mwmurphy@fs.fed.us.*

International Institute of Tropical Forestry

(PR, VI)

Magaly Figueroa, U.S. Forest Service, Jardin Botanico Sur, 1201 Calle Ceiba, San Juan, PR 00926–1119, 787–764–7718 (phone), 787–766–6263 (fax), *mafigueroa@fs.fed.us.*

Northeastern Area

(CT, DC, DE, IA, IL, IN, MA, MD, ME, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, WI, WV)

Neal Bungard, U.S. Forest Service, 271 Mast Road, Durham, NH 03824–4600, 603–868–7719 (phone), 603–868–7604 (fax), *nbungard@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: For questions regarding the grant application or administrative regulations, contact Scott Stewart, Program Coordinator, 202–205–1618, *sstewart@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

CFDA number 10.689: To address the goals of Section 7A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103d) as amended, the Forest Service is requesting proposals for community forest projects that protect forest land that has been identified as a national, regional, or local priority for protection and to assist communities in acquiring forestland that will provide public recreation, environmental and economic benefits, and forest-based educational programs.

Detailed information regarding what to include in the application, definitions of terms, eligibility, and necessary prerequisites for consideration can be found in the final program rule, published October 20, 2011 (76 FR 65121–65133), which is available at *https://www.fs.fed.us/managing-land/private-land/community-forest/program.*

Grant Application Requirements

1. Eligibility Information

a. *Eligible Applicants.* A local governmental entity, Indian Tribe (including Alaska Native Corporations), or a qualified nonprofit organization that is qualified to acquire and manage land (see § 230.2 of the final rule at *https://www.fs.fed.us/managing-land/private-land/community-forest/program.* Individuals are not eligible to receive funds through this program.

b. *Cost Sharing (Matching Requirement).* All applicants must demonstrate a 50 percent match of the total project cost. The match can include cash, in-kind services, or donations, which shall be from a non-Federal source. For additional information, please see § 230.6 of the final rule.

c. *DUNS Number.* All applicants shall include a Data Universal Numbering System (DUNS) number in their application. For this requirement, the applicant is the entity that meets the eligibility criteria and has the legal authority to apply for and receive the grant. For assistance in obtaining a DUNS number at no cost, call the DUNS number request line 1–866–705–5711 or register on-line at *http://fedgov.dnb.com/webform.*

d. *System for Award Management.* All prospective awardees shall be registered in the System for Award Management prior to award, during performance, and through final payment of any grant resulting from this solicitation. Further information can be found at *www.sam.gov.* For assistance, contact Federal Service Desk 1–866–606–8220.

2. Award Information

Funds have been appropriated for CFP in FY 2018. Individual grant applications may not exceed $600,000, which does not include technical assistance requests. The Federal Government's obligation under this program is contingent upon the availability of appropriated funds.

No legal liability on the part of the Government shall be incurred until funds are committed by the grant officer for this program to the applicant in writing. The initial grant period shall be for two years, and acquisition of lands should occur within that timeframe. Lands acquired prior to the grant award are not eligible for CFP funding. The grant may be reasonably extended by the Forest Service when necessary to accommodate unforeseen circumstances in the land acquisition process. Written annual financial performance reports and semi-annual project performance reports shall be required and submitted to the appropriate grant officer.

Technical assistance funds, totaling not more than 10 percent of all funds, may be allocated to State Foresters and equivalent officials of the Indian tribe. Technical assistance, if provided, will be awarded at the time of the grant. Applicants shall work with State Foresters and equivalent officials of the Indian Tribe to determine technical assistance needs and include the technical assistance request in the project budget.

As funding allows, applications submitted through this request may be funded in future years, subject to the availability of funds and the continued feasibility and viability of the project.

3. Application Information

Application submission. All local governments and qualified nonprofit organizations' applications must be submitted to the State Forester where the property is located by June 29, 2018. All Tribal applications must be submitted to the equivalent Tribal officials by June 29, 2018. Applications may be submitted either electronic or hardcopy to the appropriate official. The State Forester's contact information may be found at: *https://www.fs.fed.us/managing-land/private-land/community-forest/program.*

All applicants must also send an email to *communityforest@fs.fed.us* to confirm an application has been submitted to the State Forester or equivalent Tribal official for funding consideration.

All State Foresters and Tribal government officials must forward applications to the Forest Service by July 27, 2018.

4. Application Requirements

The following section outlines grant application requirements:

a. The application can be no more than eight pages long, plus no more than two maps (eight and half inches by eleven inches in size), the grant forms specified in (b), and the draft community forest plan specified in (e).

b. The following grant forms and supporting materials must be included in the application:

(1) An Application for Federal Assistance (Standard Form 424);

(2) Budget information (Standard Form SF 424c—Construction Programs); and

(3) Assurances of compliance with all applicable Federal laws, regulations, and policies (Standard Form 424d—Construction Programs).

c. Documentation verifying that the applicant is an eligible entity and that the land proposed for acquisition is eligible (see § 230.2 of the final rule).

d. Applications must include the following, regarding the property proposed for acquisition:

(1) A description of the property, including acreage and county location;

(2) A description of current land uses, including improvements;

(3) A description of forest type and vegetative cover;

(4) A map of sufficient scale to show the location of the property in relation to roads and other improvements as well as parks, refuges, or other protected lands in the vicinity;

(5) A description of applicable zoning and other land use regulations affecting the property;

(6) A description of the type and extent of community benefits, including to underserved communities (see selection criteria);

(7) A description of relationship of the property within and its contributions to a landscape conservation initiative; and

(8) A description of any threats of conversion to non-forest uses, including any encumbrances on the property that prevent conversion to non-forest uses.

e. Information regarding the proposed establishment of a community forest, including:

(1) A description of the benefiting community, including demographics, and the associated benefits provided by the proposed land acquisition;

(2) A description of community involvement to-date in the planning of the community forest acquisition and of community involvement anticipated long-term management;

(3) An identification of persons and organizations that support the project and their specific role in establishing and managing the community forest; and

(4) A draft community forest plan. The eligible entity is encouraged to work with the State Forester or equivalent Tribal government official for technical assistance when developing or updating the Community Forest Plan. In addition, the eligible entity is encouraged to work with technical specialists, such as professional foresters, recreation specialists, wildlife biologists, or outdoor education specialists, when developing the Community Forest Plan.

f. Information regarding the proposed land acquisition, including:

(1) A proposed project budget not exceeding $600,000 and technical assistance needs as coordinated with the State Forester or equivalent Tribal government official (section § 230.6 of the final program rule);

(2) The status of due diligence, including signed option or purchase and sale agreement, title search, minerals determination, and appraisal;

(3) Description and status of cost share (secure, pending, commitment letter, etc.) (section § 230.6 of the final rule);

(4) The status of negotiations with participating landowner(s) including purchase options, contracts, and other terms and conditions of sale;

(5) The proposed timeline for completing the acquisition and establishing the community forest; and;

(6) Long term management costs and funding source(s).

g. Applications must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards also referred to as the Omni Circular (2 CFR 200).

h. Applications must also include the forms required to process a Federal grant. Section 6 *Grant Requirements* references the grant forms that must be included in the application and the specific administrative requirements that apply to the type of Federal grant used for this program.

A sample grant outline and scoring guidance can be found on the CFP website at *https://www.fs.fed.us/managing-land/private-land/community-forest/program*.

5. Forest Service's Project Selection Criteria

a. Using the criteria described below, to the extent practicable, the Forest Service will give priority to applications that maximize the delivery of community benefits, as defined in the final rule (see section § 230.2 of the final rule); and

b. The Forest Service will evaluate all applications received by the State Foresters or equivalent Tribal government officials and award grants based on the following criteria:

(1) Type and extent of community benefits provided, including to underserved communities. Community benefits are defined in the final program rule as:

(i) Economic benefits, such as timber and non-timber products;

(ii) Environmental benefits, including clean air and water, stormwater management, and wildlife habitat;

(iii) Benefits from forest-based experiential learning, including K–12 conservation education programs; vocational education programs in disciplines such as forestry and environmental biology; and environmental education through individual study or voluntary participation in programs offered by organizations such as 4–H, Boy or Girl Scouts, Master Gardeners, etc.;

(iv) Benefits from serving as replicable models of effective forest stewardship for private landowners; and

(v) Recreational benefits such as hiking, hunting, and fishing secured through public access.

(2) Extent and nature of community engagement in the establishment and long-term management of the community forest;

(3) Amount of cost share leveraged;

(4) Extent to which the community forest contributes to a landscape conservation initiative;

(5) Extent of due diligence completed on the project, including cost share committed and status of appraisal;

(6) Likelihood that, unprotected, the property would be converted to non-forest uses; and

(7) Costs to the Federal Government.

6. Grant Requirements

a. Once an application is selected, funding will be obligated to the grant recipient through a grant adhering to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards also referred to as the Omni Circular (2 CFR 200).

d. Forest Service must approve any amendments to a proposal or request to reallocate funding within a grant proposal. If negotiations on a selected project fail, the applicant cannot substitute an alternative site.

e. The grant recipient must comply with the requirements in section § 230.8 in the final rule before funds will be released.

f. After the project has closed, as a requirement of the grant, grant recipients will be required to provide the Forest Service with a Geographic Information System (GIS) shapefile: a digital, vector-based storage format for storing geometric location and associated attribute information, of CFP project tracts and cost share tracts, if applicable.

g. Any funds not expended within the grant period must be de-obligated and revert to the Forest Service.

h. All media, press, signage, and other documents discussing the creation of the community forest must reference the partnership and financial assistance by the Forest Service through the CFP.

Additional information may be found in section § 230.9 of the final rule.

Dated: March 22, 2018.

Jaelith Hall-Rivera,

Acting Associate Deputy Chief, State and Private Forestry.

[FR Doc. 2018–08051 Filed 4–17–18; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–23–2018]

Foreign-Trade Zone 29—Louisville, Kentucky; Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Louisville & Jefferson County Riverport Authority, grantee of FTZ 29, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on April 11, 2018.

FTZ 29 was approved by the FTZ Board on May 26, 1977 (Board Order 118, 42 FR 29323; June 8, 1977) and expanded on January 31, 1989 (Board Order 429, 54 FR 5992; February 7, 1989), December 15, 1997 (Board Order 941, 62 FR 67044; December 23, 1997), July 17, 1998 (Board Order 995, 63 FR 40878; July 31, 1998), December 11, 2000 (Board Order 1133, 65 FR 79802; December 20, 2000), January 15, 2002 (Board Order 1204, 67 FR 4391; January 30, 2002), November 20, 2003 (Board Order 1305, 68 FR 67400; December 2, 2003), January 27, 2005 (Board Order 1364, 70 FR 6616; February 8, 2005), and January 31, 2012 (Board Order 1808, 77 FR 6058; February 7, 2012).

The current zone includes the following sites: *Site 1* (1,643 acres)—Riverport Industrial Complex, Louisville; *Site 4* (2,149 acres)—Louisville International Airport, Grade Lane, Louisville; *Site 5* (69 acres)—Marathon Ashland Petroleum LLC, 4510 Algonquin Parkway, Louisville; *Site 6* (43 acres)—Amazon.com.KYDC LLC, 271 Omega Parkway and 376 Zappos Boulevard, Sheperdsville; *Site 7* (191 acres)—Henderson County Riverport Authority, 6200 Riverport Rd., Henderson; *Site 8* (182 acres)—Owensboro Riverport Authority, 2300 Harbor Rd., Owensboro; *Site 9* (778 acres)—4 Star Regional Industrial Park, Southern Star Way, Robards; *Site 11* (261 acres)—Outer Loop, 116 acres at Stennett Lane, 44 acres at 8100 Air Commerce Drive and 101 acres at 1900 Outer Loop Road, Louisville; *Site 13* (6 acres)—Workwell Industries, Inc., 3401 Jewell Ave, Louisville; *Site 14* (3.95 acres)—Yellow Banks River Terminal, 6133 U.S. Highway 60, East Owensboro; and, *Site 15* (302.3 acres)—Cedar Grove Business Park, Highway 480, near Interstate 65, Sheperdsville.

The grantee's proposed service area under the ASF would be Anderson, Boyle, Breckinridge, Bullitt, Butler, Carroll, Crittenden, Daviess, Fayette, Franklin, Gallatin, Hancock, Henderson, Henry, Hopkins, Jefferson, Jessamine, Larue, Marion, McLean, Meade, Mercer, Muhlenberg, Nelson, Ohio, Oldham, Owen, Scott, Shelby, Spencer, Trimble,

Union, Washington, Webster, and Woodford Counties, Kentucky, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The application indicates that the proposed service area is within and adjacent to the Louisville, Kentucky and Evansville, Indiana Customs and Border Protection ports of entry.

The applicant is requesting authority to reorganize its existing zone to include existing Sites 1, 4, 7, 9, 11 and 15 as ''magnet'' sites and existing Sites 5, 6, 8, 13 and 14 as usage-driven sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. The application would have no impact on FTZ 29's previously authorized subzones.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is June 18, 2018. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 2, 2018.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.* For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: April 11, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–08118 Filed 4–17–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–24–2018]

Foreign-Trade Zone (FTZ) 293—Limon, Colorado; Notification of Proposed Production Activity; Laser Galicia America LLC (Bending and Assembly of Trafo Wall); Aurora, Colorado

The Town of Limon, Colorado, grantee of FTZ 293, submitted a notification of proposed production activity to the FTZ Board on behalf of Laser Galicia America LLC (Laser Galicia), located in Aurora, Colorado. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on April 6, 2018.

The applicant indicates that it will be submitting a separate application for FTZ usage-driven designation at the Laser Galicia facility within FTZ 293. The facility is used for the bending and assembly of trafo wall. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Laser Galicia from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Laser Galicia would be able to choose the duty rate during customs entry procedures that apply to front section trafo wall, top section trafo wall, and left section trafo wall (duty rate—3.0%). Laser Galicia would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Small nut plate (galvanized steel thickness 10 mm); bracket for lubrication system—unfolded (stainless steel thickness 3 mm); frame assembly—unfolded (galvanized steel thickness 2 mm); cross plate trafo wall—unfolded (galvanized steel thickness 1.5 mm); shield for trafo component—unfolded (galvanized steel thickness 1.5 mm); structural sections of trafo wall—unfolded (galvanized steel thickness 1.5 mm); bracket angle front lock plate trafo—unfolded (galvanized steel thickness 2 mm); front section trafo wall—unfolded (galvanized steel thickness 1.5 mm); holder for cross plate—unfolded (galvanized steel thickness 1.5 mm); bracket for right trafo wall (galvanized steel thickness 2 mm); cover for actuator—unfolded (galvanized steel thickness 2 mm); cover for vibration sensor—unfolded (galvanized steel thickness 2 mm); outlet air guide—unfolded (aluminum thickness 3 mm); and, air choke plate—unfolded (aluminum thickness 3 mm) (duty rates range from 2.5% to 2.9%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 29, 2018.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Juanita Chen at *juanita.chen@trade.gov* or 202–482–1378.

Dated: April 11, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–08120 Filed 4–17–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–21–2018]

Foreign-Trade Zone (FTZ) 249—Pensacola, Florida; Notification of Proposed Production Activity; GE Renewables North America, LLC (Wind Turbine Nacelles, Hubs, and Drivetrains); Pensacola, Florida

GE Renewables North America, LLC (GE Renewables) submitted a notification of proposed production activity to the FTZ Board for its facility in Pensacola, Florida. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on April 9, 2018.

GE Renewables already has authority to produce wind turbines, related hubs and nacelles, and drivetrains within Subzone 249A. The current request would add foreign status materials/components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials/components described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt GE Renewables from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, GE Renewables would be able to choose the duty rate during customs entry procedures that applies to the finished products in the existing scope of authority for the foreign-status materials/components noted below. Customs duties also could possibly be deferred or reduced on foreign-status production equipment. GE Renewables would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include: top box kits; polypropylene clamps; fiberglass locknuts; fiber optic harnesses with temperature detectors; electrical harnesses; cable-assembly wind sensors; ground cables; cable harnesses; cable glands; steel washers; steel nuts; copper ferrules; desiccants; steel screws; panel assembly adaptors; steel bars; transformers; pitch cabinet kits; cable ties; steel bushings; limit switches, and steel brackets (duty rate ranges from duty-free to 8.5%). The request indicates that steel bars will be admitted to the zone in privileged foreign status (19 CFR 146.41), thereby precluding inverted tariff benefits on such items.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 29, 2018.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: April 11, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–08117 Filed 4–17–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–22–2018]

Foreign-Trade Zone 158—Vicksburg/Jackson, Mississippi; Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Greater Mississippi Foreign-Trade Zone, Inc., grantee of FTZ 158, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR Sec. 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on April 10, 2018.

FTZ 158 was approved by the FTZ Board on April 11, 1989 (Board Order 430, 54 FR 15480 April 18, 1989) and expanded on March 8, 2005 (Board Order 1378, 70 FR 13449, March 21, 2005), on October 18, 2002 (Board Order 1864, 77 FR 65359–65360, October 26, 2012), and on May 23, 2013 (Board Order 1900, 78 FR 33340, June 4, 2013).

The current zone includes the following sites: *Site 2* (2,242 acres)—Jackson International Airport Complex, 100 International Drive, Jackson; *Site 10* (989 acres)—Airport Industrial Park, Air Park Road at Old Runway Road, Tupelo; *Site 11* (277 acres)—South Green Industrial Complex, adjacent to U.S. Highway 45 and the Kansas City Southern Railroad, Tupelo; *Site 14* (128 acres)—Burlington Northern Industrial Park, along U.S. Highway 78 (I–22) and MS Highway 178 Interchange, Tupelo; *Site 15* (699 acres)—Harry A. Martin North Lee Industrial Complex, Intersection of U.S. Highway 45 and Pratts Road, Tupelo; *Site 16* (284 acres)—Turner Industrial Park, U.S. Highway 45 and MS Highway 145 Interchange, Tupelo; *Site 17* (540 acres)—Tupelo Industrial Park South, U.S. Highway 45 and Brewer Road Interchange, Tupelo; and, *Site 18* (140 acres)—Central Mississippi Industrial Center, Interstate 55 and Gluckstadt Road, Gluckstadt and Madison.

The grantee's proposed service area under the ASF would be Claiborne, Hinds, Madison, Marshall, Pontotoc, Rankin, Tate, Warren and Washington Counties, Mississippi in their entirety, and portions of Lee and Tishomingo Counties, Mississippi, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The application indicates that the proposed service area is within and adjacent to the following Customs and Border Protection ports of entry: Vicksburg and Greenville, Mississippi; Memphis, Tennessee; and, Huntsville, Alabama.

The applicant is requesting authority to reorganize its existing zone to include all of the existing sites as ''magnet'' sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 2 be so exempted. The application would have no impact on FTZ 158's previously authorized subzones.

In accordance with the FTZ Board's regulations, Qahira El-Amin of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is June 18, 2018. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 2, 2018.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.* For further information, contact Qahira El-Amin at *Qahira.El-Amin@trade.gov* or (202) 482–5928.

Dated: April 11, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–08119 Filed 4–17–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Erdal Kuyumcu, Inmate Number: 89148–053, FCI Fort Dix, P.O. Box 2000, Joint Base MDL, NJ 08640; Order Denying Export Privileges

On September 7, 2017, in the U.S. District Court for the Eastern District of New York, Erdal Kuyumcu (''Kuyumcu'') was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)) (''IEEPA''). Specifically, Kuyumcu knowingly and willfully conspired to export from the United States to Iran a metallic powder composed of cobalt and nickel, without having obtained the required U.S. Government authorization. Kuyumcu was sentenced to 57 months in prison, three years of supervised release, a fine of $7,000, and an assessment of $100.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the Export Administration Act (''EAA'' or ''the Act''), 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued pursuant to the Act or Regulations, in which the person had an interest in at the time of his/her conviction.

BIS has received notice of Kuyumcu's conviction for violating the IEEPA, and has provided notice and an opportunity for Kuyumcu to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Kuyumcu.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Kuyumcu's export privileges under the Regulations for a period of 10 years from the date of Kuyumcu's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Kuyumcu had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until September 7, 2027, Erdal Kuyumcu, with a last known address of Inmate Number: 89148–053, FCI Fort Dix, P.O. Box 2000, Joint Base MDL, NJ 08640, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Kuyumcu by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Kuyumcu may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to the Kuyumcu, and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until September 7, 2027.

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at *http://uscode.house.gov*)) (''EAA'' or ''the Act''). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

Issued this 9th day of April 2018.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2018–08040 Filed 4–17–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Strategy to Address Trade-Related Forced Localization Barriers Impacting The U.S. ICT Hardware Manufacturing Industry; Correction

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice; Correction.

SUMMARY: The International Trade Administration published a document in the **Federal Register** of April 12, 2018, concerning request for comments to support development of a comprehensive strategy to address trade-related forced localization policies, practices, and measures impacting the U.S. information and communications technology (ICT) hardware manufacturing industry. The document contained the incorrect docket number.

DATES: Written comments must be submitted on or before May 14, 2018. Comments must be in English.

FOR FURTHER INFORMATION CONTACT: Cary Ingram; 202–482–2872.

Correction: In the **Federal Register** of April 12, 2018, in FR Doc. 2018–07584, on page 15786, in the third column under the **ADDRESSES** section, correct the Docket Number to read: ITA–2018–0001.

Dated: April 13, 2018.

Cary Ingram,

International Trade Specialist.

[FR Doc. 2018–08103 Filed 4–17–18; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–870]

Certain Oil Country Tubular Goods From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016

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

SUMMARY: The Department of Commerce (Commerce) determines that SeAH Steel Corporation (SeAH) and NEXTEEL Co., Ltd. (NEXTEEL), producers/exporters of certain oil country tubular goods (OCTG) from the Republic of Korea (Korea), sold subject merchandise in the United States at prices below normal value (NV) during the period of review (POR) September 1, 2015 through August 31, 2016.

DATES: Applicable April 18, 2018.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Michael J. Heaney, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2657 or (202) 482–4475, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 10, 2017, Commerce published the *Preliminary Results* of this administrative review of OCTG from Korea.[1] We invited interested parties to comment on the *Preliminary Results.* Between November 30 and December 8, 2017, Commerce received timely filed briefs and rebuttal briefs from various interested parties. On January 19, 2018, Maverick Tube Corporation and TenarisBayCity, and United States Steel Corporation filed a duty reimbursement allegation with respect to NEXTEEL.[2]

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018.[3] If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. As a result, the revised deadline for the final results of this review was February 12, 2018. On January 31, 2018, Commerce postponed the final results of this review until April 11, 2018.

These final results cover 31 companies.[4] Based on an analysis of the comments received, Commerce has made changes to the weighted-average dumping margins determined for the respondents. The weighted-average dumping margins are listed in the ''Final Results of Review'' section, below. Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by the order is certain OCTG, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.,* whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the order also covers OCTG coupling stock. For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum, which is hereby adopted with this notice. The issues are identified in Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision

[1] *See Certain Oil Country Tubular Goods from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016,* 82 FR 46963 (October 10, 2017) (*Preliminary Results*), and accompanying Decision Memorandum (Preliminary Decision Memorandum).

[2] *See* Maverick Letter, ''Oil Country Tubular Goods from The Republic of Korea: Duty Reimbursement and Further Information in Support of Duties as a Cost Allegation,'' dated January 19, 2018, refiled as ''Oil Country Tubular Goods from The Republic of Korea: Resubmission of Petitioners' Duty Reimbursement and Further Information in Support of Duties as a Cost Allegation,'' dated February 6, 2018.

[3] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

[4] The 31 companies consist of two mandatory respondents, four companies for which we made a final determination of no shipments, and 25 companies not individually examined.

[5] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2015–2016 Administrative Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from the Republic of Korea,'' dated concurrently with this notice (Issues and Decision Memorandum).

Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of the comments received, and for the reasons explained in the Issues and Decision Memorandum, we made certain changes to the *Preliminary Results.* We made one revision to our preliminary calculation of the weighted-average dumping margin for SeAH.[6] For NEXTEEL, Commerce determined that it is appropriate to apply total adverse facts available for these final results.[7]

Application of Facts Available and Adverse Facts Available

For these final results, we find that NEXTEEL withheld necessary information and significantly impeaded the proceeding and, thus, failed to cooperate to the best of its ability in responding to Commerce's requests for information. Therefore, we find that the application of adverse facts available, pursuant to section 776(a)–(b) of the Act, is warranted with respect to NEXTEEL. For a full description of the methodology and rationale underlying our conclusions, *see* Issues and Decision Memorandum.

Final Determination of No Shipments

In the *Preliminary Results,* Commerce preliminarily determined that Hyundai RB Co., Ltd. (Hyundai RB), Samsung, Samsung C&T Corporation (Samsung C&T), and SeAH Besteel Corporation (SeAH Besteel) had no shipments during the POR.[8] Following publication of the *Preliminary Results,* we received no comments from interested parties regarding these companies. As a result, and because the record contains no evidence to the contrary, we continue to find that Hyundai RB, Samsung, Samsung C&T and SeAH Besteel made no shipments during the POR. Accordingly, consistent with Commerce's practice, we will instruct U.S. Customs and Border Protection (CBP) to liquidate any existing entries of merchandise produced by these four companies, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.[9]

Duty Absorption

In the *Preliminary Results,* Commerce indicated that it would make a determination in the final results of this review as to whether SeAH and NEXTEEL absorbed antidumping duties during the instant POR.[10] For these final results, we find that SeAH and NEXTEEL have absorbed antidumping duties.[11]

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual review in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

For these final results, we calculated a weighted-average dumping margin that is not zero, *de minimis,* or determined entirely on the basis of facts available for SeAH, and we determined NEXTEEL's margin entirely on the basis of facts available. Because SeAH's weighted-average dumping margin is the only margin that is not zero, *de minimis,* or determined entirely on the basis of facts available, in accordance with our standard practice, Commerce has assigned to the companies not individually examined the 6.75 percent weighted-average dumping margin calculated for SeAH for these final results.

Final Results of Review

Commerce determines that the following weighted-average dumping margins exist for the period September 1, 2015 through August 31, 2016:

Exporter or producer	Weighted-average dumping margins (percent)
NEXTEEL Co., Ltd	75.81
SeAH Steel Corporation	6.75
Non-examined companies[12]	6.75

Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this administrative review in the **Federal Register**.

Where the respondent reported reliable entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).[13] Where Commerce calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, Commerce will direct CBP to assess importer- (or customer-) specific assessment rates based on the resulting per-unit rates.[14] Where an importer- (or customer-) specific *ad*

[6] *See* Issues and Decision Memorandum at Comment 14.

[7] *Id.,* at Comment 6.

[8] *See Preliminary Results,* 82 FR at 46963.

[9] *See, e.g., Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010).

[10] *See* Preliminary Decision Memorandum, at 6.

[11] For further discussion, *see* Issues and Decision Memorandum at Comment 5.

[12] *See* Appendizx II for a full list of these companies.

[13] *See* 19 CFR 351.212(b)(1).

[14] *Id.*

valorem or per-unit rate is greater than *de minimis* (*i.e.,* 0.50 percent), Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.[15] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[16]

For the companies which were not selected for individual review, we will assign an assessment rate based on the methodology described in the ''Rates for Non-Examined Companies'' section, above.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by SeAH, NEXTEEL, or the non-examined companies for which the producer did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[17]

As noted in the ''Final Determination of No Shipments'' section, above, Commerce will instruct CBP to liquidate any existing entries of merchandise produced by but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed in these final results will be equal to the weighted-average dumping margins established in the final results of this review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment in which the company was reviewed; (3) if the exporter is not a firm covered in this review or the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 5.24 percent,[18] the all-others rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: April 11, 2018.

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 I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Duty Absorption
V. Margin Calculations and Application of AFA
VI. Rate for Non-Examined Companies
VII. Discussion of the Issues

General Issues

Comment 1: Particular Market Situation
Comment 2: Additional Particular Market Situation Adjustments
Comment 3: Allegation of Improper Political Influence
Comment 4: Calculation of ILJIN's Margin
Comment 5: Duty Absorption
Comment 6: Duty Reimbursement and Application of Adverse Facts Available
Comment 7: Calculation of Constructed Value Profit
Comment 8: Differential Pricing
Comment 9: Rate for Non-Examined Respondents

SeAH—Specific Issues

Comment 10: Interested Party Standing
Comment 11: Reporting of Grade Codes
Comment 12: Freight Revenue Cap
Comment 13: Treatment of General and Administrative Expenses Incurred by SeAH's U.S. Affiliate in Further Manufacturing Costs
Comment 14: Calculation of General and Administrative Expenses Incurred by SeAH's U.S. Affiliate
Comment 15: Treatment of Interest Expenses for SeAH's U.S. Affiliate in Further Manufacturing Costs

NEXTEEL—Specific Issues

Comment 16: NEXTEEL's Warranty Expense Calculation
Comment 17: POSCO Daewoo's Warranty Expense Calculation
Comment 18: POSCO Daewoo's Further Manufacturing Costs
Comment 19: Suspended Production Losses
Comment 20: Cost Adjustment for Downgraded, Non-OCTG Pipe
Comment 21: Programming Errors

VIII. Recommendation

Appendix 2

List of Companies Not Individually Examined

BDP International
Daewoo America
Daewoo International Corporation
Dong-A Steel Co. Ltd.
Dong Yang Steel Pipe
Dongbu Incheon Steel
DSEC
Erndtebruecker Eisenwerk and Company
Hansol Metal
Husteel Co., Ltd.
Hyundai HYSCO
Hyundai Steel Company[19]
ILJIN Steel Corporation
Jim And Freight Co., Ltd.

[15] *Id.*

[16] *See* 19 CFR 351.106(c)(2).

[17] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[18] *See Certain Oil Country Tubular Goods from the Republic of Korea: Notice of Court Decision Not in Harmony With Final Determination,* 81 FR 59603 (August 30, 2016).

[19] On September 21, 2016, Commerce published the final results of a changed circumstances review with respect to OCTG from Korea, finding that Hyundai Steel Corporation is the successor-in-interest to Hyundai HYSCO for purposes of determining antidumping duty cash deposits and liabilities. *See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Oil Country Tubular Goods From the Republic of Korea,* 81 FR 64873 (September 21, 2016). Hyundai Steel Company is also known as Hyundai Steel Corporation and Hyundai Steel Co. Ltd.

Kia Steel Co. Ltd.
KSP Steel Company
Kukje Steel
Kurvers
POSCO Daewoo Corporation
POSCO Daewoo America
Steel Canada
Sumitomo Corporation
TGS Pipe
Yonghyun Base Materials
ZEECO Asia

[FR Doc. 2018–08114 Filed 4–17–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Policy and Procedures Documents for the State Plane Coordinate System of 2022

AGENCY: National Geodetic Survey (NGS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of proposed change to the State Plane Coordinate System; request for comments.

SUMMARY: NOAA's National Geodetic Survey (NGS) will establish the State Plane Coordinate System of 2022 (SPCS2022) as part of the transition to the 2022 Terrestrial Reference Frames (TRFs). SPCS2022 is the successor to previous versions referenced to the North American Datums of 1983 and 1927. Like its predecessors, SPCS2022 will be a system of conformal map projections for the entire National Spatial Reference System (NSRS). It will provide surveyors, engineers, and other geospatial professionals with a practical means for accessing and using the NSRS. NGS has developed draft policy and procedures that propose defining characteristics and requirements for SPCS2022. These documents also provide mechanisms for user input on initial design of SPCS2022 and subsequent changes. The aim is for SPCS2022 to meet the needs of NGS customers for the future NSRS. To achieve that goal, NGS is inviting written comments on the draft SPCS2022 policy.

In addition, NGS seeks feedback on purposed ''special purpose'' zones.

DATES: Comments will be accepted until Friday, August 31, 2018.

ADDRESSES: Comments should be submitted in writing to NGS Feedback, NOAA/NOS/National Geodetic Survey, 1315 East-West Hwy, Rm. 9340 N/NGS1, Silver Spring, MD 20910; or via Email to: *NGS.Feedback@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Dennis, SPCS2022 Project Manager, NOAA/NOS/National Geodetic Survey, 1315 East-West Hwy, Rm. 9340 N/NGS1, Silver Spring, MD 20910; or Email: *Michael.Dennis@noaa.gov.*

SUPPLEMENTARY INFORMATION: The SPCS was originally established in the 1930s. Since that time it has evolved, and there has been substantial variability in how it was defined, maintained, and used. The history and current status of SPCS is discussed in *NOAA Special Publication NOS NGS 13* (*https://geodesy.noaa.gov/library/pdfs/NOAA_SP_NOS_NGS_0013_v01_2018-03-06.pdf*). This publication may prove a useful companion in reviewing the draft SPCS2022 policy and procedures by providing context and insight into the development of SPCS and the existing NGS policies pertaining to it. Further information is available on the NGS State Plane Coordinate System web page: *https://geodesy.noaa.gov/SPCS/index.shtml.*

Pursuant to the authority provided in the Coast and Geodetic Survey Act, 33 U.S.C. 883a *et seq.,* the Director of NOAA's National Geodetic Survey invites interested parties to submit comments to assist NGS in developing a new State Plane Coordinate System for the future. Comments may address any aspect of the draft SPCS2022 policy and procedures. The draft SPCS2022 policy is available at: *https://geodesy.noaa.gov/INFO/Policy/files/DRAFT_SPCS2022_Policy.pdf.* The associated draft procedures are available at: *https://geodesy.noaa.gov/INFO/Policy/files/DRAFT_SPCS2022_Procedures.pdf.* Specifically, the Director seeks comments regarding:

1. Usage of current SPCS in your organization, how your organization expects to use SPCS2022, and whether it will facilitate migration to the 2022 TRFs.
2. Whether the proposed default SPCS2022 definitions will impose a hardship or be beneficial to your organization.
3. Whether there is insufficient or excessive flexibility in the characteristics of SPCS2022 that can be established through user input.
4. Whether the deadlines are acceptable and realistic for making requests or proposing characteristics for SPCS2022.
5. Whether including ''special purpose'' zones as part of SPCS2022 would be beneficial, problematic, or irrelevant to your organization.

NGS notes that the draft SPCS2022 policy and procedures do not currently include a ''special purpose'' zone option, in part, because it would create areas where zones partially overlap other zones. Special purpose zones would, however, provide contiguous coverage for regions that are not adequately covered by SPCS2022, primarily those that fall within two or more SPCS2022 zones. These zones would be for major urbanized areas, large American Indian reservations, or federal applications covering large geographic areas. Examples for each category are:

- *Major urbanized areas:* New York City, Chicago, Los Angeles, St. Louis, Cincinnati, Kansas City, Denver, Portland, and many others cross zone (and often state) boundaries.
- *Large American Indian reservations:* The Navajo Nation is about the same area as West Virginia and falls within five existing SPCS zones (and three states).
- *Regional federal applications:* The Atlantic coast from the Florida-Georgia border to the Maine-Canada border is a region that spans 14 existing SPCS zones but could be covered by a single zone.

Although these types of zones were included as a possibility in the 1977 policy, none were created as part of the SPCS.[1] NGS seeks to determine whether it is appropriate to include special purpose zones as part of SPCS2022, or support special purpose zones in some other manner, if at all.

Dated: March 23, 2018.

Juliana P. Blackwell,

Director, Office of National Geodetic Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2018–08141 Filed 4–17–18; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2018–OS–0020]

Proposed Collection; Comment Request

AGENCY: Office of the Chief Information Officer, DoD.

ACTION: Information collection notice.

[1] These zones were considered in 1977 for ''[u]rbanization that requires either different parameters for existing zones or additional zones such that a metropolitan area would be located in a single zone,'' as documented in the ''Policy on Publication of Plane Coordinates,'' located in Vol. 42, No. 57, pages 15943–15944 of the **Federal Register**, dated Thursday, March 24, 1977 (*https://www.gpo.gov/fdsys/pkg/FR-1977-03-24/pdf/FR-1977-03-24.pdf*).

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the White House Communications Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 18, 2018.

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 Chief Management Officer, Directorate for Oversight and Compliance, 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.

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 White House Communications Agency (WHCA/WACC/ESB), ATTN: Kevin A. Gifford, 2743 Defense Boulevard SW, Washington, DC 20373–5815 or call (202) 757–5667.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Basic Employee and Security Tracking Systems (BEAST); OMB Control Number 0704–0507.

Needs and Uses: The information collection requirement is necessary to obtain, track, and record the personnel security data, training information, and travel history within the White House Military Office (WHMO) and White House Communications Agency (WHCA).

Affected Public: Individuals or Households.

Annual Burden Hours: 38.

Number of Respondents: 150.

Responses per Respondent: 1.

Annual Responses: 150.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Respondents are DoD contractors, retired military members who have departed the agency, and agency visitors. The data collected is used for security background checks, training records, and also to encompass the historical travel records of members of the agency. This data collection is essential in maintaining the integrity of the agency's personnel, training, and travel programs.

Dated: April 12, 2018.

Shelly E. Finke,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–08039 Filed 4–17–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 16–48]

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 an 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 16–48 with attached Policy Justification.

Dated: April 12, 2018.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

APR 4 5 2018

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. 16-48, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance for the Kingdom of Saudi Arabia for defense articles and services estimated to cost $1.31 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

Transmittal No. 16–48

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* The Kingdom of Saudi Arabia

(ii) *Total Estimated Value:*

Major Defense Equipment*	$0.15 billion
Other	$1.16 billion
TOTAL	$1.31 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

One hundred and eighty (180) 155mm M109A5/A6 Medium Self-Propelled Howitzer structures for conversion to one hundred and seventy-seven (177) 155mm M109A6 Paladin Medium Self-Propelled Howitzer systems

Three (3) Fire Support Combined Arms Tactical Trainers (FSCATT) static training devices

One hundred and eighty (180) M2 HB .50 Cal Machine Guns

Eight (8) Advanced Field Artillery Tactical Data Systems (AFATDS)

Non-MDE: Also included are M109A5/A6 overhaul, conversion and refurbishment services; Special Tools and Test Equipment; Basic Issue Items (BII); Driver's Vision Enhancer (DVE)

Wide system; Program Management Support; Verification Testing; System Technical Support; Transportation; spare and repair parts; communications equipment; personnel training and training equipment; tool and test equipment; repair and return; publications and technical documentation; Quality Assurance Team (QAT); U.S. Government and contractor engineering; technical and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Army (VTG)

(v) *Prior Related Cases, if any:* SR–B–VFM and SR–B–VAZ

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services*

Proposed to be Sold: See Annex attached.

(viii) *Date Report Delivered to Congress:* April 5, 2018

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

The Kingdom of Saudi Arabia—155mm M109A6 Paladin Medium Self-Propelled Howitzer System

The Government of Saudi Arabia has requested a possible sale of one hundred and eighty (180) 155mm M109A5/A6 Medium Self-Propelled Howitzer structures for conversion to one hundred and seventy-seven (177) 155mm M109A6 Paladin Medium Self-Propelled Howitzer systems; three (3) Fire Support Combined Arms Tactical Trainers (FSCATT) static training devices; one hundred and eighty (180) M2 HB .50 Cal Machine Guns; and eight (8) Advanced Field Artillery Tactical Data Systems (AFATDS). Also included are M109A5/A6 overhaul, conversion and refurbishment services; Special Tools and Test Equipment; Basic Issue Items (BII); Driver's Vision Enhancer (DVE) Wide system; Program Management Support; Verification Testing; System Technical Support; Transportation; spare and repair parts; communications equipment; personnel training and training equipment; tool and test equipment; repair and return; publications and technical documentation; Quality Assurance Team (QAT); U.S. Government and contractor engineering; technical and logistics support services; and other related elements of logistics and program support. The estimated cost is $1.31 billion.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of an important partner which has been and continues to be a leading contributor of political stability and economic progress in the Middle East. This sale will increase the Royal Saudi Land Force's (RSLF) interoperability with U.S. forces and conveys U.S. commitment to Saudi Arabia's security and armed forces modernization.

The proposed sale will improve Saudi Arabia's capability to meet current and future threats and provide greater security for its border regions and critical infrastructure. The RSLF currently has M109A2, A3 and A5 howitzers in its inventory. These additional modernized howitzers will enhance Saudi Arabia's ability to support its deployed forces and defend its borders. Saudi Arabia will have no difficulty absorbing these vehicles into its armed forces.

The prime contractor for this requirement is unknown at this time. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. or contractor representatives to Saudi Arabia. Support teams will travel to the country on a temporary basis.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 16–48

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. This sale will involve the release of sensitive technology to Saudi Arabia. The RSLF seeks to purchase the 155mm M109A6 Paladin Medium Self-Propelled Howitzer system. The Paladin M109A6 howitzer is the fourth product improvement to the original M109 self-propelled howitzer. It features improvements in the areas of survivability, reliability, availability, maintainability, responsiveness, and terminal effects. The M109A6 is an armored, full tracked howitzer carrying 37 complete conventional rounds and two Copperhead projectiles and operated by a crew of four. It is designed with a new turret structure that facilitates integration of the various turret improvements and vulnerability reduction measures. It improves overall crew compartment layout and space. The howitzer can travel at a maximum speed of 38 miles per hour and has a maximum cruising range of 186 miles. The Ml09A6 can operate independently, from on the move, it can receive a fire mission, compute firing data, select and take up its firing position, automatically unlock and point its cannon, fire and move—all without external technical assistance. Firing the first round following a move in under 60 seconds, a ''shoot and scoot'' capability protects the crew from counterbattery fire. The M109A6 is capable of firing up to four rounds per minute to ranges of 30 kilometers. The Ml09A6 features increased survivability characteristics such as day/night operability and Nuclear, Biological, Chemical (NBC) protection with climate control and secure voice and digital communications. The crew remains in the vehicle throughout the mission.

2. The Electronic Fire Control System (EFCS). Commonly referred to as the Paladin Fire Control System (PFCS), it is the major change for the Paladin M109A6 Howitzer from the manual fire control system used on the M109A5. The integrated electronic digital Fire Control System includes an Embedded Trainer. It gives the howitzer the ability to operate over a widely dispersed area and to move and emplace using the onboard fire control system (Dynamic Reference Unit Hybrid Replacement Inertial Navigation System) and a plug-in AN/PCN–13A Defense Advanced Global Positioning System Receiver with a Selective Availability Anti-spoofing Module (SAASM). The M109A6 can move and position within an assigned position area, process technical firing data, and fire a mission without relying on aiming circles and wire lines. The M109A6 can change position more frequently, an advantage against enemy fire.

3. The Advanced Field Artillery Tactical Data System (AFATDS) provides the multi-service automated Fire Support Command, Control and Communications portion of the Army Battle Command System (ABCS). AFATDS enables the maneuver commander to plan and execute attacks on the right target, at the right time, with the right weapons system, and the right munitions. It provides for maximum utilization of the fire support assets available on an expanding battlefield. It supports the close, deep, and rear battle fire support requirements of land and littoral doctrine. AFATDS is designed for full interoperability with the other ABCS Battlefield Functional Areas as well as with the Fire Support capabilities of the Navy's Joint Maritime Command Information System (JMCIS) and the Air Force's Theater Battle Management Core System (TBMCS).

4. The Driver's Vision Enhancer Wide (DVE Wide) improves survivability and mission capability by providing drivers with wider fields of view as well as the elimination of blind spots to safely navigate through dust, sand, haze, smoke, light fog and the blackest night. The front facing DVE Wide integrates three state-of-the-art 640 x 480, 17 μm uncooled infrared sensors, which output a stitched video of a 107 x 30 field of view (POV). The DVE Wide can receive, manage and display video from multiple external cameras on the vehicle. The driver can electronically pan through the 107° total horizontal field of view allowing the driver the ability to see both sides of the road. The vehicle wheel track indicators aid the driver in clearly identifying any potential impediments to safe operation. The DVE Wide is fully backwards compatible with all fielded DVE units, which means that any vehicle currently equipped with a DVE system can be readily upgraded. It is also forward compatible with new, high resolution, touch-screen displays. The DVE Wide is an UNCLASSIFIED system.

5. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements of the M109A6, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

6. A determination has been made that Saudi Arabia can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

7. All defense articles and services listed in this transmittal have been authorized for release and export to the Kingdom of Saudi Arabia.

[FR Doc. 2018–08081 Filed 4–17–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Defense Innovation Board.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(d). The charter and contact information for the Designated Federal Officer (DFO) can be obtained at *http://www.facadatabase.gov/.*

The Board provides the Secretary of Defense and the Deputy Secretary of Defense independent advice and recommendations on innovative means to address future challenges in terms of integrated change to organizational structure and process, business and functional concepts, and technology applications. The Board shall be composed of no more than 20 members who must possess some or all of the following: (a) Proven track record of sound judgment in leading or governing complex, private sector corporations or organizations; (b) demonstrated performance in identifying and adopting new technology innovations in either the public or private sector; (c) demonstrated performance in developing new technology concepts. Members of the Board who are not full-time or permanent part-time Federal officers or employees will be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee members. Members of the Board who are full-time or permanent part-time Federal officers or employees will be appointed pursuant to 41 CFR 102–3.130(a) to serve as regular government employee members. All members of the Board are appointed to provide advice on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Committee-related travel and per diem, members serve without compensation. The DoD, as necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board, and all subcommittees must operate under the provisions of FACA and the Government in the Sunshine Act. Subcommittees will not work independently of the Board and must report all recommendations and advice solely to the Board for full deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Board. No subcommittee or any of its members can update or report, verbally or in writing, directly to the DoD or any Federal officers or employees. The Board's DFO, pursuant to DoD policy, must be a full-time or permanent part-time DoD employee, and must be in attendance for the duration of each and every Board/subcommittee meeting. The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Such statements may be submitted at any time or in response to the stated agenda of planned Board meetings. All written statements must be submitted to the Board's DFO who will ensure the written statements are provided to the membership for their consideration.

Dated: April 12, 2018.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–08071 Filed 4–17–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 17–72]

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 an 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 17–72 with attached Policy Justification.

Dated: April 12, 2018.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12th STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

APR 0 4 2018

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. 17-72, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Australia for defense articles and services estimated to cost $148 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,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 17–72

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Australia

(ii) *Total Estimated Value:*

Major Defense Equipment *	4.4 million
Other	$143.6 million
TOTAL	$148.0 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE): Two thousand, five hundred four (2,504) rounds of M795 with Insensitive Munitions Explosive (IMX) 101 Explosive Fill 155mm HE Projectile

Non-MDE includes: Also included are 155mm High Explosive, Illumination and White Phosphorous munitions, point detonating fuzes, electronic-timed fuzes, M231 and M232/M232A1 propelling charges, percussion primers, technical publications and books, technical data for operational maintenance, technical assistance and services, and other related elements of logistics and program support.

(iv) *Military Department:* Army

(v) *Prior Related Cases, if any:* AT-B-UCY and UEJ

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* April 4, 2018

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Australia—M795 with Insensitive Munitions Explosive (IMX) 101 Explosive Fill 155mm HE Projectile

The Government of Australia has requested to buy two thousand, five hundred four (2,504) rounds of M795 with Insensitive Munitions Explosive (IMX) 101 Explosive Fill 155mm High Explosive (HE) Projectile. Also included are 155mm High Explosive, Illumination and White Phosphorous munitions, point detonating fuzes, electronic-timed fuzes, M231 and M232/M232A1 propelling charges, percussion primers, technical publications and books, technical data for operational maintenance, technical assistance and services, and other related elements of logistics and program support. The total estimated program cost is $148 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 partner which has been, and continues to be an important force for political stability and economic progress in the East Asia and Pacific region.

The proposed sale of 155mm howitzer ammunition will improve Australia's capability to meet out-year Operational Readiness Training requirements. Australia will use this capability to strengthen its homeland defense and deter regional threats. Australia will

have no difficulty absorbing this equipment into its armed.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be determined at a later date. Material could potentially be sourced from a combination of stock and procurement. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Australia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 17–72

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The M795 Insensitive Munitions Explosive (IMX) 101 Explosive Fill 155mm HE Projectile is UNCLASSIFIED. The M231/M232A1 Modular Artillery Charge System (MACS) consists of two propelling charges, the M231 and the M232/232A1, and associated packaging. The system is compatible with all current and planned 155mm field artillery weapons. MACS uses a ''build-a-charge'' concept in which increments are identical to all others in the same lot desiccation, retained for future use. The M231 is fired either singly (Charge 1-L) or in pairs (Charge-2L) to engage targets. The M232/M232A1 is fired in groups of 3 (Charge-3H) or groups of 4 (Charge-4H) or groups of 5 (Charge-5H) to engage targets. The highest classification level of the charge is UNCLASSIFED.

2. Although the charges are UNCLASSIFIED, they have associated technology that is sensitive. Certain aspects of the performance, specifically the interior ballistics characteristics, and some of the design features are considered sensitive data. This UNCLASSIFIED sensitive data could be used by a technologically advanced potential enemy to duplicate the charges through reverse engineering. No technical data packages or test information should be supplied.

3. A determination has been made that Australia can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

4. All defense articles and services listed in this transmittal have been authorized for release and export to Australia.

[FR Doc. 2018–08088 Filed 4–17–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 18–04]

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 an 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 18–04 with attached Policy Justification.

Dated: April 12, 2018.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

APR 0 4 2018

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. 18-04, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of the United Kingdom for defense articles and services estimated to cost $500 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,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification

Transmittal No. 18–04

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:* United Kingdom

(ii) *Total Estimated Value:*

Major Defense Equipment *	$ 0 million
Other	$500 million
TOTAL	$500 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Non-MDE:

Defense articles and services for continued follow-on support to the MQ–9 Reaper program including: contractor logistics support, manpower and base support, publication and technical documentation, depot and organizational level maintenance and equipment, minor modifications and upgrades, software support, spare and repair/return parts, program studies, U.S. Government and contractor engineering and technical support, and other related elements of program support.

(iv) *Military Department:* Air Force (UK–D–QDL)

(v) *Prior Related Cases, if any:*

UK–D–SMI—$375m—23 Feb 2007;

UK–D–SMJ—$69m—11 Oct 2007;
UK–D–YAC—$20m—1 May 2008;
UK–D–GAA—$122k—19 Nov 2008;
UK–D–YAF—$24m—3 Mar 2011;
UK–D–SMK—$70m—17 Nov 2011;
UK–D–QBH—$20m—6 Aug 2013;
UK–D–GAY—$106m—10 Dec 2014;
UK–D–QBQ—$103m—11 Dec 2015;
UK–D–YAY—$134m—23 Aug 2016;
UK–D–QBR—$5m—30 Mar 2017;
UK–D–VAC—$5m—22 Mar 2017;
UK–D–YAI—$132m—8 May 2017

(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:* April 4, 2018

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

United Kingdom—MQ–9 Continuing Contractor Logistics Support

The Government of the United Kingdom has requested to buy defense articles and services for continued follow-on support to the MQ–9 Reaper program including: contractor logistics support, manpower and base support, publication and technical documentation, depot and organizational level maintenance and equipment, minor modifications and upgrades, software support, spare and repair/return parts, program studies, U.S. Government and contractor engineering and technical support, and other related elements of program support. The total estimated program cost is $500 million.

This proposed sale will support the foreign policy and national security policies of the United States by helping to improve the security of a NATO ally which has been, and continues to be, an important partner on critical foreign policy and defense issues.

The proposed sale is required to maintain the operational readiness of the United Kingdom's MQ–9 Reaper program and enable the United Kingdom to continue to operate its fleet of MQ–9 Reapers in support of coalition operations. The United Kingdom will have no difficulty absorbing this equipment into its armed forces.

The proposed sale will not alter the basic military balance in the region.

The prime contractors will be General Atomics Aeronautical Systems, Inc. in San Diego, CA, and MAG Aerospace in Woodland, VA. At this time, there are no known offset agreements. Any offset agreements will be defined in negotiations between the purchaser and the contractor(s).

Implementation of this proposed sale will not require any additional U.S. Government or contractor representatives to the United Kingdom.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2018–08086 Filed 4–17–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 17–71]

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 an 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 17–71 with attached Policy Justification.

Dated: April 12, 2018.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

APR 0 4 2018

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. 17-71, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Germany for defense articles and services estimated to cost $2.50 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 17–71

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Germany

(ii) *Total Estimated Value:*

Major Defense Equipment *	$ .95 billion
Other	$1.55 billion
TOTAL	$2.50 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Four (4) MQ–4C Triton Unmanned Aircraft Systems (UAS)

One (1) Mission Control Station (MCS) comprised of one (1) Main Operating Base (MOB) (MD–3A) and one (1) Forward Operating Base (FOB) (MD–3B)

Ten (10) Kearfott Inertial Navigation System/Global Positioning System (INS/GPS) units (2 per aircraft plus 2 spares)

Ten (10) LN–251 INS/GPS units (2 per aircraft plus 2 spares)

Non-MDE: This proposed MQ–4C UAS sale will be a modified version of the USN Triton configuration. Also included is one Rolls Royce Engine (spare), communication equipment,

support equipment, mission planning element to include Joint Mission Planning System (JMPS) Global Positioning System (GPS) items, Communications Security (COMSEC) equipment, mapping, training, support equipment, consumables, spare and repair parts, tools and test equipment, ground support equipment, flight test support, airworthiness support, personnel training and training devices, applicable software, hardware, publications and technical data, facilities and maintenance support, U.S. Government and contractor engineering, technical, and logistics supports services, and other elements of unique engineering efforts required to support the integration, installation and functional platform compatibility testing of Germany's indigenous payload and other related elements of logistics and program support, and other related elements of logistics and program support.

(iv) *Military Department:* Navy (GY–P–SCK)

(v) *Prior Related Cases, if any:* GY–P–GPT

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* April 4, 2018

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Germany—MQ–4C Triton Unmanned Aircraft Systems (UAS)

The Government of Germany has requested to buy four (4) MQ–4C Triton Unmanned Aircraft Systems (UAS), one (1) Mission Control Station (MCS) comprised of one (1) Main Operating Base (MOB) (MD–3A) and one (1) Forward Operating Base (FOB) (MD–3B), ten (10) Kearfott Inertial Navigation System/Global Positioning System (INS/GPS), units (2 per aircraft plus 2 spares), and ten (10) LN–251 INS/GPS units (2 per aircraft plus 2 spares). This proposed MQ–4C UAS sale will be a modified version of the USN Triton configuration. Also included is one Rolls Royce Engine (spare), communication equipment, support equipment, mission planning element to include Joint Mission Planning System (JMPS) Global Positioning System (GPS) items, Communications Security (COMSEC) equipment, mapping, training, support equipment, consumables, spare and repair parts, tools and test equipment, ground support equipment, flight test support, airworthiness support, personnel training and training devices, applicable software, hardware, publications and technical data, facilities and maintenance support, U.S. Government and contractor engineering, technical, and logistics supports services, and other elements of unique engineering efforts required to support the integration, installation and functional platform compatibility testing of Germany's indigenous payload and other related elements of logistics and program support, and other related elements of logistics and program support. The estimated total case value is $2.50 billion.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a NATO ally which has been, and continues to be, an important force for political and economic stability in Europe.

Germany is one of the major political and economic powers in Europe and NATO and a key partner of the United States in ensuring global peace and stability. The proposed sale of the MQ–4C Triton will support legitimate national security requirements and significantly enhance Germany's intelligence, surveillance, and reconnaissance (ISR) capabilities and the overall collective security of the European Union and NATO.

The proposed sale of the MQ–4C Triton will close a crucial capability gap and will enhance bilateral and NATO interoperability and will help ensure that Germany is able to continue to monitor and deter regional threats. This proposed MQ–4C UAS sale will be a modified version of the United States Navy (USN) Triton configuration. The German Armed Forces will have no difficulty absorbing these systems into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be Northrop Grumman Corporation Rancho Bernardo, CA, responsible for integration, installation and functional platform compatibility testing of the payload. Airbus Defence and Space, located in Germany, will be the prime contractor to Germany for the development and manufacturing, and will be responsible for the functional test, end-to-end test and installed performance. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will require the assignment of contractor representatives to Germany to perform contractor logistics support and to support establishment of required security infrastructure.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 17–71

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The MQ–4C Triton hardware and software procured for this potential sale are UNCLASSIFIED. The MQ–4C is optimized for long range and prolonged flight endurance. The MQ–4C Triton will be a forward deployed, land-based, autonomously operated system that provides a persistent maritime Intelligence, Surveillance, and Reconnaissance (ISR) capability to include data collection, analysis, and situational reporting. Aircraft system, sensor, and navigational status are provided continuously to the ground operators through a health and status downlink for mission monitoring. Navigation is via inertial navigation with integrated global positioning system (GPS) updates. The vehicle is capable of operating from a standard paved runway. Real time missions are flown under the control of a pilot in a Mission Control Station (MCS). It is designed to carry a non-weapons maximum internal payload of 3,200 lbs, maximum external payload of 2,400 lbs, consisting primarily of sensors and avionics. The MQ–4C will include the Mission Control Station (MCS) which consists of the following components:

a. The Mission Control Station (MCS) is the MQ–4C Triton UAS ground control station required to operate the MQ–4C Triton UAS. The MOB MCS (MD–3A) provides MQ–4C Triton Aircraft Command & Control (C2). The MOB MCS consists of a primary and back-up system, an embedded training capability, requisite data links, communication systems, antennas, computer work-stations and hardware/software for air vehicle, and tactical coordinator. The MOB MCS communications consists of both Line of Sight (LOS) and Beyond Line of Sight (BLOS) capabilities to control the Triton Unmanned Aircraft world-wide. The MOB technical data and documentation are UNCLASSIFIED.

b. The MQ–4C Triton UAS Forward Operating Base (FOB) (MD–3B) is used for aircraft launch and recovery and is physically located at the same location as the MQ–4C Triton aircraft. The FOB

MCS is similar to the MOB MCS, but the FOB MCS does not process or control any payload information. The FOB MCS is manned by air vehicle operators only and used for line of sight Aircraft C2 while beyond line of sight control is used as a back-up communication line. The FOB MCS consists of requisite data links, communication systems, antennas, computer work-stations and hardware/software for air vehicle operator control. The FOB technical data and documentation are UNCLASSIFIED.

c. The MQ–4C employs a quad-redundant Inertial Navigation System/Global Positioning System (INS/GPS) configuration. The system utilizes two different INS/GPS systems for greater redundancy. The system consists of two LN–251 units and two Kearfott KN–4074E INS/GPS Units. The LN–251 is a fully integrated, non-dithered navigation system with an embedded Selective Availability/Anti-Spoofing Module (SAASM), P(Y) code or Standard Positioning Service (SPS) GPS. It utilizes a Fiber-Optic Gyro (FOG) and includes three independent navigation solutions: blended INS/GPS, INS-only, and GPS-only. The Kearfott KN–4074E features a Monolithic Ring Laser Gyro (MRLG) and accelerometer. The inertial sensors are tightly coupled with an embedded SAASM P(Y) code GPS. Both systems employ crypto graphic technology that can be classified up to SECRET.

2. If a technologically advanced adversary were to obtain knowledge of specific hardware, the information could be used to develop countermeasures which might reduce weapons system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that Germany can provide substantially the same degree of protection for sensitive technology being released as the U.S. Government. This proposed sustainment program is necessary to the furtherance of the U.S. foreign policy and national security objectives outlined in the policy justification.

4. All defense articles and services listed on this transmittal are authorized for release and export to the Government of Germany.

[FR Doc. 2018–08087 Filed 4–17–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2018–ICCD–0044]

Agency Information Collection Activities; Comment Request; National Assessment of Educational Progress (NAEP) 2019 and 2020

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 18, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0044. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216–32, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–245–7377.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Assessment of Educational Progress (NAEP) 2019 and 2020.

OMB Control Number: 1850–0928.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 712,922.

Total Estimated Number of Annual Burden Hours: 379,998.

Abstract: The National Assessment of Educational Progress (NAEP), conducted by the National Center for Education Statistics (NCES), is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, technology and engineering literacy (TEL), and the arts. The National Assessment of Educational Progress Authorization Act (Pub. L. 107–279 Title III, section 303) requires the assessment to collect data on specified student groups and characteristics, including information organized by race/ethnicity, gender, socio-economic status, disability, and limited English proficiency. It requires fair and accurate presentation of achievement data and permits the collection of background, noncognitive, or descriptive information that is related to academic achievement and aids in fair reporting of results. The intent of the law is to provide representative sample data on student achievement for the nation, the states, and subpopulations of students and to monitor progress over time. The nature of NAEP is that burden alternates from a relatively low burden in national-level administration years to a substantial burden increase in state-level administration years when the sample has to allow for estimates for individual states and some of the large urban districts. The request to conduct NAEP 2017–2019 was approved in August 2016, with the latest change requests approved in March 2018 (OMB# 1850–

0928 v.1–9). This request updates the scope, sampling, procedures, and materials to be used in NAEP in 2019 and 2020, including operational assessments, pilot tests, and special studies. The NAEP results will be reported to the public through the Nation's Report Card as well as other online NAEP tools.

Dated: April 13, 2018.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–08105 Filed 4–17–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0043]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Statewide Longitudinal Data System (SLDS) Survey 2018–2019

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 18, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0043. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–245–7377.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Statewide Longitudinal Data System (SLDS) Survey 2018–2019.

OMB Control Number: 1850–0933.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 112.

Total Estimated Number of Annual Burden Hours: 140.

Abstract: As authorized by the Educational Technical Assistance Act of 2002, Title II, the Statewide Longitudinal Data Systems (SLDS) Grant Program has awarded competitive, cooperative agreement grants to states since 2005. Through grants and a growing range of services and resources, the program has helped propel the successful design, development, implementation, and expansion of K12 and P–20W (early learning through the workforce) longitudinal data systems. These systems are intended to enhance the ability of States to efficiently and accurately manage, analyze, and use education data, including individual student records. The SLDSs should help states, districts, schools, educators, and other stakeholders to make data-informed decisions to improve student learning and outcomes; as well as to facilitate research to increase student achievement and close achievement gaps. The SLDS grants extend for three to five years for up to twenty million dollars per grantee, and grantees are obligated to submit annual reports and a final report on the development and implementation of their systems. All 50 states, five territories, and the District of Columbia are eligible to apply, and each state can apply multiple times to develop different aspects of their data system. Since November 2005, 97 grants have been awarded. In addition to the grants, the program offers many services and resources to assist education agencies with SLDS-related work. Best practices, lessons learned, and non-proprietary products/solutions developed by recipients of these grants and other states are disseminated to aid all state and local education agencies. The request to formalize the annual SLDS Interim Progress Report (IPR) as the SLDS Survey, intended to provide insight on state and U.S. territory SLDS capacity for automated linking of K–12, teacher, postsecondary, workforce, career and technical education (CTE), adult education, and early childhood data, and to conduct the annual SLDS Survey from 2017 through 2019 was approved in February 2017 with the latest change request approved in September 2017 (1850–0933 v.1–4). The SLDS Survey will help inform ongoing evaluation and targeted technical assistance efforts to enhance the quality of the SLDS Program's support to states. This request is to update the survey instrument to reflect feedback received from respondents during the SLDS survey's first administration in 2017.

Dated: April 12, 2018.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–08068 Filed 4–17–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Innovative Approaches to Literacy Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new awards for fiscal year (FY) 2018 for the Innovative Approaches to Literacy (IAL) Program, Catalog of

Federal Domestic Assistance (CFDA) number 84.215G.

DATES:

Applications Available: April 18, 2018.

Deadline for Transmittal of Applications: May 18, 2018.

Deadline for Intergovernmental Review: July 17, 2018.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

FOR FURTHER INFORMATION CONTACT: Beth Yeh, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E230, Washington, DC 20202–6450. Telephone: (202) 205–5798. Email: *beth.yeh@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The IAL program supports high-quality programs designed to develop and improve literacy skills for children and students from birth through 12th grade in *high-need local educational agencies (high-need LEAs)* and schools. The U.S. Department of Education (Department) intends to promote innovative literacy programs that support the development of literacy skills in low-income communities, including programs that (1) develop and enhance effective school library programs, which may include providing professional development for school librarians, books, and up-to-date materials to high-need schools; (2) provide early literacy services, including pediatric literacy programs through which, during well-child visits, medical providers trained in research-based methods of early language and literacy promotion provide developmentally appropriate books and recommendations to parents to encourage them to read aloud to their children starting in infancy; and (3) provide high-quality books on a regular basis to children and adolescents from low-income communities to increase reading motivation, performance, and frequency. The IAL program supports the implementation of high-quality plans for childhood literacy activities and book distribution efforts that demonstrate a rationale.

In accordance with the Senate report accompanying the Consolidated Appropriations Act, 2018, S. Rep. No. 115–150, at 163 (2017), the Department will reserve no less than 50 percent of funds under the IAL program for grants to develop and enhance effective school library programs, which may include providing professional development to librarians in high-need schools or books and other up-to-date library materials to such schools. Further, the Department will ensure that grants are distributed among eligible entities that will serve geographically diverse areas, including rural areas.

Priorities: This notice contains one absolute priority and two competitive preference priorities. We are establishing the absolute priority for the FY 2018 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1). Competitive preference priority 1 is from the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs published in the **Federal Register** on March 2, 2018 (83 FR 9096) (FY 2018 Supplemental Priorities). Competitive preference priority 2 is from the notice of final priorities, requirement, and definitions for this program published in the **Federal Register** on June 17, 2014 (79 FR 34428) (IAL NFP).

Absolute Priority: This priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

High-Quality Plan for Innovative Approaches to Literacy That Includes Book Distribution, Childhood Literacy Activities, or Both, and That, at a Minimum, Demonstrates a Rationale.

To meet this priority, applicants must submit a plan that *demonstrates a rationale,* including a rationale for the *project component* and a corresponding *logic model.*

The applicant must submit a plan with the following information:

(a) A description of the proposed book distribution, childhood literacy activities, or both, that are designed to improve the literacy skills of children and students by one or more of the following—

(1) Promoting early literacy and preparing young children to read;

(2) Developing and improving students' reading ability;

(3) Motivating older children to read; and

(4) Teaching children and students to read.

(b) The age or grade spans of children and students from birth through 12th grade to be served.

(c) A detailed description of the key goals, the activities to be undertaken, the rationale for those activities, the timeline, the parties responsible for implementing the activities, and the credibility of the plan (as judged, in part, by the information submitted that *demonstrates a rationale*); and

(d)(1) A description of how the proposed project *demonstrates a rationale;* and

(2) The corresponding *logic model.*

Competitive Preference Priorities: For FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), for competitive preference priority 1, we award an additional five points to an application that meets the priority. For competitive preference priority 2, we award an additional three points to an application that meets the priority, for a possible maximum total of eight competitive preference priority points.

These priorities are:

Competitive Preference Priority 1—Promoting Science, Technology, Engineering, and Math (STEM) Education, with a Particular Focus on Computer Science.

To meet this priority, an applicant must propose a project designed to improve student achievement or other educational outcomes in one or more of the following areas: Science, technology, engineering, math, or *computer science.* The project must address one or more of the following priority areas:

(a) Utilizing technology for educational purposes in communities served by *rural local educational agencies* (rural LEAs) or other areas identified as lacking sufficient access to such tools and resources.

(b) Utilizing technology to provide access to *educational choice.*

(c) Working with schools, municipal libraries, or other partners to provide new and accessible methods of accessing digital learning resources, such as by digitizing books or expanding access to such resources to a greater number of children or students.

(d) Making coursework, books, or other materials available as open educational resources or taking other steps so that such materials may be inexpensively and widely used.

Competitive Preference Priority 2—Serving Rural LEAs.

To meet this priority, an applicant must propose a project designed to provide high-quality literacy programming, or distribute books, or both, to students served by a *rural LEA.*

Definitions: The definitions listed below are from 34 CFR 77.1; the FY 2018 Supplemental Priorities; and the IAL NFP. These definitions apply to the FY 2018 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition.

Computer science means the study of computers and algorithmic processes and includes the study of computing principles and theories, computational thinking, computer hardware, software design, coding, analytics, and computer applications. *Computer science* often includes computer programming or coding as a tool to create software including applications, games, websites, and tools to manage or manipulate data; or development and management of computer hardware and the other electronics related to sharing, securing, and using digital information.

In addition to coding, the expanding field of *computer science* emphasizes computational thinking and interdisciplinary problem-solving to equip students with the skills and abilities necessary to apply computation in our digital world.

Computer science does not include using a computer for everyday activities, such as browsing the internet; use of tools like word processing, spreadsheets or presentation software; or using computers in the study and exploration of unrelated subjects. (FY2018 Supplemental Priorities.)

Demonstrates a rationale means a key *project component* included in the project's *logic model* is informed by research or evaluation findings that suggest the *project component* is likely to improve *relevant outcomes.* (34 CFR 77.1.)

Educational choice means the opportunity for a child or student (or a family member on their behalf) to create a high-quality personalized path for learning that is consistent with applicable Federal, State, and local laws; is in an educational setting that best meets the child's or student's needs; and, where possible, incorporates evidence-based activities, strategies, and interventions.

Opportunities made available to a student through a grant program are those that supplement what is provided by a child's or student's geographically assigned school or the institution in which he or she is currently enrolled and may include one or more of the options listed below:

(1) Public educational programs or courses including those offered by traditional public schools, public charter schools, public magnet schools, public online education providers, or other public education providers.

(2) Private or home-based educational programs or courses including those offered by private schools, private online providers, private tutoring providers, community or faith-based organizations, or other private education providers.

(3) Internships, apprenticeships, or other programs offering access to learning in the workplace.

(4) Part-time coursework or career preparation offered by a public or private provider in person or through the internet or another form of distance learning, that serves as a supplement to full-time enrollment at an educational institution, as a stand-alone program leading to a credential, or as a supplement to education received in a homeschool setting.

(5) Dual or concurrent enrollment programs or early college high schools (as defined in section 8101(15) and (17) of the Elementary and Secondary Education Act, as amended [1]), or other programs that enable secondary school students to begin earning credit toward a postsecondary degree or credential prior to high school graduation. (2018 Supplemental Priorities.)

High-need local educational agency (High-need LEA) means—

(1) Except for LEAs referenced in paragraph (2), an LEA in which at least 20 percent [2] of the students aged 5–17 in the school attendance area of the LEA are from families with incomes below the poverty line, based on data from the U.S. Census Bureau's Small Area Income and Poverty Estimates for school districts for the most recent income year (Census list).

(2) For an LEA that is not included on the Census list, such as a charter school LEA, an LEA for which the State educational agency (SEA) determines, consistent with the manner described under section 1124(c) of the ESEA, as amended by the No Child Left Behind Act of 2001, in which the SEA determines an LEA's eligibility for Title I allocations, that 20 percent of the students aged 5–17 in the LEA are from families with incomes below the poverty line. (IAL NFP.)

Logic model (also referred to as a theory of action) means a framework that identifies key *project components* of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the *relevant outcomes*) and describes the theoretical and operational relationships among the key *project components* and *relevant outcomes.* (34 CFR 77.1.)

National not-for-profit (NNP) organization means an agency, organization, or institution owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity. In addition, it means, for the purposes of this program, an organization of national scope that is supported by staff or affiliates at the State and local levels, who may include volunteers, and that has a demonstrated history of effectively developing and implementing literacy activities. (IAL NFP.)

Note: A local affiliate of an *NNP* organization does not meet the definition of *NNP organization.* Only a national agency, organization, or institution is eligible to apply as an *NNP organization.*

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual *project component* or to a combination of *project components* (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers). (34 CFR 77.1.)

Relevant outcome means the student outcome(s) or other outcome(s) the key *project component* is designed to improve, consistent with the specific goals of the program. (34 CFR 77.1.)

Rural local educational agency (Rural LEA) means an LEA that is eligible under the Small Rural School Achievement program (SRSA) or the Rural and Low-Income School (RLIS) program authorized under Title V, Part B of the ESEA. Eligible applicants may determine whether a particular district is eligible for these programs by referring to information on the Department's website at *www2.ed.gov/nclb/freedom/local/reap.html.* (FY 2018 Supplemental Priorities.)

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements, regulations governing the first grant competition

[1] In December 2015, Congress enacted the Every Student Succeeds Act (ESSA), which reauthorized the ESEA. Therefore, for purposes of this notice, unless otherwise indicated, all references to the ''ESEA'' are to the ''ESEA, as amended by the ESSA.''

[2] Section 2226(b)(1) of the ESEA changed this from 25 percent to 20 percent.

under a new or substantially revised program authority. This is the first grant competition for this program under section 2226(b)(1) of the ESEA (20 U.S.C. 6646) and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the absolute priority under section 437(d)(1) of GEPA. This priority will apply to the FY 2018 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition.

Program Authority: Section 2226 of the ESEA (20 U.S.C. 6646).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations in 34 CFR part 299. (e) The IAL NFP. (f) The FY 2018 Supplemental Priorities.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $26,730,000.

IAL has received $27,000,000 for new awards for this program for FY 2018, of which we intend to use an estimated $26,730,000 for this competition.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards to LEAs and Consortia of LEAs: $175,000 to $750,000.

Estimated Average Size of Awards to LEAs and Consortia of LEAs: $500,000.

Estimated Number of Awards to LEAs and Consortia of LEAs: 30.

Estimated Range of Awards to NNP Organizations, Consortia of NNP Organizations, and Consortia of NNP Organizations and LEAs: $1,500,000 to $5,000,000.

Estimated Average Size of Awards to NNP Organizations, Consortia of NNP Organizations, and Consortia of NNP Organizations and LEAs: $3,000,000.

Estimated Number of Awards to NNP Organizations: 2–6.

Note: The Department is not bound by any estimates in this notice.

Project Period: 36 months.

III. Eligibility Information

1. *Eligible Applicants:* To be considered for an award under this competition, an applicant must:

(a) Be one of the following:

(1) A *high-need LEA;*

(2) An *NNP organization* that serves children and students within the attendance boundaries of one or more *high-need LEAs;*

(3) A consortium of *high-need LEAs;* or

(4) The Bureau of Indian Education; and

(b) Coordinate with school libraries in developing project proposals.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* For information on how to submit an application please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the IAL program, an application may include business information that the applicant considers proprietary. In 34 CFR 5.11, we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 25 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; the one-page abstract, resumes, bibliography, *logic model,* or letters of support. However, the recommended page limit does apply to all of the application narrative section.

Note: The applicant should include, as an attachment, the *logic model* used to address paragraph (d)(2) of the absolute priority.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. The maximum score for all selection criteria is 100. The maximum possible score for each selection criterion is indicated in parentheses. The selection criteria for this competition are as follows:

(a) *Need for project* (up to 10 points).

The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the

nature and magnitude of those gaps or weaknesses.

(b) *Significance* (up to 10 points).

The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(c) *Quality of the project design* (up to 20 points).

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (5 points)

(2) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population. (5 points)

(3) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students. (5 points)

(4) The extent to which the proposed project *demonstrates a rationale.* (5 points)

(d) *Quality of project services* (up to 25 points).

The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers:

(1) The quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (10 points)

(2) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services. (10 points)

(3) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services. (5 points)

(e) *Adequacy of resources* (up to 10 points).

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(f) *Quality of the management plan* (up to 20 points).

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (10 points)

(2) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project. (10 points)

(g) *Quality of the project evaluation* (up to 5 points).

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20(c).

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report (APR) that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* The Department has established the following Government Performance and Results Act of 1993 performance measures for the IAL program: (1) The percentage of four-year-old children participating in the project who achieve significant gains in oral language skills; (2) the percentage of fourth graders participating in the project who demonstrated individual student growth (*i.e.,* an improvement in their achievement) over the past year on State reading or language arts assessments under section 1111(b)(3) of the ESEA; (3) the percentage of eighth graders participating in the project who demonstrated individual student growth (*i.e.,* an improvement in their achievement) over the past year on State reading or language arts assessments under section 1111(b)(3) of the ESEA; (4) the percentage of schools participating in the project whose book-to-student ratios increase from the previous year; and (5) the percentage of participating children who receive at least one free, grade- and language-appropriate book of their own.

All grantees will be expected to submit an APR that includes data addressing these performance measures to the extent that they apply to the grantee's project.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* Braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 13, 2018.

Jason Botel,

Principal Deputy Assistant Secretary, Delegated the Authority to Perform the Functions and Duties of the Position of Assistant Secretary of Elementary and Secondary Education.

[FR Doc. 2018–08093 Filed 4–17–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[EERE 2018–AM–00XX]

Agency Information Collection Extension

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice.

SUMMARY: The Department of Energy has submitted an information collection package to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The package requests a three-year extension of its ''Superior Energy Performance (SEP) Certification and 50001 Ready Recognition,'' OMB Control Number 1910–5177. The proposed collection of information relates to tracking partner participation and calculating the energy efficiency impact of DOE's Superior Energy Performance certification and 50001 Ready recognition programs.

DATES: Comments regarding this collection must be received on or before May 18, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650 or contacted by email at *chad_s_whiteman@omb.eop.gov.*

ADDRESSES: Written comments should be sent to the: Desk Officer for the Department of Energy, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW, Washington, DC 20503.

And to: Mr. Paul Scheihing, Office of Energy Efficiency and Renewable Energy (EE–5A), U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, or by fax at 202–586–9234, or by email at *paul.scheihing@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the information collection instrument and instructions should be directed to Mr. Paul Scheihing at the contact information listed above or phone at 202–586–7234.

SUPPLEMENTARY INFORMATION: This package contains: (1) OMB No. 1910–5177; (2) Information Collection Request Title: Department of Energy Superior Energy Performance (SEP) Certification and 50001 Ready Recognition; (3) Type of Review: Renewal; (4) Purpose: This Information Collection Request applies to the Department of Energy (DOE) voluntary ISO 50001 programs for industrial facilities: Superior Energy Performance® (SEP®) and 50001 Ready™ recognition. SEP is an energy efficiency certification and recognition program for commercial, institutional, and industrial facilities demonstrating excellence in energy management as well as continual improvement in energy efficiency through third-party verified energy performance. 50001 Ready recognition is a self-attestation of the implementation of an ISO 50001 energy management system without the need for external audits.

DOE's 50001 Ready provides an on-ramp towards SEP certification. It is a self-guided approach for facilities to establish an energy management system and self-attest to the structure of the ISO 50001 energy management system. SEP certification builds on ISO 50001 provides a rigorous, internationally-recognized business process for companies to continually improve their energy performance. The SEP third-party verification of energy performance improvement is unique in the marketplace, and assists to differentiate certified companies from their competitors. This request for information consists of a voluntary data collection process for SEP participation: to manage and track certification cycles, and provide recognition for verified energy performance improvements. 50001 Ready collects a minimal amount of self-attested information to manage and track recognition cycles and to recognize the achievements of its participants.

The following types of information are collected from primary participants: (1) Background data, including contact information and basic information and basic facility information about its energy use, energy consumption, and energy performance indicators—collected in the SEP Application Form; (2) Information on energy performance improvement in SEP-certified facilities—collected in the SEP Energy Performance Improvement Report. 50001 Ready collects only a subset of the same types of information, and without the need for external audit. Background data will primarily be used to track basic information about SEP and 50001 Ready participants and identify opportunities to provide participants with technical assistance. Basic information about a facility's energy use, energy consumption, and energy performance indicators will be used to administer SEP and 50001 Ready. Information on energy performance improvement will be used by DOE to manage and track participation cycles, and to track the results of participation in SEP and 50001 Ready. Responses to the DOE's Information Collection Request will be voluntary. (5) Annual Estimated Number of Respondents: 233; (6) Annual Estimated Number of Responses: 233; (7) Annual Estimated Number of Burden Hours: 333; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: $18,667.

Statutory Authority: Accelerating Investment in Industrial Energy Efficiency. Executive Order 13624, 77 FR 54779 (Aug. 30, 2012); 42 U.S.C. 16191.

Issued in Washington, DC, on: April 9, 2018.

Paul Scheihing,

Technology Manager, Advanced Manufacturing Office, Energy Efficiency and Renewable Energy.

[FR Doc. 2018–08108 Filed 4–17–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP18–697–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Newfield 18 to Sequent 1970) to be effective 4/11/2018.
Filed Date: 4/11/18.
Accession Number: 20180411–5094.
Comments Due: 5 p.m. ET 4/23/18.

Docket Numbers: RP18–698–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: AGT Apr2018 Non-conforming Agreements Cleanup to be effective 5/12/2018.
Filed Date: 4/12/18.
Accession Number: 20180412–5031.
Comments Due: 5 p.m. ET 4/24/18.

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: April 12, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–08076 Filed 4–17–18; 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 exempt wholesale generator filings:

Docket Numbers: EG18–74–000.
Applicants: GenOn Holdco 10, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 4/12/18.
Accession Number: 20180412–5052.
Comments Due: 5 p.m. ET 5/3/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–2577–001.
Applicants: York Haven Power Company, LLC.
Description: Report Filing: Refund Report Docket No. ER17–2577–001 to be effective N/A.
Filed Date: 4/12/18.
Accession Number: 20180412–5050.
Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–660–001.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: 3390 SWPA & South Central MCN Int Agr Compliance Filing to be effective 3/31/2018.
Filed Date: 4/12/18.
Accession Number: 20180412–5066.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1094–001.

Applicants: Florida Power & Light Company.

Description: Tariff Amendment: FPL Revisions to LCEC Rate Schedule No. 317 to be effective 1/1/2016.

Filed Date: 4/12/18.

Accession Number: 20180412–5120.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1095–001.

Applicants: Florida Power & Light Company.

Description: Tariff Amendment: FPL Revisions to FKEC Rate Schedule No. 322 to be effective 1/1/2016.

Filed Date: 4/12/18.

Accession Number: 20180412–5121.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1275–002.

Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.

Description: Tariff Amendment: MAIT submits Supplemental Filing re: OIA SA No. 4929 to be effective 6/1/2018.

Filed Date: 4/12/18.

Accession Number: 20180412–5045.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1344–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2018–04–011 Congestion Revenue Rights Auction Efficiency Track 1A Amendment to be effective 7/1/2018.

Filed Date: 4/11/18.

Accession Number: 20180411–5167.

Comments Due: 5 p.m. ET 5/2/18.

Docket Numbers: ER18–1345–000.

Applicants: High Prairie Wind Farm II, LLC.

Description: § 205(d) Rate Filing: Revised MBR Tariff to be effective 4/13/2018.

Filed Date: 4/12/18.

Accession Number: 20180412–5046.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1346–000.

Applicants: Pioneer Prairie Wind Farm I, LLC.

Description: § 205(d) Rate Filing: Revised MBR Tariff to be effective 4/13/2018.

Filed Date: 4/12/18.

Accession Number: 20180412–5065.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1347–000.

Applicants: Rail Splitter Wind Farm, LLC.

Description: § 205(d) Rate Filing: Revised MBR Tariff to be effective 4/13/2018.

Filed Date: 4/12/18.

Accession Number: 20180412–5069.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1348–000.

Applicants: Lone Valley Solar Park I LLC.

Description: § 205(d) Rate Filing: Revised MBR Tariff to be effective 4/13/2018.

Filed Date: 4/12/18.

Accession Number: 20180412–5104.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1349–000.

Applicants: Lone Valley Solar Park II LLC.

Description: § 205(d) Rate Filing: Revised MBR Tariff to be effective 4/13/2018.

Filed Date: 4/12/18.

Accession Number: 20180412–5114.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1350–000.

Applicants: New England Power Company.

Description: Tariff Cancellation: Notice of Cancellation of Reimbursement Agreement with Granite Reliable Power to be effective 11/1/2017.

Filed Date: 4/12/18.

Accession Number: 20180412–5116.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1351–000.

Applicants: Virginia Electric and Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: VEPCO submits revisions to OATT, Attachment H–16A re: Depreciation Rate to be effective 6/15/2018.

Filed Date: 4/12/18.

Accession Number: 20180412–5118.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1352–000.

Applicants: Rising Tree Wind Farm LLC.

Description: § 205(d) Rate Filing: Revised MBR Tariff to be effective 4/13/2018.

Filed Date: 4/12/18.

Accession Number: 20180412–5119.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1353–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Amended IFA Between SCE and AEPCO and Notices of Cancellation to be effective 4/13/2018.

Filed Date: 4/12/18.

Accession Number: 20180412–5124.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1354–000.

Applicants: Rising Tree Wind Farm II LLC.

Description: § 205(d) Rate Filing: Revised MBR Tariff to be effective 4/13/2018.

Filed Date: 4/12/18.

Accession Number: 20180412–5136.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1355–000.

Applicants: Rising Tree Wind Farm III LLC.

Description: § 205(d) Rate Filing: Revised MBR Tariff to be effective 4/13/2018.

Filed Date: 4/12/18.

Accession Number: 20180412–5152.

Comments Due: 5 p.m. ET 5/3/18.

Docket Numbers: ER18–1356–000.

Applicants: Louisville Gas and Electric Company, Kentucky Utilities Company.

Description: Notice of Cancellation of Network Operating Agreement (Third Revised Service Agreement 14) of Louisville Gas and Electric Company, et al.

Filed Date: 4/12/18.

Accession Number: 20180412–5166.

Comments Due: 5 p.m. ET 5/3/18.

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: April 12, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–08075 Filed 4–17–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2669–085]

Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments; Bear Swamp Power Company, LLC

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2669–085.

c. *Date Filed:* March 30, 2018.

d. *Applicant:* Bear Swamp Power Company, LLC (Bear Swamp).

e. *Name of Project:* Bear Swamp Project.

f. *Location:* The existing project is located on the Deerfield River in Berkshire and Franklin Counties, Massachusetts. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Steven P. Murphy, Director of Licensing, Brookfield Renewable Energy Group, 33 West 1st Street South, Fulton, NY 13069; Telephone (315) 593–3118.

i. *FERC Contact:* John Baummer, (202) 502–6837 or *john.baummer@ferc.gov.*

j. This application is not ready for environmental analysis at this time.

k. *Project Description:* The existing Bear Swamp Project consists of a pumped storage development, the Bear Swamp Pumped Storage Development, and a conventional hydropower development, the Fife Brook Development, with a combined authorized capacity of 676 megawatts (MW). The project generates an average of 483,863 megawatt-hours (MWh) annually, and uses an average of 618,293 MWh annually to operate the pumped storage development.

Bear Swamp Pumped Storage Development

The existing Bear Swamp Pumped Storage Development consists of the following existing facilities: (1) A 118-acre upper reservoir with a gross storage capacity of 8,300 acre-feet at the normal full water surface elevation of approximately 1,600 feet National Geodetic Vertical Datum of 1929 (NGVD), which is contained by existing topography and 4 dikes: (a) An approximately 1,300-foot-long, 155-foot-high curved, earth and rock-fill dike (North Dike); (b) an approximately 350-foot-long, 23-foot-high earth and rock-fill dike extending from the eastside of the North Dike (North Dike Extension); (c) an approximately 2,880-foot-long, 140-foot-high earth and rock-fill dike (South Dike); and (d) an approximately 750-foot-long, 50-foot-high earth and rock-fill dike (East Dike); (2) a 420-foot long emergency spillway to the east of the North Dike Extension; (3) an 88-foot-long, 1.5- to 4-foot-wide, 4-foot-high submerged weir with three 5-foot-wide, 3-foot-high concrete stoplog gates; (4) a 40-foot-diameter concrete inlet/outlet structure located at the bottom of the upper reservoir to the west of the North Dike; (5) an approximately 1,430.5-foot-long tunnel system that includes: (a) A 75-foot-long concrete-lined section that tapers from 40 feet to 25 feet in diameter; (b) an approximately 965-foot-long, 25-foot-diameter concrete-lined section; (c) a 15-foot-long concrete-lined section that bifurcates from a single 25-foot-diameter section to two 20-foot-diameter penstock sections; (d) two 25-foot-long concrete-lined penstock sections that taper from 20 feet to 17.5 feet in diameter; (e) two 322-foot-long, 17.5-foot-diameter concrete-lined penstock sections; (f) two 20-foot-long concrete-lined penstock sections that taper from 17.5 feet to 11 feet in diameter; and (g) two 8.5-foot-long, 11-foot-diameter, steel-lined penstock sections; (6) a 227-foot-long, 79-foot-wide, 182-foot-high underground powerhouse containing two reversible Francis pump turbine-generator units with a total authorized capacity of 666 MW; (7) two 504-foot-long, 22-foot-wide, 29.5-foot-high concrete-lined draft tube tunnels; (8) a lower reservoir inlet/outlet structure with four 15-foot-wide, 20-foot-high bays, each equipped with 16-foot-wide, 20.6-foot-high steel slide gates; (9) four 15-foot-wide, 26.7-foot-tall steel trashracks with 6-inch bar spacing; (10) two 13.8-kilovolt (kV) motor-generator lead electrical lines, one approximately 890 feet long (east lead) and one approximately 900 feet long (west lead); (11) a 600-foot-long, 15-foot-wide, 23-foot-high access tunnel for the generator lead lines; (12) two 13.8/230-kV step-up transformers; (13) two 230-kV above-ground transmission lines, one approximately 4,075 feet long (south line) and one approximately 3,960 feet long (north line), which terminate at a non-project switchyard owned by National Grid; (14) a 700-foot-long, 25-foot-wide, 29-foot-high tunnel for the access road; and (15) appurtenant facilities.

Fife Brook Development

The existing Fife Brook Development consists of: (1) An 890-foot-long, 130-foot-high earthen rock-fill dam; (2) a 152-acre impoundment with a gross storage capacity of 6,900 acre-feet at a normal maximum water surface elevation of 870 feet NGVD, which also serves as the lower reservoir for the Bear Swamp Pumped Storage Development; (3) two 36-foot-wide, 40-foot-high steel Tainter spillway gates that are integral with the dam; (4) a concrete intake structure that is integral with the dam and includes an 11.2-foot-wide, 24-foot-tall trashrack with 3-inch bar spacing and a 15-foot-wide, 18-foot-high headgate; (5) a 10-foot-diameter, 200-foot-long steel penstock; (6) an approximately 79.25-foot-long, 44-foot-wide, 94-foot-tall concrete powerhouse containing a 10–MW Francis turbine-generator unit; (7) a 21-foot-long steel-lined draft tube; (8) an approximately 325-foot-long, 30-inch-diameter minimum flow release pipe that is gated at its intake and bifurcates into an approximately 55-foot-long, 20-inch-diameter pipe and an approximately 55-foot-long, 24-inch-diameter pipe; (9) a partially buried (860-foot-long section) and partially above-ground (7,060-foot-long section) 13.8-kV transmission line that connects the turbine-generator unit to the regional grid at a non-project substation owned by Great River Hydro, LLC; and (10) appurtenant facilities.

The Bear Swamp Pumped Storage Development uses a storage capacity of 4,600 acre-feet to generate approximately 3,028 MWh of energy over a generation run time of approximately 5.3 hours. The Bear Swamp Pumped Storage Development normally generates and pumps back some or all of its useable storage capacity over a 24-hour period.

The impoundment for the Fife Brook Development is the lower reservoir of the Bear Swamp Pumped Storage Development. The Fife Brook impoundment has an allowable drawdown of 40 feet to provide a useable storage capacity of 4,600 acre-feet to the upper reservoir of the Bear Swamp Pumped Storage Development for daily peaking operations. Releases from Fife Brook dam generally match the inflow from the Station No. 5 Development of Great River Hydro, LLC's Deerfield River Project (FERC No. 2323), which discharges directly into the Fife Brook impoundment.

The project's current license requires Bear Swamp to release a continuous minimum flow of 125 cubic feet per second (cfs) from Fife Brook dam, and to use water from the Bear Swamp Pumped Storage Development to meet the required 125 cfs minimum flow as necessary. The existing license also requires Bear Swamp to provide 106 scheduled annual releases of 700 cfs for whitewater recreation downstream of the Fife Brook dam from April 1 through October 31.

l. *Locations of the Application:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and

reproduction at the Rowe Town Library, located at 318 Zoar Road, Rowe, MA 01367; or the North Adams Public Library, located at 74 Church Street, North Adams, MA 01247.

m. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:* Pursuant to section 5.19(d) of the Commission's regulations, the Director, Office of Energy Projects will issue an order within 30 days of the filing date of the final license application to resolve study requests that were filed in comments on the draft license application. At this time, the application is expected to be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made following the Director's determination on the study requests, or as otherwise appropriate.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis	October 2018.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions	December 2018.
Commission issues Draft Environmental Assessment (EA)	June 2019.
Comments on Draft EA	August 2019.
Modified terms and conditions	October 2019.
Commission issues Final EA	January 2020.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: April 12, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–08073 Filed 4–17–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–12–000]

Notice of Availability of the Environmental Assessment for the Proposed Natural Gas Pipeline Company of America, LLC Herscher Northwest Storage Field Abandonment Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Herscher Northwest Storage Field Abandonment Project, proposed by Natural Gas Pipeline Company of America LLC (Natural) in the above-referenced docket. Natural requests authorization to abandon the Herscher Northwest Storage Field facilities with its certificated maximum inventory of 18.5 billion cubic feet (Bcf) located in Kankakee County, Illinois.

The EA assesses the potential environmental effects of the abandonment of the Herscher Northwest Storage Field Abandonment Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Natural proposes to abandon:

- In place 19 injection/withdrawal wells by permanently plugging and capping;
- in place 16.15 miles of 4- to 16-inch-diameter associated pipeline laterals in the storage field by capping;
- in place 13 non-jurisdictional observation wells by plugging;
- in place one non-jurisdictional salt water disposal well by plugging;
- in place approximately 15.3 Bcf of non-recoverable cushion gas;
- by removal the 330-horsepower Compressor Station 202 including its building, compressor unit, concrete piers, and concrete foundation; and
- by removal all aboveground and belowground storage field auxiliary surface facilities, including, but not limited to: Well head piping, slug catchers, water gathering system, and methanol distribution systems associated with the abandoned wells; seven tap valves; a pigging facility; and two corrosion monitors along with their associated rectifiers and ground beds.

Natural also proposes to convert the P. Cook No. 1 injection/withdrawal well to an observational well for its nearby Herscher Mount Simon Storage Field; and retain the P. Cook No. G–1 well as an observation well for its nearby Herscher Galesville Storage Field.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. In addition, the EA is available for public viewing on the FERC's website (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE, Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before May 14, 2018.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP18–12–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on eRegister. You must select the type of filing you are making. If you are filing a comment on a particular

project, please select Comment on a Filing; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on General Search, and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP18–12). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: April 12, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–08072 Filed 4–17–18; 8:45 am]

BILLING CODE 6717–01–P

[1] See the previous discussion on the methods for filing comments.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD18–5–000]

Notice Requesting Questions and Comments on Fiscal Year 2017 Other Federal Agency Cost Submissions; Review of Cost Submittals by Other Federal Agencies for Administering Part I of the Federal Power Act

In its *Order On Rehearing Consolidating Administrative Annual Charges Bill Appeals And Modifying Annual Charges Billing Procedures,* 109 FERC 61,040 (2004) (October 8 Order) the Commission set forth an annual process for Other Federal Agencies (OFAs) to submit their costs related to Administering Part I of the Federal Power Act. Pursuant to the established process the Chief of Revenue and Receivables, Financial Management Division, Office of the Executive Director, on October 5, 2017, issued a letter requesting the OFAs to submit their costs by December 31, 2017 using the OFA Cost Submission Form.

Upon receipt of the agency submissions, the Commission posted the information in eLibrary, and issued, on March 7, 2018, a notice announcing the date for a technical conference to review the submitted costs. On March 27, 2018 the Commission held the technical conference. Technical conference transcripts, submitted cost forms, and detailed supporting documents are all available for review under Docket No. AD18–5. These documents are accessible on-line at *http://www.ferc.gov,* using the eLibrary link and are available for review in the Commission's Public Reference Room in Washington, DC.

Interested parties may file specific questions and comments on the FY 2017 OFA cost submissions with the Commission under Docket No. AD18–5, no later than April 26, 2018. Once filed, the Commission will forward the questions and comments to the OFAs for response.

Anyone with questions pertaining to the technical conference or this notice should contact Raven A. Rodriguez at (202) 502–6276 (via email at *raven.rodriguez@ferc.gov*).

Dated: April 12, 2018. .

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–08074 Filed 4–17–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC18–7–000]

Commission Information Collection Activities (FERC–725L); Comment Request

AGENCY: Federal Energy Regulatory Commission, DOE.

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 the FERC–725L (Mandatory Reliability Standards for the Bulk-Power System: MOD Reliability Standards) 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** requesting public comments. The Commission received no comments on the FERC–725L and is making this notation in its submittal to OMB.

DATES: Comments on the collection of information are due by May 18, 2018.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0261, 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 202–395–8528.

A copy of the comments should also be sent to the Commission, in Docket No. IC18–7–000, by either of the following methods:

- *eFiling at Commission's website: 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–725L, Mandatory Reliability Standards for the Bulk-Power System: MOD Reliability Standards.

OMB Control No.: 1902–0261.

Type of Request: Three-year extension of the FERC–725L information collection requirements with no changes to the reporting requirements.

Abstract: MOD Reliability Standards ensure that generators remain in operation during specified voltage and frequency excursions, properly coordinate protective relays and generator voltage regulator controls, and ensure that generator models accurately reflect the generator's capabilities and equipment performance.

On 5/30/2013, NERC filed a petition explaining that the reliability of the Bulk-Power System benefits from ''good quality simulation models of power system equipment,[2] '' and that ''model validation ensures the proper performance of the control systems and validates the computer models used for stability analysis.'' NERC further stated that the Reliability Standards will enhance reliability because the tests performed to obtain model data may reveal latent defects that could cause ''inappropriate unit response during system disturbances,[2] '' Subsequently, on 3/20/2014,[1] the Commission approved Reliability Standards MOD–025–2, MOD–026–1, and MOD–027–1. These Standards were intended to address generator verifications needed to support Bulk-Power System reliability that would also ensure that accurate data is verified and made available for planning simulations.[2]

On 5/1/2014,[3] the Commission approved Reliability Standards MOD–032–1 and MOD–033–2. These Standards were to address ''system-level modeling data and validation requirements necessary for developing planning models and the Interconnection-wide cases that are integral to analyzing the reliability of the Bulk-Power System.''

MOD–025–2, MOD–026–1, MOD–027–1, MOD–032–1 and MOD–033–2 are all currently approved within the FERC–725L information collection. The reporting requirements associated with each standard will not change as a result of this extension request.

Type of Respondents: NERC-registered entities including generator owners, transmission planners, planning authorities, balancing authorities, resource planners, transmission service providers, reliability coordinators, and transmission operators.[4]

Estimate of Annual Burden:[5] The Commission estimates the annual public reporting burden[6] and cost for the information collection as:

MOD–025–2

[Verification and data reporting of generator real and reactive power capability and synchronous condenser reactive power capability]

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Attachment 2	933 (GO)	1	933	6 hrs.; $448.92[7]	5,598 hrs.; $418,842	$448.92
Evidence Retention	933 (GO)	1	933	1 hr.; $32.74[8]	933 hrs.; $30,546	32.74
Total					6,531 hrs.; $449,388	

MOD–026–1

[Verification of models and data for generator excitation control system or plant volt/variance control functions]

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Instructions for obtaining excitation control system or plant voltage/variance control function model.	185 (TP)	1	185	8 hrs.; $598.56[7]	1,480 hrs.; $110,734	$598.56
Documentation on generator verification	466 (GO)	1	466	8 hrs.; $598.56[7]	3,728 hrs.; $278,929	598.56
Evidence Retention	651 (GO and TOP)	1	651	1 hr.; $32.74[8]	651 hrs.; $21,314	32.74
Total					5,859 hrs.; $410,977	

[1] Final Rule in Docket No. RM13–16–000.

[2] NERC Petition for Approval of Five Proposed Reliability Standards MOD–025–2, MOD–026–1, MOD–027–1, PRC–019–1, and PRC–024–1 submitted to FERC on 5/30/2013.

[3] Order in Docket No. RD14–5–000.

[4] In subsequent portions of this notice, the following acronyms will be used: PA = Planning Authority, GO = Generator Owner, TP = Transmission Planner, BA = Balancing Authority, RP = Resource Planner, TSP = Transmission Service Provider, RC = Reliability Coordinator, TOP = Transmission Operator.

[5] ''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, reference 5 Code of Federal Regulations 1320.3.

[6] Each of the five MOD standards in the FERC–725L information collection previously contained ''one-time'' components to their respondent burden. These one-time burden categories consisted primarily of activities related to establishing industry practices and developing data validation procedures tailored toward these reliability standards and their reporting requirements. None of the one-time burdens apply any longer, so they are being removed from the FERC–725L information collection.

MOD–027–1

[Verification of models and data for turbine/governor and load control or active power/frequency control functions]

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Instructions for obtaining excitation control system or plant voltage/variance control function model.	185 (TP)	1	185	8 hrs.; $598.56 [7]	1,480 hrs.; $110,734	$598.56
Documentation on generator verification	466 (GO)	1	466	8 hrs.; $598.56 [7]	3,728 hrs.; $278,929	598.56
Evidence Retention	651 (GO and TP)	1	651	1 hr.; $32.74 [8]	651 hrs.; $21,314	32.74
Total					5,859 hrs.; $410,977	

MOD–032–1

[Verification of models and data for turbine/governor and load control or active power/frequency control functions]

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Data Submittal	1,197 (BA, GO, PA, RP, TO, TP, and TSP).	1	1,197	8 hrs.; $544.96 [9]	9,576 hrs.; $652,317	$544.96
Evidence Retention	1,197 (BA, GO, PA, RP, TO, TP, and TSP).	1	1,197	1 hr.; $32.74 [8]	1,197 hrs.; $39,190	32.74
Total					10,773 hrs.; $691,507	

MOD–033–1

[Steady-state and dynamics system model validation]

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Data Submittal	188 (RC and TOP)	1	188	8 hrs.; $544.96 [9]	1,504 hrs.; $102,452	$544.96
Evidence Retention	194 (PA, RC, and TOP)	1	194	1 hr.; $32.74 [8]	194 hrs.; $6,352	32.74
Total					1,698 hrs.; $108,804	

The total annual estimated burden and cost for the FERC–725L information collection is 30,720 hours and $2,071,653 respectively.

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: April 11, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–08057 Filed 4–17–18; 8:45 am]

BILLING CODE 6717–01–P

[7] This wage figure uses the average hourly wage (plus benefits) for electrical engineers (Occupation Code: 17–2071, $68.12/hour) and managers (Occupation Code: 11–0000, $81.52/hour) obtained from the Bureau of Labor Statistics (BLS). The average used the following calculation: [$68.12/hour + $81.52/hour] ÷ 2 = $74.82/hour.

[8] The estimate uses the hourly average wage (plus benefits) for file clerks obtained from the Bureau of Labor Statistics: $32.74/hour (BLS Occupation Code: 43–4071).

[9] This uses the hourly average wage (plus benefits) for electrical engineers obtained from the Bureau of Labor Statistics: $68.12/hour (BLS Occupation Code: 17–2071).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL17–83–000]

Notice of Filing; Duke Energy Carolinas, LLC

Take notice that on April 10, 2018, Duke Energy Carolinas, LLC submitted tariff filing per: Refund Report to be effective N/A, pursuant to the Federal Energy Regulatory Commission's (Commission) Order issued on February 15, 2018.[1]

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

[1] *Piedmont Mun. Power Agency* v. *Duke Energy Carolinas, LLC,* 162 FERC ¶ 61,109 (2018).

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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 website 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 May 1, 2018.

Dated: April 11, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–08058 Filed 4–17–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14870–000]

Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications; Flat Canyon Hydro, LLC

On March 7, 2018, the Flat Canyon Hydro, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Flat Canyon Pumped Storage Project (Flat Canyon Project or project) to be located in Flat Canyon, near the City of Elsinore, Sevier County, Utah. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would be a closed-loop pumped storage hydropower facility that consists of the following: (1) A 37-acre upper reservoir having a total storage capacity of 1,800 acre-feet at a normal maximum operating elevation of 6,930 feet mean sea level (msl); (2) a 55-foot-high, 550-foot-long zoned earth/rockfill or concrete-faced upper reservoir dam; (3) a 55-foot-high, 525-foot-long zoned earth/rockfill or concrete-faced second upper reservoir dam; (4) a 1,350-foot-long, 15-foot-diameter low-pressure headrace tunnel either unlined or lined concrete-lined; (5) a 6,850-foot-long, 15-foot-diameter high-pressure headrace tunnel lined with either concrete or steel; (6) a 220-foot-long, 60-foot-wide, 120-foot-high powerhouse housed in an underground cavern and accessed via a 2,600-foot-long, 18-foot-diameter access tunnel, housing two variable-speed reversible pump/turbine-motor/generator units rated for 150 megawatts each at 1,370 feet maximum gross head; (7) a 2,400-foot-long, 17.5-foot-diameter tailrace tunnel lined with concrete; (8) a 37-acre lower reservoir having a total storage capacity 1,800 acre-feet at a normal maximum operating elevation of 5,630 feet msl; (9) a 75-foot-high, 850-foot-long zoned earth/rockfill or concrete-faced lower reservoir dam; (10) a 13-mile-long, 230-kilovolt (kV) transmission line extending from the powerhouse that would follow an existing transmission corridor to the Sigurd Substation owned by Rocky Mountain Power, or, if possible, a direct connection to Rocky Mountain Power's Sigurd-Red Butte No. 2 345-kV line adjacent to the project (the point of interconnection); and (11) appurtenant facilities. The estimated annual generation of the Flat Canyon Project would be 525.6 gigawatt-hours.

Applicant Contact: Matthew Shapiro, CEO, Gridflex Energy, LLC, 1210 W Franklin St, Ste. 2, Boise, Idaho 83702; phone: (208) 246–9925.

FERC Contact: Kyle Olcott; phone: (202) 502–8963.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14870–000.

More information about this project, including a copy of the application, can be viewed or printed on the eLibrary link of Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14870) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: April 12, 2018. .

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–08078 Filed 4–17–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7987–014]

Notice of Transfer of Exemption; Hydrodyne Industries, LLC, UP Property 2, LLC

1. By letter filed March 8, 2018, Charles T. Hagan, III, Manager, Hydrodyne Industries, LLC, exemptee informed the Commission that the exemption from licensing for the High Falls Hydroelectric Project No. 7987, originally issued September 12, 1984 [1] has been transferred to UP Property 2, LLC. The project is located on the Deep River in Moore County, North Carolina. The transfer of an exemption does not require Commission approval.

2. UP Property 2, LLC is now the exemptee of the High Falls Hydroelectric Project No. 7987. All correspondence should be forwarded to: Mr. Aaron Aho, Land and Resource

[1] Order Granting Exemption From Licensing of a Small Hydroelectric Project of 5 Megawatts or Less. *Cook Industries, Inc.,* 28 FERC 62,352 (1984).

Associate, UP Property 2, LLC, P.O. Box 52357, Durham, NC 27717, Phone: 919–491–1964, Email: *aaho@uniqueplacesllc.com*.

Dated: April 12, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–08077 Filed 4–17–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9976–93–OW]

Re-Establishment of the Environmental Financial Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given that the U.S. Environmental Protection Agency (EPA) intends to re-establish the Environmental Financial Advisory Board (EFAB) for a two-year period due to an administrative delay in filing the committee's renewal charter. EPA has determined that the EFAB is necessary and in the public interest in connection with the performance of duties imposed on the agency by law. The purpose of EFAB is to provide advice and recommendations to the EPA Administrator on issues associated with environmental financing.

FOR FURTHER INFORMATION CONTACT: Inquiries may be directed to Leo Gueriguian, Associate Director, Water Infrastructure Division, U.S. EPA, William Jefferson Clinton Federal Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460 (Mail Code: 4201T), Telephone (202) 564–0388, or *gueriguian.leo@epa.gov.*

Dated: April 10, 2018.

Andrew D. Sawyers,

Director, Office of Wastewater Management, Office of Water.

[FR Doc. 2018–08136 Filed 4–17–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0971; FRL–9976–54–OAR]

Proposed Information Collection Request; Comment Request; National Volatile Organic Compound Emission Standards for Aerosol Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''National Volatile Organic Compound Emission Standards for Aerosol Coatings'' (EPA ICR No. 2289.04, OMB Control No. 2060–0617) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through October 31, 2018. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before June 18, 2018.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2006–0971 online using *www.regulations.gov* (our preferred method), by email to: *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Ms. Kaye Whitfield, Sector Policies and Programs Division (Mail Code D243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2509; fax number: (919) 541–5450; email address: *whitfield.kaye@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about the EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The EPA is required under section 183(e) of the Clean Air Act (CAA) to regulate volatile organic compound (VOC) emissions from the use of consumer and commercial products. Pursuant to CAA section 183(e)(3), the EPA published a list of consumer and commercial products and a schedule for their regulation (60 FR 15264). Aerosol coatings are included on the list, and the standards for such coatings are codified at 40 CFR part 59, subpart E. The reports required under the standards enable the EPA to identify coating formulations manufactured, imported, or distributed in the United States, and to determine the product-weighted reactivity. The ICR addresses the burden for activities conducted in 3-year increments after promulgation of the national VOC emission standards for aerosol coatings. Regulated entities read instructions to determine how they are affected by the rule. They are required to submit initial notifications when an aerosol coating is manufactured and notification of changes in the initial report, to report formulation data and exemptions claimed, and to maintain records. In addition, regulated entities are required to submit triennial reports that include formulation data and VOC usage.

Form Numbers: None.

Respondents/affected entities: Respondents to this information collection are manufacturers,

distributors, and importers of aerosol coatings. These regulated entities fall within the North American Industry Classification System (NAICS) Code 32551, ''Paint and Coating Manufacturing'' and NAICS Code 325998, ''All Other Miscellaneous Chemical Production and Preparation Manufacturing.''

Respondent's obligation to respond: Mandatory under 40 CFR part 59, subpart E.

Estimated number of respondents: 65 (total).

Frequency of response: Annual, triennial.

Total estimated burden: 12,259 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $855,113 (per year), includes no annualized capital or operation and maintenance costs.

Changes in Estimates: There is a decrease of 6 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to addressing calculation errors in the previously approved ICR.

Dated: April 11, 2018.

Penny Lassiter,

Acting Director, Sector Policies and Programs Division.

[FR Doc. 2018–08041 Filed 4–17–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9976–97–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: (1) Conduct a quality review of a draft SAB report on an Screening Methodologies to Support Risk and Technology Reviews (RTR) for National Emissions Standards for Hazardous Air Pollutants: RTR; (2) discuss information provided by the EPA on planned actions in the 2017 semi-annual regulatory agenda and their supporting science; and (3) receive briefings from the EPA Office of Research and Development, the Office of Water, and the Office of Air.

DATES: The public meeting will be held on Thursday, May 31, 2018, from 1:00 p.m. to 5:00 p.m. and Friday June 1, 2018, from 9:00 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held at the Washington Plaza Hotel, 10 Thomas Circle NW, Washington, DC 20005.

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 website 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.

(1) Quality Review of a Draft SAB Review Report on the Screening Methodologies To Support Risk and Technology Reviews (RTR): A Case Study Analysis

EPA's Office of Air Quality Planning and Standards (OAQPS) requested that the SAB conduct a review of the methods for conducting Risk and Technology Review Assessments in conjunction with assessments of residual risk required by the Clean Air Act. These assessments evaluate the effects of industrial emissions of hazardous air pollutants (HAPs) on public health and the environment. The SAB convened RTR Methods Panel to review EPA's draft Screening Methodologies to Support Risk and Technology Reviews (RTR) (External Review Draft May, 2017).

The chartered SAB will conduct a quality review of the panel's draft report before it is transmitted to the EPA Administrator. 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.

Background on the current advisory activity, Screening Methodologies to Support Risk and Technology Reviews (RTR): A Case Study Analysis can be found on the SAB website at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/RTR%20Screening%20Methods%20Review?OpenDocument.*

(2) Discussion of Information in the Agency's Semiannual Regulatory Agenda

As part of the EPA's effort to routinely inform the SAB about proposed and planned agency actions that have a scientific or technical basis, the agency provided notice to the SAB that the Office of Management and Budget published the ''Unified (Regulatory) Agenda'' on the Web on and available at: *http://www.reginfo.gov/public/do/eAgendaMain.*

The SAB convened a Work Group to review information provided in the agency's 2017 regulatory agenda regarding EPA planned actions and their supporting science. The SAB will discuss recommendations and information developed by the Work Group regarding the adequacy of the science supporting the planned actions. Information about this advisory activity can be found on the Web at: *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/SAB%20Spring%202017%20Reg%20Agenda?OpenDocument.*

Availability of Meeting Materials: A meeting agenda and other materials for the meeting will be placed on the SAB website 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 May 31–June 1, 2018, meeting should contact Mr. Thomas Carpenter, DFO, in writing (preferably via email) at the contact information noted above by May 22, 2018 to be placed on the list of registered speakers.

Written Statements: Written statements for the May 31–June 1, 2018, meeting should be received in the SAB Staff Office by March 22, 2018, 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 websites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB website. 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: April 12, 2018.

Khanna Johnston,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2018–08135 Filed 4–17–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Item From Sunshine Act Meeting

April 13, 2016.

The following item has been deleted from the list of items scheduled for consideration at the Tuesday, April 17, 2018, Open Meeting and previously listed in the Commission's Notice of April 10, 2018.

Item No.	Bureau	Subject
7	MEDIA	TITLE: Amendment of Section 73.624(g) of the Commission's Rules Regarding Submission of FCC Form 2100, Schedule G, Used to Report TV Stations' Ancillary or Supplementary Services (MB Docket No. 17–264); Modernization of Media Regulation Initiative (MB Docket No. 17–105). SUMMARY: The Commission will consider a Report and Order that would revise Section 73.624(g) of its rules to reduce broadcaster reporting obligations relating to the provision of ancillary or supplementary services.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2018–08207 Filed 4–16–18; 11:15 am]

BILLING CODE 6712–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Meeting Agenda; April 23, 2018, In Person, 8:30 a.m.

Open Session

1. Approval of the Meeting Minutes for the March 26, 2018 Board Member Meeting
2. Monthly Reports
   (a) Participant Activity Report
   (b) Legislative Report
3. Quarterly Reports
   (c) Investment Performance
   (d) Budget Review
   (e) Audit Status
4. OCFO Annual Report
5. Internal Audit
6. Annual Financial Audit—CLA
7. DOL Presentation
8. IT Update

Closed Session

Information covered under 5 U.S.C. 552b (c)(9)(B).

Contact Person for More Information: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: April 12, 2018.

Dharmesh Vashee,

Deputy General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2018–08089 Filed 4–17–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Docket No. ATSDR–2018–0003]

Proposed Substances To Be Evaluated for Toxicological Profile Development

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Request for comments on proposed substances to be evaluated for Toxicological Profile development.

SUMMARY: The Agency for Toxic Substances and Disease Registry (ATSDR) within the Department of Health and Human Services is initiating the development of another set of Toxicological Profiles. This notice solicits public nominations of substances for ATSDR to evaluate for Toxicological Profile development. ATSDR will consider nominations from the Substance Priority List, as well as any non-Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERLA) substances that may have public health implications, on the basis of ATSDR's authority to prepare Toxicological Profiles for substances not found at sites on the National Priorities List. The agency will do so in order to ''. . . establish and maintain inventory of literature, research, and studies on the health effects of toxic substances'', to respond to requests for consultation, and to support the site-specific response actions conducted by ATSDR, as otherwise necessary.

DATES: Nominations from the Substance Priority List and/or additional substances must be submitted by May 18, 2018.

ADDRESSES: You may submit nominations, identified by Docket No. ATSDR–2018–0003 by any of the following methods:

- *Internet:* Access the Federal eRulemaking portal at *www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Division of Toxicology and Human Health Sciences, Agency for

Toxic Substances and Disease Registry, 1600 Clifton Rd. NE, MS F–57, Atlanta, GA 30329. Attn: Docket No. ATSDR–2018–0003.

Instructions: All submissions must include the agency name and docket number for this notice. All relevant comments will be posted without change. This means that no confidential business information or other confidential information should be submitted in response to this notice. Refer to the section *Submission of Nominations* (below) for the specific information required.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Susan Z. Ingber, Division of Toxicology and Human Health Sciences, Agency for Toxic Substances and Disease Registry, 1600 Clifton Rd. NE, MS F–57, Atlanta, GA 30329, Email: *wng7@cdc.gov*; phone: 770.488.0605.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C. 9601 *et seq.*] amended the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund) [42 U.S.C. 9601 *et seq.*] by establishing certain requirements for ATSDR and the U.S. Environmental Protection Agency (EPA) with regard to hazardous substances most commonly found at facilities on the CERCLA National Priorities List (NPL). Among these statutory requirements is a mandate for the Administrator of ATSDR to prepare Toxicological Profiles for each substance included on the Priority List of Hazardous Substances. This list identifies 275 hazardous substances that ATSDR and EPA have determined pose the most significant current potential threat to human health.

Substances To Be Evaluated for Toxicological Profile Development

Each year, ATSDR develops a list of substances to be considered for Toxicological Profile development. The nomination process includes consideration of all substances on ATSDR's Substance Priority List (SPL), as well as other substances nominated by the public. The SPL may be found at the following website: *www.atsdr.cdc.gov/SPL.*

Submission of Nominations for Toxicological Profile Development

Today's notice invites voluntary public nominations for substances included on the SPL and for substances not listed on the SPL. All nominations should include the full name of the nominator, affiliation, and email address. When nominating a non-SPL substance, please include the rationale for the nomination. Please note that email addresses will not be posted on *regulations.gov*.

ATSDR will evaluate data and information associated with nominated substances and will determine the final list of substances to be chosen for Toxicological Profile development. Substances will be chosen according to ATSDR's specific guidelines for selection. These guidelines can be found in the *Selection Criteria,* which may be accessed at *www.atsdr.cdc.gov/toxprofiles/guidance/ATSDR_TP_Selection%20Criteria.pdf.*

Please ensure that your comments are submitted within the specified nomination period. Nominations received after the closing date will be marked as late and may be considered only if time and resources permit.

Pamela Protzel Berman,

Director, Office of Policy, Planning and Partnerships, Agency for Toxic Substances and Disease Registry.

[FR Doc. 2018–08090 Filed 4–17–18; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Meeting of the Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2030

AGENCY: Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The U.S. Department of Health and Human Services (HHS) announces the next meeting of the Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2030 (Committee) regarding the development of national health promotion and disease prevention objectives for 2030. This meeting will be held online via webinar and is open to the public. The Committee will discuss the nation's health promotion and disease prevention objectives and will provide recommendations to improve health status and reduce health risks for the nation by the year 2030. The Committee will further develop recommendations regarding Leading Health Indicators and recommendations for setting targets for the Healthy People 2030 objectives. Pursuant to the Committee's charter, the Committee's advice must assist the Secretary in reducing the number of objectives while ensuring that the selection criteria identifies the most critical public health issues that are high-impact priorities supported by current national data.

DATES: The Committee will meet on May 14, 2018, from 1:00 p.m. to 4:00 p.m. Eastern Time (ET).

ADDRESSES: The meeting will be held online via webinar. To register to attend the meeting, please visit the Healthy People website at *http://www.healthypeople.gov.*

FOR FURTHER INFORMATION CONTACT: Emmeline Ochiai, Designated Federal Official, Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2030, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Health, Office of Disease Prevention and Health Promotion, 1101 Wootton Parkway, Room LL–100, Rockville, MD 20852, (240) 453–8280 (telephone), (240) 453–8281 (fax). Additional information is available on the Healthy People website at *http://www.healthypeople.gov.*

SUPPLEMENTARY INFORMATION: The names and biographies of the Committee members are available at *https://www.healthypeople.gov/2020/about/history-development/healthy-people-2030-advisory-committee.*

Purpose of Meeting: Through the Healthy People initiative, HHS leverages scientific insights and lessons from the past decade, along with new knowledge of current data, trends, and innovations, to develop the next iteration of national health promotion and disease prevention objectives. Healthy People provides science-based, 10-year national objectives for promoting health and preventing disease. Since 1979, Healthy People has set and monitored national health objectives that meet a broad range of health needs, encourage collaboration across sectors, guide individuals toward making informed health decisions, and measure the impact of our prevention and health promotion activities. Healthy People 2030 health objectives will reflect assessments of major risks to health and wellness, changing public health priorities, and emerging technologies related to our nation's health preparedness and prevention.

Public Participation at Meeting: Members of the public are invited to join the online Committee meeting. There will be no opportunity for oral public comments during this online Committee meeting. However, written comments are welcome throughout the entire development process of the

national health promotion and disease prevention objectives for 2030 and may be emailed to *HP2030@hhs.gov.*

To join the Committee meeting, individuals must pre-register at the Healthy People website at *http://www.healthypeople.gov.* Participation in the meeting is limited. Registrations will be accepted until maximum webinar capacity is reached, and must be completed by 9:00 a.m. ET on May 14, 2018. A waiting list will be maintained should registrations exceed capacity, and those individuals will be contacted as additional space for the meeting becomes available. Registration questions may be directed to *HealthyPeople@norc.org.*

Authority: 42 U.S.C. 300u and 42 U.S.C. 217a. The Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2030 is governed by provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C., App.) which sets forth standards for the formation and use of federal advisory committees.

Dated: April 11, 2018.

Don Wright,

Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion).

[FR Doc. 2018–08065 Filed 4–17–18; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

[CFDA Number: 93.164]

Loan Repayment Program for Repayment of Health Professions Educational Loans Announcement Type: Initial

Key Dates: April 18, 2018, first award cycle deadline date; August 15, 2018, last award cycle deadline date; September 15, 2018, last award cycle deadline date for supplemental loan repayment program funds; September 30, 2018, entry on duty deadline date.

I. Funding Opportunity Description

The Indian Health Service (IHS) estimated budget for fiscal year (FY) 2018 includes $27,500,000 for the IHS Loan Repayment Program (LRP) for health professional educational loans (undergraduate and graduate) in return for full-time clinical service as defined in the IHS LRP policy at *https://www.ihs.gov/loanrepayment/policiesandprocedures/* in Indian health programs.

This notice is being published early to coincide with the recruitment activity of the IHS which competes with other Government and private health management organizations to employ qualified health professionals.

This program is authorized by the Indian Health Care Improvement Act (IHCIA) Section 108, codified at 25 U.S.C. 1616a.

II. Award Information

The estimated amount available is approximately $17,750,000 to support approximately 384 competing awards averaging $46,210 per award for a two year contract. The estimated amount available is approximately $9,750,000 to support approximately 390 competing awards averaging $25,000 per award for a one year extension. One year contract extensions will receive priority consideration in any award cycle. Applicants selected for participation in the FY 2018 program cycle will be expected to begin their service period no later than September 30, 2018.

III. Eligibility Information

A. Eligible Applicants

Pursuant to 25 U.S.C. 1616a(b), to be eligible to participate in the LRP, an individual must meet the following three criteria:

(1) Be enrolled in an accredited institution, in any State and intended to complete the course in the same year the individual applies to participate in the program.

Or be enrolled in an approved graduate training program in a health profession.

Or have a health profession degree and a license to practice in a State.

(2) Be eligible for, or hold an appointment as a commissioned officer in the Regular Corps of the Public Health Service (PHS).

Or be eligible for selection for service in the Regular Corps of the PHS.

Or meet the professional standards for civil service employment in the IHS.

Or be employed in an Indian health program without service obligation.

(3) Submit to the Secretary an application for a contract to the LRP. The Secretary must approve the contract before the disbursement of loan repayments can be made to the participant. Participants will be required to fulfill their contract service agreements through full-time clinical practice at an Indian health program site determined by the Secretary. Loan repayment sites are characterized by physical, cultural, and professional isolation, and have histories of frequent staff turnover. Indian health program sites are annually prioritized within the Agency by discipline, based on need or vacancy. The IHS LRP's ranking system gives high site scores to those sites that are most in need of specific health professions. Awards are given to the applications that match the highest priorities until funds are no longer available.

Any individual who owes an obligation for health professional service to the Federal Government, a State, or other entity, is not eligible for the LRP unless the obligation will be completely satisfied before they begin service under this program.

25 U.S.C. 1616a authorizes the IHS LRP and provides that the Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the Loan Repayment Program) in order to assure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

For the purposes of this program, the term ''Indian health program'' means any health program or facility funded, in whole or in part, by the Service for the benefit of Indians and administered—

- Directly by the Service;
- By any Indian Tribe or Tribal or Indian organization pursuant to a contract under—
  - The Indian Self-Determination Act, or
  - Section 23 of the Act of April 30, 1908, (25 U.S.C. 47), popularly known as the Buy Indian Act; or
- By an urban Indian organization pursuant to Title V of the Indian Health Care Improvement Act. (see 25 U.S.C. 1616a(a)(2)(A))

25 U.S.C. 1616a, authorizes the IHS to determine specific health professions for which IHS LRP contracts will be awarded. Annually, the Director, Division of Health Professions Support, sends a letter to the Director, Office of Clinical and Preventive Services, IHS Area Directors, Tribal health officials, and Urban Indian health programs directors to request a list of positions for which there is a need or vacancy. The list of priority health professions that follows is based upon the needs of the IHS as well as upon the needs of American Indians and Alaska Natives.

(a) Medicine—Allopathic and Osteopathic doctorate degrees
(b) Nursing—Associate Degree in Nursing (ADN)
(c) Nursing—Bachelor of Science (BSN)
(d) Nursing (NP, DNP)—Nurse Practitioner/Advanced Practice Nurse in Family Practice, Psychiatry, Geriatric, Women's Health, Pediatric Nursing.

(e) Nursing—Certified Nurse Midwife (CNM)
(f) Certified Registered Nurse Anesthetist (CRNA),
(g) Physician Assistant (Certified)
(h) Dentistry—DDS or DMD degrees
(i) Dental Hygiene
(j) Social Work—Independent Licensed Master's degree
(k) Counseling—Master's degree
(l) Clinical Psychology—Ph.D. or PsyD
(m) Counseling Psychology—Ph.D.
(n) Optometry—OD
(o) Pharmacy—PharmD
(p) Podiatry—DPM
(q) Physical/Occupational/Speech Language Therapy or Audiology—MS, Doctoral
(r) Registered Dietician—BS
(s) Clinical Laboratory Science—BS

B. Cost Sharing or Matching

Not applicable.

C. Other Requirements

Interested individuals are reminded that the list of eligible health and allied health professions is effective for applicants for FY 2018.

These priorities will remain in effect until superseded.

IV. Application and Submission Information

A. Content and Form of Application Submission

Each applicant will be responsible for submitting a complete application. Go to *http://www.ihs.gov/loanrepayment* for more information on how to apply electronically. The application will be considered complete if the following documents are included:

- Employment Verification—Documentation of your employment with an Indian health program as applicable:
  - Commissioned Corps orders, Tribal employment documentation or offer letter, or Notification of Personnel Action (SF–50)—For current Federal employees.
- License to Practice—A photocopy of your current, non-temporary, full and unrestricted license to practice (issued by any State, Washington, DC, or Puerto Rico).
- Loan Documentation—A copy of all current statements related to the loans submitted as part of the LRP application.
- Transcripts—Official Transcripts
- If applicable, if you are a member of a federally recognized Tribe or an Alaska Native (recognized by the Secretary of the Interior), provide a certification of Tribal enrollment by the Secretary of the Interior, acting through the Bureau of Indian Affairs (BIA) (Certification: Form BIA—4432 Category A—Members of federally Recognized Indian Tribes, Bands or Communities or Category D—Alaska Native).

B. Submission Dates and Address

Applications for the FY 2018 LRP will be accepted and evaluated monthly beginning April 18, 2018, and will continue to be accepted each month thereafter until all funds are exhausted for FY 2018. Subsequent monthly deadline dates are scheduled for Friday of the second full week of each month until August 15, 2018.

Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date; or

(2) Received after the deadline date, but with a legible postmark dated on or before the deadline date. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing).

Applications submitted after the monthly closing date will be held for consideration in the next monthly funding cycle. Applicants who do not receive funding by September 30, 2018, will be notified in writing.

Application documents should be sent to: IHS Loan Repayment Program, 5600 Fishers Lane, Mail Stop: OHR (11E53A), Rockville, Maryland 20857.

C. Intergovernmental Review

This program is not subject to review under Executive Order 12372.

D. Funding Restrictions

Not applicable.

E. Other Submission Requirements

New applicants are responsible for using the online application. Applicants requesting a contract extension must do so in writing by April 18, 2018, to ensure the highest possibility of being funded a contract extension.

V. Application Review Information

A. Criteria

The IHS will utilize the Health Professional Shortage Area (HPSA) score developed by the Health Resources and Services Administration for each Indian health program for which there is a need or vacancy. At each Indian health facility, the HPSA score for mental health will be utilized for all behavioral health professions, the HPSA score for dental health will be utilized for all dentistry and dental hygiene health professions, and the HPSA score for primary care will be used for all other approved health professions.

In determining applications to be approved and contracts to accept, the IHS will give priority to applications made by American Indians and Alaska Natives and to individuals recruited through the efforts of Indian Tribes or Tribal or Indian organizations.

B. Review and Selection Process

One or all of the following factors may be applicable to an applicant, and the applicant who has the most of these factors, all other criteria being equal, will be selected.

(1) An applicant's length of current employment in the IHS, Tribal, or Urban program.

(2) Availability for service earlier than other applicants (first come, first served).

(3) Date the individual's application was received.

C. Anticipated Announcement and Award Dates

Not applicable.

VI. Award Administration Information

A. Award Notices

Notice of awards will be mailed on the last working day of each month. Once the applicant is approved for participation in the LRP, the applicant will receive confirmation of his/her loan repayment award and the duty site at which he/she will serve his/her loan repayment obligation.

B. Administrative and National Policy Requirements

Applicants may sign contractual agreements with the Secretary for 2 years. The IHS may repay all, or a portion, of the applicant's health profession educational loans (undergraduate and graduate) for tuition expenses and reasonable educational and living expenses in amounts up to $20,000 per year for each year of contracted service. Payments will be made annually to the participant for the purpose of repaying his/her outstanding health profession educational loans. Payment of health profession education loans will be made to the participant within 120 days, from the date the contract becomes effective. The effective date of the contract is calculated from the date it is signed by the Secretary or his/her delegate, or the IHS, Tribal, Urban, or Buy Indian health center entry-on-duty date, whichever is more recent.

In addition to the loan payment, participants are provided tax assistance

payments in an amount not less than 20 percent and not more than 39 percent of the participant's total amount of loan repayments made for the taxable year involved. The loan repayments and the tax assistance payments are taxable income and will be reported to the Internal Revenue Service (IRS). The tax assistance payment will be paid to the IRS directly on the participant's behalf. LRP award recipients should be aware that the IRS may place them in a higher tax bracket than they would otherwise have been prior to their award.

C. Contract Extensions

Any individual who enters this program and satisfactorily completes his or her obligated period of service may apply to extend his/her contract on a year-by-year basis, as determined by the IHS. Participants extending their contracts may receive up to the maximum amount of $20,000 per year plus an additional 20 percent for Federal withholding.

VII. Agency Contact

Please address inquiries to Ms. Jacqueline K. Santiago, Chief, IHS Loan Repayment Program, 5600 Fishers Lane, Mail Stop: OHR (11E53A), Rockville, Maryland 20857, Telephone: 301/443–3396 [between 8:00 a.m. and 5:00 p.m. (Eastern Standard Time) Monday through Friday, except Federal holidays].

VIII. Other Information

IHS area offices and service units that are financially able are authorized to provide additional funding to make awards to applicants in the LRP, but not to exceed the maximum allowable amount authorized by statute per year, plus tax assistance. All additional funding must be made in accordance with the priority system outlined below. Health professions given priority for selection above the $20,000 threshold are those identified as meeting the criteria in 25 U.S.C. 1616a(g)(2)(A), which provides that the Secretary shall consider the extent to which each such determination:

- Affects the ability of the Secretary to maximize the number of contracts that can be provided under the LRP from the amounts appropriated for such contracts;
- Provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and
- Provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the LRP.

Contracts may be awarded to those who are available for service no later than September 30, 2018, and must be in compliance with 25 U.S.C. 1616a. In order to ensure compliance with the statutes, area offices or service units providing additional funding under this section are responsible for notifying the LRP of such payments before funding is offered to the LRP participant.

Should an IHS area office contribute to the LRP, those funds will be used for only those sites located in that area. Those sites will retain their relative ranking from their Health Professions Shortage Areas (HPSA) scores. For example, the Albuquerque Area Office identifies supplemental monies for dentists. Only the dental positions within the Albuquerque Area will be funded with the supplemental monies consistent with the HPSA scores within that area.

Should an IHS service unit contribute to the LRP, those funds will be used for only those sites located in that service unit. Those sites will retain their relative ranking from their HPSA scores.

Dated: April 9, 2018.

Michael D. Weahkee,

RADM, Assistant Surgeon General, U.S. Public Health Service, Acting Director, Indian Health Service.

[FR Doc. 2018–07892 Filed 4–17–18; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Mental Health Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Mental Health Council.

Date: May 17, 2018.

Open: 9:00 a.m. to 12:30 p.m.

Agenda: Presentation of the NIMH Director's Report and discussion of NIMH program.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Closed: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Jean G. Noronha, Ph.D., Director, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–3367, *jnoronha@mail.nih.gov.*

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.nimh.nih.gov/about/advisory-boards-and-groups/namhc/index.shtml.,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: April 12, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–08049 Filed 4–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; AMP–AD Consortium and Coordinating Center.

Date: May 15, 2018.

Time: 10:00 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Ave, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alexander Parsadanian, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building 2C/212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *PARSADANIANA@NIA.NIH.GOV*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 12, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–08046 Filed 4–17–18; 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, 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 grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Review of Transition to Independence Application.

Date: May 7, 2018.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant application.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W602 Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Delia Tang, MD, Scientific Review Officer, Resources Training and Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W602, Bethesda, MD 20892–9750, 240–276–6456, *tangd@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Research Centers and Coordinating Center for Improving Management of Symptoms Across Cancer Treatments.

Date: May 17, 2018.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W634 Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Jennifer C. Schiltz, Ph.D., Scientific Review Officer, Special Review Branch Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W634, Bethesda, MD 20892–9750, 240–276–5864, *jennifer.schiltz@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Glycobiology of Cancer.

Date: May 24, 2018.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W260, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Nadeem Khan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W260, Bethesda, MD 20892–9750, 240–276–5856, *nadeem.khan@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Minority—PDX Development and Trial Center Network.

Date: May 31–June 1, 2018.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda Downtown, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Byeong-Chel Lee, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W238, Bethesda, MD 20892–9750, 240–276–7755, *byeong-chel.lee@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project Review V (P01).

Date: June 7–8, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Timothy C. Meeker, MD, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W606, Bethesda, MD 20892–9750, 240–276–6464, *meekert@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI U01 Review.

Date: June 7, 2018.

Time: 10:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W248, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Mukesh Kumar, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W618, Bethesda, MD 20892–9750, 240–276–6611, *mukesh.kumar3@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Quantitative Imaging.

Date: June 7, 2018.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W260, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Nadeem Khan, Ph.D. Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W260, Bethesda, MD 20892–9750, 240–276–5856, *nadeem.khan@nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee J—Career Development.

Date: June 12–13, 2018.

Time: 5:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Tushar Deb, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W624, Bethesda, MD 20892–9750, 240–276–7684, *tushar.deb@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCTN Review Meeting 1.

Date: June 14–15, 2018.

Time: 5:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael B. Small, Ph.D., Scientific Review Officer, Program and Review Extramural Staff Training Office, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W412, Bethesda, MD 20892–9750, 240–276–6438, *smallm@mail.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: April 12, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–08044 Filed 4–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Cancer Institute Clinical Trials and Translational Research Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will also be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

Name of Committee: National Cancer Institute Clinical Trials and Translational Research Advisory Committee.

Date: July 11, 2018.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: Strategic Discussion of NCI's Clinical and Translational Research Programs.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room TE406, Rockville, MD 20850.

Contact Person: Sheila A. Prindiville, MD, MPH, Director, Coordinating Center for Clinical Trials, National Institutes of Health, National Cancer Institute, Coordinating Center for Clinical Trials, 9609 Medical Center Drive, Room 6W136, Rockville, MD 20850, 240–276–6173, *prindivs@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/ctac/ctac.htm,* where an agenda and any additional information for the meeting will be posted when available.

(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: April 12, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–08045 Filed 4–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Early Phase Development of Psychosocial and Preventive Interventions.

Date: May 18, 2018.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Clinical Trials to Test the Effectiveness of Treatment, Preventive, and Services Interventions (R01).

Date: May 18, 2018.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–443–9699, *bursteinme@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: April 12, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–08050 Filed 4–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Drug Abuse.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Drug Abuse.

Date: May 15, 2018.

Closed: 9:00 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Open: 10:30 a.m. to 4:00 p.m.

Agenda: This portion of the meeting will be open to the public for announcements and reports of administrative, legislative, and program developments in the drug abuse field.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Susan R.B. Weiss, Ph.D., Director, Division of Extramural Research, Office of the Director, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, NSC, Room 5274, MSC 9591, Rockville, MD 20892, 301–443–6487, *sweiss@nida.nih.gov*.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.drugabuse.gov/NACDA/NACDAHome.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS).

Dated: April 12, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–08048 Filed 4–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Drug Discovery.

Date: April 30, 2018.

Time: 2:00 p.m. to 2:45 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jeffrey Smiley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room , 6194, MSC 7804, Bethesda, MD 20892, 301–594–7945, *smileyja@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 11, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–08042 Filed 4–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR Panel: Linking Provider Recommendation to Adolescent HPV Uptake.

Date: May 14, 2018.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Tasmeen Weik, DRPH, MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, 301–827–6480, *weikts@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 12, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–08043 Filed 4–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke, Special Emphasis Panel; Review of Epilepsy Centers Without Walls.

Date: May 3–4, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Alexandrian, 480 King Street, Alexandria, VA 22314.

Contact Person: Jimok Kim, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–9223, *Jimok.kim@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: April 12, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–08062 Filed 4–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Institute of Child Health and Human Development Special Emphasis Panel.

Date: May 18, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Minki Chatterji, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm. 2121D, Bethesda, MD 20892–7501, 301–827–5435, *minki.chatterji@nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group Population Sciences Subcommittee.

Date: May 18, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Minki Chatterji, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm. 2121D, Bethesda, MD 20892–7501, 301–827–5435, *minki.chatterji@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 12, 2018.

Michelle D. Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–08047 Filed 4–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7005–N–05]

60-Day Notice of Proposed Information Collection: New Construction Subterranean Termite Protection for New Homes

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 18, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Elissa Saunders, Acting Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Saunders.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

A. Overview of Information Collection

Title of Information Collection: New Construction Subterranean Termite Protection for New Homes.

OMB Approval Number: 2502–0525.

Form Number: HUD NPFA–99A and HUD NPFA–99B.

Type of Request: Extension of a currently approved collection.

Description of the need for the information and proposed use: HUD regulations at 24 CFR 200.926d(b)(3) require that the sites for HUD insured structures must be free of termite hazards. The HUD–NPCA–99–A requires the builder to certify that all required treatment for termites was performed by an authorized pest control company and further that the builder guarantees the treated area against infestation for one year. The form HUD–NPCA–99–B requires a licensed pest control company to provide to the builder a record of specific treatment information in those cases when the soil treatment method is used for prevention of subterranean termite infestation. When applicable the HUD–NPCA–99–B must accompany the HUD–NPCA–99–A. If the requested data is not collected, new home purchasers and HUD are subject to the risk of purchasing or insuring a home that is infested by termites and would have no recourse against the builder.

Agency form numbers, if applicable: HUD NPMA–99–A and HUD NPMA–99–B.

Respondents (*i.e.,* affected public): Business.

Estimated Number of Respondents: 78,000.

Estimated Number of Responses: 156,000.

Frequency of Response: On Occasion.

Average Hours per Response: 0.083.

Total Estimated Burdens: 12,948.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 30, 2018.

Dana T. Wade,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2018–08129 Filed 4–17–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7006–N–04]

60-Day Notice of Proposed Information Collection: Inspector Candidate Assessment Questionnaire

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 18, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW, Room 3178, Washington, DC 20410, Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Proposal: Inspector Candidate Assessment Questionnaire.

OMB Approval Number: 2577–0243.

Type of Request: Revision of a currently approved collection.

Form Number: Form HUD 50002A and Form HUD 50002B—HFA.

Description of the need for the information and proposed use: To meet the requirements of HUD's Uniform Physical Condition Standards (UPCS), the Physical Condition of Multifamily Properties and the Public Housing Assessment System (PHAS) regulations, the Department conducts physical condition inspections of approximately 14,000 multifamily and public housing properties annually. HUD uses contract inspectors that are trained and certified in the UPCS protocol by HUD to conduct UPCS inspections. Individuals who wish to be trained and certified UPCS by HUD are requested to electronically submit the questionnaire via the internet. The questionnaire provides HUD with basic knowledge of an individual's inspection skills and abilities.

As part of aligning REAC UPCS inspections with those conducted by state Housing Finance Agencies, state HFA staff also may fill out a form for information purposes only prior to attending the UPCS training.

Respondents: Applicants to the UPCS inspector certification program and state HFA staff.

Estimated Number of Respondents: 705.

Estimated Number of Responses: 705.

Frequency of Response: To apply to UPCS training.

Average Hours per Response: 15 to 20 minutes depending on the respondent.

Total Estimated Burdens: 225 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 29, 2018.

Merrie Nichols-Dixon,

Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2018–08132 Filed 4–17–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7005–N–06]

60-Day Notice of Proposed Information Collection: Congregate Housing Services Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 18, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: For copies of the proposed forms and other available information contact Jessica V. Grantling, Office of Housing Assistance and Grants Administration, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410 by email *Jessica.V.Grantling@hud.gov* telephone at 202–402–2521. (This is not a toll-free number.) Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Congregate Housing Services Program.

OMB Approval Number: 2502–0485.

Type of Request: Extension of currently approved collection.

Form Number: SF–424, 425, HUD–90003, HUD–90006, HUD–90198, HUD–91180–A, HUD–91178–A

Description of the need for the information and proposed use: Completion of the Annual Report by grantees provides HUD with essential information about whom the grant is serving and what sort of services the beneficiaries receive using grant funds.

The Summary Budget and the Annual Program Budget make up the budget of the grantee's annual extension request. Together the forms provide itemized expenses for anticipated program costs and a matrix of budgeted yearly costs. The budget forms show the services funded through the grant and demonstrate how matching funds, participant fees, and grant funds will be used in tandem to operate the grant program. Field staff approve the annual budget and request annual extension funds according to the budget. Field staff can also determine if grantees are meeting statutory and regulatory requirements through the evaluation of this budget.

HUD will use the Payment Voucher to monitor use of grant funds for eligible activities over the term of the grant. The Grantee may similarly use the Payment Voucher to track and record their requests for payment reimbursement for grant-funded activities.

Respondents: Non-profit institutions.

Estimated Number of Respondents: 49.

Estimated Number of Responses: 392.

Frequency of Response: Semi-annually to annually.

Average Hours per Response: 2.

Total Estimated Burdens: 612.5.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 30, 2018.

Dana T. Wade,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2018–08128 Filed 4–17–18; 8:45 a.m.]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX18GL00DT7ST00; OMB Control Number 1028–0087]

Agency Information Collection Activities: National Geological and Geophysical Data Preservation Program (NGGDPP) Grant Opportunity

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the U.S. Geological Survey (USGS) is proposing to renew authorization for information collection from state geological surveys that request NGGDPP funds to preserve geoscience materials and data.

DATES: Interested persons are invited to submit comments on or before June 18, 2018.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the U.S. Geological Survey, Information Collections Clearance Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov*. Please reference OMB Control Number 1028–0087 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact U.S. Geological Survey Information Collection Clearance Officer by email at *gs-info_collections@usgs.gov,* or by telephone at 510–504–0481.

SUPPLEMENTARY INFORMATION: We, the USGS, in accordance with the Paperwork Reduction Act of 1995, provide the general public and other Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below.

We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This notice concerns the collection of information to inform evaluation and selection of proposals for NGGDPP funding. Annual NGGDPP data preservation priorities are provided in the Program Announcement. Proposals are accepted from state geological surveys requesting funds to inventory, preserve, and make publicly available geoscience collections and data. Financial assistance is awarded annually on a competitive basis following the evaluation and ranking of state proposals by a review panel composed of representatives from the Department of the Interior, state geological surveys, and academic and museum institutions. Since its inception in 2007, NGGDPP has awarded 46 states $7,043,000, which, when matched or exceeded by the states, amounts to over $14 million invested in the rescue and preservation of valuable geoscientific samples and data for research. To submit a proposal, respondents must complete a project narrative and submit the application via *www.grants.gov*. Grant recipients must complete a final technical report at the end of the project period. Narrative and report guidance is available at *http://datapreservation.usgs.gov* and in the Program Announcement. Information provided by respondents is proprietary under the Freedom of Information Act (5 U.S.C. 552), implementation regulations (43 CFR part 2), and data and information public disclosure limitations (30 CFR 250.197). Responses are voluntary. Information about NGGDPP-funded projects conducted by state geological surveys is available to the public at *http://datapreservation.usgs.gov*.

Title of Collection: National Geological and Geophysical Data Preservation Program (NGGDPP) Grant Announcement Opportunity.

OMB Control Number: 1028–0087.

Form Number: NA.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: All state geological surveys may apply for NGGDPP grants.

Total Estimated Number of Annual Respondents: 35.

Total Estimated Number of Annual Responses: 70 (35 applications, 35 final technical report submissions).

Estimated Completion Time per Response: Grant application time estimate is 80 hours; final technical report completion time estimate is 10 hours.

Total Estimated Number of Annual Burden Hours: 3,150.

Respondent's Obligation: Required to Obtain a Benefit.

Frequency of Collection: Annually.

Total Estimated Annual Non-hour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authorities for this action are the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

Lindsay Powers,

NGGDPP Coordinator.

[FR Doc. 2018–08084 Filed 4–17–18; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX18GC009PLSG00; OMB Control Number 1028–0088]

Agency Information Collection Activities; National Cooperative Geologic Mapping Program (EDMAP and STATEMAP)

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the U.S. Geological Survey (USGS) is proposing to renew an information collection (IC).

DATES: Interested persons are invited to submit comments on or before June 18, 2018.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the U.S. Geological Survey, Information Collection Clearance Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov*. Please reference OMB Control Number 1028–0088, in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Darcy McPhee by email at *dmcphee@usgs.gov,* or by telephone at 703–648–6973.

SUPPLEMENTARY INFORMATION: We, the U.S. Geological Survey, in accordance with the Paperwork Reduction Act of 1995, provide the general public and other Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: EDMAP is the educational component of the NCGMP that is intended to train the next generation of

geologic mappers. The primary objective of the STATEMAP component of the NCGMP is to establish the geologic framework of areas that are vital to the welfare of individual States.

The NCGMP EDMAP program allocates funds to colleges and universities in the United States and Puerto Rico through an annual competitive cooperative agreement process. Every Federal dollar awarded is matched with university funds.

Geology professors, who are skilled in geologic mapping, request EDMAP funding to support undergraduate and graduate students at their college or university in a one-year mentored geologic mapping project that focuses on a specific geographic area.

Only State Geological Surveys are eligible to apply to the STATEMAP component of the NCGMP pursuant to the National Geologic Mapping Act (Pub. L. 106–148). Since many State Geological Surveys are organized under a state university system, such universities may submit a proposal on behalf of the State Geological Survey.

Each fall, the program announcements are posted to the *Grants.gov* website and respondents are required to submit applications (comprising Standard Form 424, 424A, 424B, Proposal Summary Sheet, the Proposal, and Budget Sheets. Additionally, EDMAP proposals must include a Negotiated Rate Agreement and a Support letter from a State Geologist or USGS Project Chief).

Since 1996, more than $5 million from the NCGMP has supported geologic mapping efforts of more than 1,200 students working with more than 260 professors at 161 universities in 44 states, the District of Columbia, and Puerto Rico. Funds for graduate projects are limited to $17,500 and undergraduate project funds limited to $10,000. These funds are used to cover field expenses and student salaries, but not faculty salaries or tuition. The authority for both programs is listed in the National Geologic Mapping Act (Pub. L. 106–148).

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2), and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited inspection.'' Responses are voluntary. No questions of a ''sensitive'' nature are asked.

Title: National Cooperative Geologic Mapping Program (NCGMP–EDMAP and STATEMAP).

OMB Control Number: 1028–0088.

Form Number: None.

Type of Review: Renewal without change.

Respondents/Affected Public: University or College faculty and State Geological Surveys.

Total Estimated Number of Annual Respondents: Approximately 50 University or College faculty and 45 State Geological Survey respondents.

Total Estimated Number of Responses: Approximately 95 responses.

Estimated Completion Time per Response: 36 hours.

Total Estimated Number of Annual Burden Hours: 3,420 hours total.

Respondent's Obligation: None. Participation is voluntary, though necessary to receive funding.

Frequency of Collections: Annually.

Total Estimated Annual Non-hour Burden Cost: There are no ''non-hour cost'' burdens associated with this IC.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authorities for this action are the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

Darcy McPhee,

Associate Program Coordinator, National Cooperative Geologic Mapping Program.

[FR Doc. 2018–08085 Filed 4–17–18; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS #25358; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before March 31, 2018, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by May 3, 2018.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before March 31, 2018. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

IOWA

Greene County

St. Columbkille Catholic Church, 805 Head St., Churdan, SG100002398

Story County

Ames Main Street Historic District, Roughly 100–400 blks. of Main & 5th Sts. with cross streets of Burnett, Kellogg, Douglas & Duff Sts., Ames, SG100002399

PENNSYLVANIA

Allegheny County

Wilkinsburg Historic District, Roughly bounded by North, E Swissvale, Center & Rebecca Aves., Stoner Way & MLK Jr. E Busway, Wilkinsburg Borough, SG100002401

Erie County

Lawrence Park Historic District, Roughly bounded by East Lake Rd., Lawrence Pkwy., Bell St. & Smithson Ave., Lawrence Park Township, SG100002402

WASHINGTON

Ferry County

Ferry County Courthouse, 350 E Delaware Ave., Republic, SG100002404

Grays Harbor County

Hulbert, Edward & Laura, House, 807 N M St., Aberdeen, SG100002405

King County

Century 21—Washington State Coliseum, 305 Harrison St., Seattle, SG100002406

Mount Zion Baptist Church, 1634 19th Ave., Seattle, SG100002407

Washington Athletic Club, 1325 Sixth Ave., Seattle, SG100002408

Pacific County

Shogren Cottage, 22107 Pacific Way, Ocean Park, SG100002409

WISCONSIN

Crawford County

St. Germain dit Gauthier House, 419 5th St., Prairie du Chien, SG100002411

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nominations and responded to the Federal Preservation Officer within 45 days of receipt of the nominations and supports listing the properties in the National Register of Historic Places.

ALASKA

Denali Borough

Mount McKinley National Park Headquarters District (Boundary Increase), Mi. 3.1 Denali Park Rd., Denali National Park and Preserve, BC100002397

NEW HAMPSHIRE

Coos County

Fabyan Guard Station, .7 mi. N of jct. of NH 302 & Cherry Mountain Rd., Carroll, SG100002400

PENNSYLVANIA

Warren County

Cornplanter Grant, Address Restricted, Elk Township vicinity, SG100002403

Authority: Section 60.13 of 36 CFR part 60.

Dated: April 2, 2018.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program and Keeper, National Register of Historic Places.

[FR Doc. 2018–08104 Filed 4–17–18; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1108]

Certain Jump Rope Systems; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 13, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Jump Rope Systems, LLC of Louisville, Colorado. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain jump rope systems by reason of infringement of U.S. Patent No. 7,789,809 (''the '809 patent'') and U.S. Patent No. 8,136,208 (''the '208 patent''). The complaint, as supplemented, further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on April 12, 2018, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain jump rope systems by reason of infringement of claim 1 of the '809 patent or claim 1 of the '208 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Jump Rope Systems, LLC, 500 Front Street, Louisville, CO 80027.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Suzhou Everise Fitness Co., Ltd., Room 10008, Shishang Siji Commerical Plaza, No. 1060, Jiayuan Road, Yuanhe Street Xiangcheng District, Suzhou, Jiangsu China.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: April 12, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–08079 Filed 4–17–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–566]

Trade Authorities Extension: Economic Impact of Trade Agreements Implemented Under the Bipartisan Trade Act of 2015

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and notice of opportunity to file written submissions.

SUMMARY: Having been notified by the U.S. Trade Representative that the President on March 20, 2018, submitted a report to Congress that contains a request for an extension of trade authorities procedures, the Commission, as required by section 103(c)(3)(B) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 [1] (Bipartisan Trade Act), has instituted an investigation for the purpose of preparing a report to Congress that contains a review and analysis of the economic impact on the United States of all trade agreements implemented between the date of the enactment of the Bipartisan Trade Act and March 20, 2018. The Commission is unaware of any trade agreements that were implemented under the Bipartisan Trade Act between the date of its enactment and March 20, 2018.

DATES:

May 2, 2018: Deadline for filing written submissions.

June 1, 2018: Transmittal of Commission report to Congress.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW, Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commissions electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Information specific to this investigation may be obtained from Yasnanhia Cabral, Project Leader, Office of Operations (202–205–2230, or *yasnanhia.cabral@usitc.gov*). For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Peg O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its website (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background: As indicated above, the Commission is unaware of any trade agreements that were implemented under the Bipartisan Trade Act between the date of its enactment (June 29, 2015) and March 20, 2018, the date of the President's request to Congress to extend trade authorities procedures. While at least one trade agreement was negotiated during this period, the Trans-Pacific Partnership Agreement, it was not implemented during this period.

The Commission instituted this investigation under section 332 of the Tariff Act of 1930 (19 U.S.C. 1332) to facilitate public filing of comments and public review of such comments and to include the report in an existing series of Commission reports. The Commission will submit its report to Congress by June 1, 2018.

Written Submissions: The Commission does not plan to hold a public hearing in connection with this investigation. However, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., May 2, 2018. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 and the Commission's *Handbook on Filing Procedures* require that interested parties file documents *electronically* on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202–205–1802).

Confidential Business Information. Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information is clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission will not include any confidential business information in the report that it sends to Congress or that it makes available to the public. However, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) By the Commission, its employees and offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any confidential business information in a manner that would reveal the operations of the firm supplying the information.

Summaries of Written Submissions: The Commission intends to publish summaries of the positions of interested persons. Persons wishing to have a summary of their position included in the report should include a summary with their written submission. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will identify the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

[1] 19 U.S.C. 4202(c)(3)(B).

Issued: April 12, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–08069 Filed 4–17–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1033]

Certain Arrowheads With Arcuate Blades and Components Thereof; Commission Final Determination of Violation of Section 337; Issuance of a General Exclusion Order; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that there is a violation of section 337 of the Tariff Act of 1930, as amended in the above-captioned investigation. The Commission has issued a general exclusion order (''GEO'') barring entry of certain arrowheads with arcuate blades and components thereof that infringe the patents asserted in this investigation. The Commission has terminated this investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On January 6, 2017, the Commission instituted an investigation under section 337, based on a complaint filed by complainant Flying Arrow Archery, LLC of Belgrade, Montana (''Flying Arrow,'' or Complainant), alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain arrowheads with arcuate blades and components thereof (the ''Accused Products'') by reason of infringement of one or more of claims 5 and 25 of U.S. Patent No. 8,920,269 (''the '269 patent''); the claim of U.S. Design Patent No. D713,919 (''the '919 design patent''); and the claim of U.S. Design Patent No. D729,336 (''the '336 design patent'') (collectively, the ''Asserted Patents''). *See* 82 FR 1760–61 (Jan. 6, 2017) (Notice of Investigation). The Notice of Investigation named the following respondents: Arthur Sifuentes of Spring, Texas; Liu Mengbao and Zhou Yang, both of Guangdong, China; Jiangfeng Mao of Jiangsu, China; Sandum Precision Industry (China) Co., Ltd. (In-Sail) of Guangdong Province, China; Wei Ran, Dongguan Hongsong, and Wanyuxue, all of Guangdong, China; and Yandong of Henan, China. A Commission investigative attorney (''IA'') is participating in this investigation. *Id.*

On April 4, 2017, the ALJ found Arthur Sifuentes, Zhou Yang, Jianfeng Mao, Sandum Precision, and Liu Mengbao (collectively, the ''Defaulting Respondents'') in default. *See* Order No. 6 (*unreviewed,* Commission Notice (Apr. 28, 2017)). On April 6, 2017, the ALJ issued an Initial Determination granting Flying Arrow's motion to terminate the Investigation as to the remaining respondents based on withdrawal of the infringement allegations in the Complaint. *See* Order No. 7 (*unreviewed,* Commission Notice (Apr. 28, 2017)).

On August 15, 2017, complainant filed a motion for summary determination of a violation of section 337 pursuant to Commission Rule 210.16(c)(2) to support its request for entry of a general exclusion order with respect to all asserted patents. The IA filed a timely response in support of the motion. No respondent filed a response to the motion.

On November 8, 2017, the presiding ALJ issued an ID (Order No. 9) granting Complainant's motion for summary determination thus finding a violation of section 337, and recommending the issuance of a GEO. No party petitioned for review of the ID.

On December 21, 2017, the Commission determined not to review Order No. 9. *See* ''Notice of Commission Decision Not to Review an Initial Determination Granting Complainant's Motion for Summary Determination of a Violation of Section 337; Request for Submissions [on Remedy, the Public Interest, and Bonding]'' (December 21, 2017) (''Commission Notice''). *See* 82 FR 61587–88 (Dec. 28, 2017). The Commission's determination resulted in a determination of a violation of section 337.

The Commission requested written submissions on remedy, public interest, and bonding. *Id.* Complainant and the IA timely filed their submissions pursuant to the Commission Notice. No other parties filed any submissions in response to the Commission Notice.

Having reviewed the submissions filed in response to the Commission's Notice and the evidentiary record, the Commission has determined that the appropriate form of relief in this investigation is a GEO prohibiting the unlicensed importation of certain arrowheads with arcuate blades and components thereof covered by one or more of claims 5 and 25 of the '269 patent, the claim of the '919 design patent, and the claim of the '336 design patent.

The Commission has further determined that the public interest factors enumerated in subsection (g)(1) (19 U.S.C. 1337(g)(1)) do not preclude issuance of the above-referenced remedial order. Finally, the Commission has determined that a bond in the amount of one hundred (100) percent of the entered value is required to permit temporary importation of the articles in question during the period of Presidential review (19 U.S.C. 1337(j)). The investigation is terminated.

The Commission's order, opinion, and the record upon which it based its determination were delivered to the President and to the United States Trade Representative on the day of their issuance. The Commission has also notified the Secretary of the Treasury of the order.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

Issued: April 12, 2018.

By order of the Commission.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–08036 Filed 4–17–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–019]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 20, 2018 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–601 and 731–TA–1411 (Preliminary) (Laminated Woven Sacks from Vietnam). The Commission is currently scheduled to complete and file its determinations on April 23, 2018; views of the Commission are currently scheduled to be completed and filed on April 30, 2018.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier notification of this meeting was not possible.

By order of the Commission.

Issued: April 16, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–08221 Filed 4–16–18; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Safe Drinking Water Act

On April 11, 2018, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of New York in a lawsuit entitled *United States and the State of New York* v. *Town of Ticonderoga, New York,* Civil Action No. 8:18–cv–442–GLS–CFH.

In that case the United States seeks relief for the Town's violations of the Long Term Enhanced Treatment Rule promulgated by the Environmental Protection Agency under the Safe Drinking Water Act. The complaint also contains claims alleged by the State of New York on behalf of the New York Department of Health under the State's laws and regulations. To resolve the claims alleged in the complaint, the Town of Ticonderoga agrees to perform injunctive relief that includes major long-term compliance projects plus interim measures; pay a civil penalty of $50,000 to be divided evenly between the United States and the State of New York; and perform two supplemental environmental projects.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and refer to *United States* v. *Town of Ticonderoga, New York,* Civil Action No. 8:18–cv–442–GLS–CFH, D.J. Ref. 90–5–1–1–11348. All comments must be submitted no later than 30 days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $7.75 (25 cents per page) payable to the United States Treasury.

Robert Maher,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–08063 Filed 4–17–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Extension of Public Comment Period for Lodging of Proposed Consent Decree Under the Clean Water Act

On April 2, 2018, the Department of Justice (DOJ) lodged a proposed Consent Decree with the United States District Court for the Northern District of Indiana in *United States and State of Indiana* v. *United States Steel Corporation,* Civil Action No. 2:18–cv–00127. The lodging of the proposed Decree immediately followed DOJ's filing in the same court of a civil complaint (Complaint) against United States Steel Corporation (U.S. Steel). Notice of lodging was published in the **Federal Register** on April 6, 2018, which opened a thirty (30) day period for public comment on the proposed Consent Decree. At the request of some members of the public, the Department of Justice is extending the public comment period for an additional 30 days.

The proposed Consent Decree resolves Clean Water Act and Emergency Planning and Community Right-to-Know Act claims in the Complaint by the United States on behalf of the U.S. Environmental Protection Agency (EPA), the National Park Service (NPS), and the National Oceanic and Atmospheric Administration (NOAA), and by Co-Plaintiff the State of Indiana (State) on behalf of the Indiana Department of Environmental Management and the Indiana Department of Natural Resources. Under the proposed Decree, U.S. Steel agrees, among other things, to undertake measures to improve its wastewater processing monitoring system at its steel manufacturing and finishing facility, known as the Midwest Plant, in Portage, Indiana. U.S. Steel also agrees to pay a civil penalty to EPA and the State and to reimburse EPA and the NPS for response costs incurred as a result of an April 2017 spill of wastewater containing hexavalent chromium. U.S. Steel will also pay costs to NOAA for assessing natural resource damages due to the April 2017 spill, and damages to NPS resulting from the closure of several beaches along the Indiana Dunes National Lakeshore due to the spill.

Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al* v. *United States Steel Corporation,* D.J. Ref. No. 90–5–2–1–06476/2. All comments must be submitted no later than sixty (60) days following the April 6, 2018 publication date. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*

To submit comments:	*Send them to:*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: *http://www.justice.gov/enrd/consent-decrees.*

We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $14.25 (25 cents per page reproduction cost), payable to the United States Treasury.

Thomas Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–08124 Filed 4–17–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Public Meeting of the Task Force on Apprenticeship Expansion

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA) and its implementing regulations, notice is hereby given to announce the final public meeting of the Task Force on Apprenticeship Expansion on Thursday, May 10, 2018. The Task Force is a FACA committee established by Presidential Executive Order that is charged with identifying strategies and proposals to promote and expand apprenticeships, especially in sectors where apprenticeship programs are insufficient. The Task Force is solely advisory in nature, and will consider reports, comments, research, evidence, and existing practices as appropriate to develop recommendations for inclusion in its final report to the President. To achieve its mission, the Task Force will convene its final meeting in person.

DATES: The meeting will begin at approximately 1:00 p.m. Eastern Daylight Time on Thursday, May 10, 2018, and adjourn at approximately 3:00 p.m. Eastern Daylight Time.

ADDRESSES: The meeting will be held at the U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue NW, Washington DC 20210. The Department will post any updates regarding the agenda and meeting logistics to the Task Force website: *https://www.dol.gov/apprenticeship/task-force.htm.*

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Rowe, Senior Policy Advisor to the Secretary, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, Telephone: (202) 693–2772 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Public Viewing Accommodations

In order to promote openness, and increase public participation, in person or web based viewing accommodations will be made available for members of the public to observe the meeting proceedings. Additional information will be provided on *https://www.dol.gov/apprenticeship/task-force.htm.* Members of the public interested in the viewing accommodations, must register via the registration link below, space is limited and in person participants are encouraged to arrive 30 minutes early to allow for security clearance into the U.S. Department of Labor, Frances Perkins Building.

Security and Transportation Instructions for Frances Perkins Building

Meeting participants should use the visitor's entrance to access the Frances Perkins Building, one block north of Constitution Avenue on 3rd and C Streets NW. For security purposes:

1. Visitors must present valid photo identification (ID) to receive a visitor badge.
2. Visitors must know the name of the event you are attending: The meeting event is the Task Force on Apprenticeship Expansion meeting.
3. Visitor badges are issued by the security officer at the Visitor Entrance located at 3rd and C Streets NW, as described above.
4. Laptops and other electronic devices may be inspected and logged for identification purposes.
5. Due to limited parking options, Metrorail is the easiest way to travel to the Frances Perkins Building. For individuals wishing to take Metrorail, the closest metro stop to the building is Judiciary Square on the Red Line.

Notice of Intent To Attend the Meeting and Submission of a Written Statement

Interested members of the public must register for the Task Force meeting before noon on the day of the meeting, via the public registration website using the following link: *https://www.apprenticeshiptaskforce.com/reg/.* Additionally, individuals with special needs and/or disabilities that will require special accommodations should send an email to *Apprenticeshiptaskforce@dol.gov* with the subject line ''Special Accommodations for the May 2018 Task Force Meeting'' no later than Tuesday, May 1, 2018.

The tentative agenda for this meeting includes the following:

- Discuss Any Remaining Issues from the April 10, 2018, Meeting
- Final Task Force Discussions and Deliberations
- Next Steps

Also in the interest of increasing public participation, any member of the public who wishes to provide a written statement should send it via electronic mail to *Apprenticeshiptaskforce@dol.gov,* subject line ''Public Comment May 2018 Task Force Meeting.'' The agenda and meeting logistics may be updated between the time of this publication and the scheduled date of the Task Force meeting. All meeting updates will be posted to the Task Force website: *https://www.dol.gov/apprenticeship/task-force.htm.*

Rosemary Lahasky,

Deputy Assistant Secretary for the Employment and Training Administration.

[FR Doc. 2018–08113 Filed 4–17–18; 8:45 am]

BILLING CODE 4510–FR–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0047]

Bloodborne Pathogens Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in the Bloodborne Pathogens Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by June 18, 2018.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0047, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2010–0047) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at (202) 693–2222 below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Charles McCormick or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance process to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The information collection requirements specified in the Bloodborne Pathogens Standard require employers to: Develop and maintain exposure control plans; develop a housekeeping schedule; provide workers with Hepatitis B Virus (HBV) vaccinations, post-exposure medical evaluations and follow-up; maintain medical and training records for specified periods; and provide employees and their authorized representatives with access to these records. Human Immunodeficiency Virus (HIV) and HBV research laboratories and production facilities must also adopt or develop, and review at least once a year, a biosafety manual. Employers must also establish and maintain a sharps injury log for the recording of percutaneous injuries from contaminated sharps.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply—for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The Agency is requesting an adjustment increase of 158,940 burden hours (from 5,528,742 hours to 5,687,682). This increase is a result of updated data showing an increase in the number of facilities (from 691,669 to 700,724) and employees (from 8,270,108 to 8,399,358) affected by the Standard.

The operation and maintenance cost increased from $46,093,897 to $51,817,985 due to the increase in medical costs. This increase is also a result of updated data showing an increase in the number of facilities and employees affected by the Standard.

Type of Review: Extension of a currently approved collection.

Title: Bloodborne Pathogens Standard (29 CFR 1910.1030).

OMB Control Number: 1218–0180.

Affected Public: Business or other for-profits.

Number of Respondents: 700,724.

Frequency: On occasion.

Average Time per Response: Varies.

Estimated Number of Responses: 26,656,386.

Estimated Total Burden Hours: 5,687,682.

Estimated Cost (Operation and Maintenance): $51,817,985.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number (Docket No. OSHA–2010–0047) for the ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so that the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350; TTY (877) 889–5627. Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on April 12, 2018.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2018–08122 Filed 4–17–18; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

DFEC Claims Identity Solution

AGENCY: Division of Federal Employees' Compensation, Office of Workers' Compensation Programs, Labor.

ACTION: Notice; Request for Comments.

SUMMARY: The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA). In this capacity, OWCP's Division of Federal Employees' Compensation (DFEC) routinely responds to a myriad of written and telephonic inquiries. Claims staff issue written correspondence when developing and adjudicating a claim, and when terminating, reducing, or suspending compensation entitlement.

Because of security and safety concerns expressed by our employees, DFEC is proposing to change its longstanding procedure of placing employee names on correspondence and all decisions in FECA cases. A similar change would be applied to oral communications. To fulfill this requirement, the Division proposes to implement new pseudonym procedures by August 2018.

DATES: Written comments must be submitted to the office listed below on or before June 18, 2018.

ADDRESSES: You may submit comments concerning this notice by mail, delivery service, or by hand to Ms. Yoon Ferguson, United States Department of Labor, 200 Constitution Ave. NW, Room S–3201, Washington, DC 20210, telephone/fax to (202) 354–9647, by email to *ferguson.yoon@dol.gov.* Please use only the designated method of transmission for comments (mail, fax, or email). Please note that comments after the comment period will not be considered.

SUPPLEMENTARY INFORMATION: OWCP DFEC fully recognizes the importance of the safety and welfare of DFEC employees in its mandate to fulfill the requirements of the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 et seq. Balancing the safety of its employees and the communication needs of our stakeholders, DFEC is proposing the below methods in its written and telephonic communications:

1. All signatures and names currently appearing on outgoing correspondence will be replaced with ''Division of Federal Employees' Compensation''.
2. To preserve the Employees' Compensation Appeals Board's (ECAB) ability to identify the adjudicator of certain decisions, DFEC will use a QR code to identify decision authors.
3. A naming convention for the staff will be used to provide every employee with a pseudonym for use in telephone and other oral communications. Employees will utilize the entire first name and last name initial only. If more than one individual has that combination (*e.g.,* two Thomas J.'s in an office) then the middle initial will be added.
4. Outgoing correspondence will not reveal the pseudonym when printed. Instead the pseudonym will be embedded into a QR Code on the letter, allowing any person with a QR scanner on their mobile device to view the pseudonym.

This notice will be published in the **Federal Register**.

Dated: April 12, 2018.

Julia K. Hearthway,

Director, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2018–08130 Filed 4–17–18; 8:45 am]

BILLING CODE 4510–CH–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251; NRC–2018–0074]

Florida Power & Light Company; Turkey Point Nuclear Generating Unit Nos. 3 and 4

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal application; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received an application with three supplements for the subsequent renewal of Renewed Facility Operating License Nos. DPR–31 and DPR–41, which authorize Florida Power & Light Company (the applicant) to operate Turkey Point Nuclear Generating Unit Nos. 3 and 4 (Turkey Point). The renewed licenses would authorize the applicant to operate Turkey Point for an additional 20 years beyond the period specified in each of the current renewed licenses. The current renewed operating licenses for Turkey Point expire as follows: Unit 3 on July 19, 2032, and Unit 4 on April 10, 2033.

DATES: The license renewal application referenced in this document was available on March 21, 2018.

ADDRESSES: Please refer to Docket ID NRC–2018–0074 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0074. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-

available documents online in the ADAMS Public Documents collection at *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: Lois M. James, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3306, email: *Lois.James@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC has received an application (ADAMS Package Accession No. ML18037A812) from Florida Power & Light Company (FPL or the applicant), dated January 30, 2018, Supplement 1 to the application (ADAMS Package Accession No. ML18044A644), dated February 9, 2018; Supplement 2 to the application (ADAMS Package Accession No. ML18053A123), dated February 16, 2018; and Supplement 3 to the application (ADAMS Package Accession No. ML18072A224) dated March 1, 2018, filed pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, and part 54 of title 10 of the *Code of Federal Regulations,* to renew the operating licenses for Turkey Point. Renewal of the license would authorize the applicant to operate the facility for an additional 20-year period beyond the period specified in the respective current renewed operating licenses. The current renewed operating licenses for Turkey Point expire as follows: Unit 3 on July 19, 2032, and Unit 4 on April 10, 2033. The Turkey Point units are Pressurized Water Reactors located in Homestead, Miami-Dade County, Florida. The acceptability of the tendered application for docketing, and other matters, including an opportunity to request a hearing, will be the subject of subsequent **Federal Register** notices.

A copy of the license renewal application for Turkey Point, as supplemented, is also available for inspection near the site, at the Homestead Branch Library, 700 North Homestead Boulevard, Homestead, Florida 33030, at the Naranja Branch Library, 14850 SW 280 Street, Homestead, Florida 33032.

Dated at Rockville, Maryland, this 13th day of April 2018.

For the Nuclear Regulatory Commission.

Eric R. Oesterle,

Chief, License Renewal Project Branch, Division of Materials and License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2018–08092 Filed 4–17–18; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* April 18, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth 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 April 13, 2018, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 431 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–143, CP2018–205.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2018–08106 Filed 4–17–18; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83042; File No. SR–CBOE–2018–028]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt PAR Hardware Replacement Fees

April 12, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 2, 2018, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt Fees related to PAR hardware.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt Fees related to PAR hardware. Specifically, the Exchange proposes to assess fees for certain PAR related hardware that needs to be replaced due to loss or damage. Currently, the Exchange provides replacement PAR tablets, stylus, chargers, adapters and protective cases free of charge to Trading Permit Holders (''TPHs''). While the Exchange will continue to provide these initial items free of charge, as well as replace any defective items free of charge, it no longer wishes to subsidize items that need replacement because of loss or because of non-normal wear and tear. As such, the Exchange proposes to implement the following fees:

Replacement Tablet	$1,300 each.
Replacement Stylus Pen	$100 each.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Replacement Chargers	$75 each.
Replacement adapters and protective cases.	$50 each.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[3] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[4] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[5] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes the proposed rule change is reasonable because the amount of fees assessed reflect the approximate cost to the Exchange to provide those items to TPHs. The Exchange believes it's equitable and not unfairly discriminatory because TPHs that lose these items or damage these items from non-normal wear or tear should be responsible for the cost of replacement. The Exchange believes the proposed fees will encourage TPHs to take proper care of the above-mentioned PAR related hardware. As noted above, the Exchange will still provide the initial items free of charge and will also not charge TPHs to replace defective items (that were not the result of non-normal wear and tear).

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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change applies to all TPHs that lose or damage the above-mentioned PAR related hardware. The Exchange also notes the proposed rule change is not intended for competitive purposes, but rather because the Exchange no longer wishes to subsidize TPHs for items they lose or break.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and paragraph (f) of Rule 19b–4[7] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2018–028 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–CBOE–2018–028. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2018–028 and should be submitted on or before May 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–08056 Filed 4–17–18; 8:45 am]

BILLING CODE 8011–01–P

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83040]

Order Granting Application by MIAX PEARL, LLC for Exemption Pursuant to Section 36(a) of the Exchange Act From the Rule Filing Requirements of Section 19(b) of the Exchange Act With Respect to Certain Rules Incorporated by Reference

April 12, 2018.

MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') has filed with the Securities and Exchange Commission (''Commission'') an application for an exemption under Section 36(a)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] from the rule filing requirements of Section 19(b) of the

[1] 15 U.S.C. 78mm(a)(1).

Exchange Act [2] with respect to certain rules of the Miami International Securities Exchange, LLC (''MIAX Options'' [3]) that the Exchange seeks to incorporate by reference. Section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class thereof, from any provision of the Exchange Act or rule thereunder, if necessary or appropriate in the public interest and consistent with the protection of investors.

On September 27, 2017, the Commission approved a proposed rule change by MIAX Options to adopt new Chapter XVIII comprising MIAX Options Rules 1801–1812 (''MIAX Options Index Options Rules''), to accommodate the trading of index options by MIAX Options members and establish generic listing standards and maintenance standards to permit MIAX Options to list ''broad-based'' and ''narrow-based'' index options pursuant to Rule 19b–4(e) under the Act.[4] On February 8, 2018, MIAX PEARL filed a proposed rule change with the Commission to incorporate by reference, in new Chapter XVIII of the MIAX PEARL rulebook, the rules contained in MIAX Options Chapter XVIII.[5]

MIAX PEARL has requested, pursuant to Rule 0–12 under the Exchange Act,[6] that the Commission grant the Exchange an exemption from the rule filing requirements of Section 19(b) of the Exchange Act for changes to MIAX PEARL Chapter XVIII that are effected solely by virtue of a change to Chapter XVIII of the MIAX Options rules. Specifically, MIAX PEARL requests that it be permitted to incorporate by reference changes made to each MIAX Options Index Options Rule that is cross-referenced in the MIAX PEARL Chapter XVIII rules,[7] without the need for the Exchange to file separately the same proposed rule changes pursuant to Section 19(b) of the Exchange Act.[8] By virtue of these incorporations by reference, MIAX PEARL members will comply with the MIAX Options Index Options Rules by complying with the MIAX Options rules referenced in the MIAX PEARL Chapter XVIII rules.[9] The Exchange states that the MIAX Options rules the Exchange seeks to incorporate by reference are categories of rules that are regulatory in nature. The Exchange has agreed to provide written notice to its members whenever MIAX Options proposes a change to Chapter XVIII of its Rules.[10]

The Exchange believes this exemption is appropriate in the public interest and consistent with the protection of investors because it will promote more efficient use of the Exchange's and the Commission's resources by avoiding duplicative rule filings based on simultaneous changes to identical rules sought by more than one self-regulatory organization (''SRO''),[11] and because it will result in the Exchange's rules being consistent with the relevant cross-referenced MIAX Options rules.

The Commission has issued exemptions similar to the Exchange's request.[12] In granting one such exemption in 2010, the Commission repeated a prior, 2004 Commission statement that it would consider similar future exemption requests from other SROs, provided that:

- An SRO wishing to incorporate rules of another SRO by reference has submitted a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, has identified the applicable originating SRO(s), together with the rules it wants to incorporate by reference, and otherwise has complied with the procedural requirements set forth in the Commission's release governing procedures for requesting exemptive orders pursuant to Rule 0–12 under the Exchange Act; [13]
- The incorporating SRO has requested incorporation of categories of rules (rather than individual rules within a category) that are not trading rules (*e.g.,* the SRO has requested incorporation of rules such as margin, suitability, or arbitration); and
- The incorporating SRO has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO.[14]

The Commission believes that the Exchange has satisfied each of these conditions. The Commission also believes that granting the Exchange an exemption from the rule filing requirements under Section 19(b) of the Exchange Act will promote efficient use of Commission and Exchange resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO.[15] The Commission therefore finds it appropriate in the public interest and consistent with the protection of investors to exempt the Exchange from the rule filing requirements under Section 19(b) of the Exchange Act with respect to the above-described rules it has incorporated by reference. This exemption is

[2] 15 U.S.C. 78s(b).

[3] The Commission notes that MIAX PEARL referred to the Miami International Securities Exchange, LLC as ''MIAX Options'' in its application for an exemption under Section 36(a)(1) of the Exchange Act. *See* Letter from Dimitriy Kotov, Counsel, MIAX PEARL, to Brent J. Fields, Secretary, Commission, dated March 14, 2018 (''Exemptive Request''). References herein to the rules of MIAX Options are to the rules of the Miami International Securities Exchange, LLC.

[4] *See* 17 CFR 240.19b–4(e). *See also* Securities Exchange Act Release No. 81739 (February 2, 2017), 82 FR 46111 (October 3, 2017). The proposed rule change also made related changes to other rules in the MIAX Options rulebook. *See id.*

[5] *See* Securities Exchange Act Release No. 82756 (February 21, 2018), 83 FR 8538 (February 27, 2018). MIAX PEARL's proposed rule change was approved by the Commission on April 12, 2018. *See* Securities Exchange Act Release No. 83039.

[6] 17 CFR 240.0–12.

[7] MIAX PEARL Chapter XVIII states ''[t]he rules contained in MIAX Options Exchange Chapter XVIII, as such rules may be in effect from time to time (the 'Chapter XVIII Rules'), are hereby incorporated by reference into this MIAX PEARL Chapter XVIII, and are thus MIAX PEARL Rules and thereby applicable to MIAX PEARL Members.''

[8] *See* Exemptive Request, *supra* note 3, at 2.

[9] *Id.*

[10] The Exchange states that it will provide such notice on its website in the same section it uses to post its own proposed rule change filings pursuant to Rule 19b-4(*l*). *See* 17 CFR 240.19b–4(*l*). In addition, the Exchange states that its website will also include a link to the MIAX Options website where the proposed rule change filings are located. *See* Exemptive Request, *supra* note 3, at 2.

[11] *Id.*

[12] *See, e.g.,* Securities Exchange Act Release Nos. 76998 (January 29, 2016), 81 FR 6066, 6083–84 (February 4, 2016) (order granting application for registration as a national securities exchange of ISE Mercury, LLC (now known as Nasdaq MRX, LLC) and exemptive request relating to rules of the International Securities Exchange, LLC (now known as Nasdaq ISE, LLC) (''ISE'') incorporated by reference, including index options rules); 70050 (July 26, 2013), 78 FR 46622, 46642 (August 1, 2013) (order granting application for registration as a national securities exchange of Topaz Exchange, LLC (now known as Nasdaq GEMX, LLC) and exemptive request relating to rules of ISE incorporated by reference, including index options rules); 61152 (December 10, 2009), 74 FR 66699, 66709–10 (December 16, 2009) (order granting application for registration as a national securities exchange of C2 Options Exchange, Incorporated (''C2'') and exemptive request relating to rules of the Chicago Board Options Exchange, Incorporated (''CBOE'') incorporated by reference, including index options rules). *See also, e.g.,* Securities Exchange Act Release No. 61534 (February 18, 2010), 75 FR 8760 (February 25, 2010) (order granting BATS Exchange, Inc.'s exemptive request relating to rules incorporated by reference by the BATS Exchange Options Market rules) (''BATS Options Market Order'').

[13] *See* 17 CFR 240.0–12 and Securities Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998) (''Commission Procedures for Filing Applications for Orders for Exemptive Relief Pursuant to Section 36 of the Exchange Act; Final Rule'').

[14] *See* BATS Options Market Order, *supra* note 12 (citing Securities Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004) (order granting exemptive request relating to rules incorporated by reference by several SROs) (''2004 Order'')).

[15] *See* BATS Options Market Order, *supra* note 12, 75 FR at 8761; *see also* 2004 Order, *supra* note 14, 69 FR at 8502.

conditioned upon the Exchange promptly providing written notice to its members whenever MIAX Options changes a rule that the Exchange has incorporated by reference.

Accordingly, It is ordered, pursuant to Section 36 of the Exchange Act,[16] that the Exchange is exempt from the rule filing requirements of Section 19(b) of the Exchange Act solely with respect to changes to the rules identified in its request that incorporate by reference certain MIAX Options rules that are the result of changes to such MIAX Options' rules, provided that the Exchange promptly provides written notice to its members whenever MIAX Options proposes to change a rule that the Exchange has incorporated by reference.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–08054 Filed 4–17–18; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78mm.

[17] 17 CFR 200.30–3(a)(76).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83038; File No. SR–MSRB–2018–02]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to the MSRB's Facility for the Real-Time Transaction Reporting System

April 12, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 2, 2018 the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB filed with the Commission a proposed rule change to the MSRB's facility for the Real-Time Transaction Reporting System (''RTRS'') to reflect the re-engineered RTRS and modernize and consolidate the RTRS information facility (''RTRS IF'') (''proposed rule change''). The MSRB has filed the proposed rule change under Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b-4(f)(6) [4] thereunder, as a noncontroversial rule change that renders the proposal effective upon filing. The proposed rule change would be made operative on May 29, 2018.

The text of the proposed rule change is available on the MSRB's website at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2018-Filings.aspx,* at the MSRB's principal office, 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 MSRB 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 MSRB 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

MSRB Rule G–14, on transaction reporting, requires brokers, dealers and municipal securities dealers (''dealers'') to report executed transactions in municipal securities to RTRS within 15 minutes of the time of trade, with limited exceptions. RTRS disseminates information about transactions occurring in the municipal securities market to RTRS subscription services, including to the MSRB's Electonic Municipal Market Access System (EMMA®). The RTRS IF sets forth the material aspects of the operation of RTRS by describing the basic functionality of, and the high-level parameters by which the MSRB operates, RTRS. The proposed rule change consists of amendments to the RTRS IF.[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The RTRS facility is currently available on the MSRB's website at *http://www.msrb.org/Rules-and-Interpretations/MSRB-Rules/Facilities/RTRS-Facility.aspx.*

Background

The MSRB is enhancing certain RTRS components, including improving business continuity and connectivity services to RTRS and migrating subscription products to encrypted solutions.[6] The purpose of the proposed rule change is to revise the RTRS IF to reflect this re-engineering of RTRS and to modernize and consolidate the RTRS IF.

Since the re-engineering would result in revisions to the RTRS IF, the MSRB took the opportunity to perform a comprehensive review of the RTRS IF to evaluate whether it sufficiently and clearly describes the basic functionality and operation of RTRS. The MSRB believes that dealers, submitters [7] and subscribers [8] benefit from this information being provided in a concise and organized manner.

Proposed Amendments to the RTRS Information Facility

(i) Subscriber Connectivity Changes

The RTRS IF sets forth RTRS subscribers' options for connecting to the RTRS Real-Time Transaction Data Subscription Service (''Real-Time Service''). Currently, subscribers have the option to connect to the Real-Time Service either over the internet or by leased line. As part of the re-engineering, the MSRB will require that subscribers to the Real-Time Service utilize the internet to connect to RTRS. As a result, subscribers will no longer be able to use leased lines for the Real-Time Service.

With respect to messaging with RTRS, subscribers currently must use either the MQ Series messaging software or a Transmission Control Protocol (''TCP'') Socket connection. As part of the re-engineering, the MSRB will offer subscribers a new web service as an option for messaging with RTRS and retire the MQ Series messaging software. Moreover, the MSRB will require that any TCP socket connections utilized for messaging with RTRS are secure.

The MSRB is implementing these subscriber connectivity changes to improve business continuity by allowing for more efficient failovers to

[6] The MSRB has reported the enhancements to RTRS components to the SEC consistent with Regulation Systems Compliance and Integrity. *See* Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72251 (December 5, 2014).

[7] As defined in Rule G–14, a submitter means a dealer, or service bureau acting on behalf of a dealer, that has been authorized to interface with RTRS for the purposes of entering transaction data into the system.

[8] Subscriber refers to an individual or entity that receives RTRS data through an MSRB subscription service.

backup sites, migrate the Real-Time Service to encrypted messaging and improve the security of subscriber connections.

The MSRB has previously notified subscribers of these connectivity changes, which will be operative on May 29, 2018, and provided a test environment for subscribers to test applicable systems changes. Specifically, the MSRB first notified all subscribers to the Real-Time Service of the subscriber connectivity changes on January 5, 2017 and made a test environment available to subscribers on February 1, 2017. The MSRB has been engaging in outreach efforts to subscribers to support the transition to the re-engineered RTRS and will continue to do so.

The proposed rule change would remove references to leased lines and the MQ Series and add references to the new web service and secure TCP socket connections to reflect the subscriber connectivity changes associated with the re-engineering.

(ii) Removal of Outdated References

The RTRS IF was approved by the Commission on August 31, 2004 [9] and RTRS became operational on January 10, 2005. RTRS replaced the MSRB's former Transaction Reporting System (the ''TRS system'') and brought real-time collection and dissemination of transactions to the municipal securities market.

Given the significance of the progression to real-time collection and dissemination at the time of RTRS' inception, the facility referenced improvements associated with the creation of real-time collection and dissemination and included transitional language which referenced the TRS system in describing RTRS functionality, including describing enhanced functionality of RTRS as compared with the TRS system, and common features between the systems.

As it has been over thirteen years since TRS ceased operation and the progression to real-time collection and dissemination took place, the proposed rule change would remove dated references to the original improvements associated with real-time collection and dissemination and the TRS system, including the section titled ''Improved Functionality'' and much of a section titled ''Enhancement of Information Available to Regulators.'' To modernize the RTRS IF, the information that remains current with respect to information that RTRS provides to regulators would be consolidated under the proposed rule change in a renamed section titled ''Information Available to Regulators.''

The inclusion of references to TRS and the enhancements implemented in 2005 no longer serve a purpose in describing the basic functionality of, or the high-level parameters by which the MSRB operates, RTRS. In addition, information concerning outdated ''enhancements'' could mislead users to believe certain RTRS functionality is recent, when in fact such functionality may have been in place since 2005.

In place of these references, the proposed rule change would add a new introductory paragraph which explains the purpose of the RTRS IF, summarizes key RTRS functionality and refers dealers to Rule G–14 for transaction reporting requirements.

(iii) Consolidating Format

The RTRS IF is currently structured such that there are separate segmented topics within the information facility: the ''RTRS Facility,'' the ''MSRB Real-Time Transaction Data Subscription Service,'' the ''Comprehensive Transaction Data Subscription Service,'' the ''MSRB Historical Transaction Data Product,'' and the ''MSRB Academic Historical Transaction Data Product.'' Each segmented topic was initially designed to stand alone, with each having a separate footnote section.

The proposed rule change would reorganize the RTRS IF into two sections, ''RTRS Functionality'' and ''Transaction Dissemination by RTRS.'' The first section, ''RTRS Functionality'' would set forth basic information regarding the operation and functionality of RTRS, including the submission of transaction reports, messaging input options, the information that RTRS provides to regulators, and key steps in RTRS processing. The ''Transaction Dissemination by RTRS'' section would describe the RTRS subscription products, including the Real-Time Service, the Comprehensive Transaction Data Subscription Service, the Historical Transaction Data Product and the Academic Historical Transaction Data Product. Reorganizing and consolidating the RTRS IF in the manner set forth in the proposed rule change would reduce redundancies and improve readability.

The proposed rule change would also consolidate repetitive references in the RTRS IF to ensure consistency within the document. For example, the proposed rule change would consolidate a list of information designed to identify and describe the types of data disseminated by RTRS currently provided in both the ''RTRS Facility'' segment and the ''Real-Time Transaction Data Subscription Service'' segment. A consolidated list of data fields would reduce the risk of inconsistencies and potential confusion.

The proposed rule change would also consolidate two sections in the RTRS IF that describe the process by which RTRS determines whether a trade is reported within the applicable reporting deadline set forth in Rule G–14. The RTRS IF contains a section titled ''Measurement of Timely Reporting'' and a section titled ''Lateness checking,'' both of which contain similar information. The proposed rule change consolidates the information in these two sections to improve clarity regarding the description of RTRS processing with respect to measuring trades against the applicable reporting deadline.

In addition, the ''Message-Based and Web-Based Input Methods'' section of the RTRS IF includes repetitive references regarding the ability of dealers and submitters to use the message-based and web-based portals. The proposed rule change removes these repetitive references as the ''RTRS Portals'' section of the RTRS IF is the appropriate section to uniformly describe the policies governing each RTRS portal.

The proposed rule change also consolidates several other repetitive references in the RTRS IF.

(iv) Uniformity of Rule References

As RTRS is the facility for the collection of information about transactions occurring in the municipal securities market, the RTRS IF includes references to dealers' obligations under Rule G–14. The proposed rule change would ensure that, if Rule G–14 is referenced, the language of Rule G–14 would be used in the RTRS IF.

To that end, the proposed rule change would replace the section titled ''Submission of Transaction Reports by Intermediaries'' with a new section titled ''Submission of Transaction Reports'' which references relevant provisions of Rule G–14. By including direct references to Rule G–14, the proposed rule change would provide increased certainty regarding transaction reporting obligations.

To ensure consistency within the RTRS IF, the proposed rule change would also replace certain uses of the term ''dealer'' with the term ''submitter.'' The term ''dealer'' would be used when referencing obligations under Rule G–14 and the term ''submitter'' would be used when

[9] Exchange Act Release No. 50294 (August 31, 2004), 69 FR 54170 (September 7, 2004) (SR–MSRB–2004–02).

referring to an RTRS user who accesses the system to make a submission, whether the user is a dealer or a service bureau acting on behalf of a dealer.

(v) Improved Descriptions of RTRS Functionality

As part of its comprehensive review, the MSRB analyzed whether aspects of the RTRS IF could be enhanced to more accurately or concisely describe RTRS functionality and operation to better serve the RTRS IF's intention of describing the basic functionality of, and the high-level parameters by which the MSRB operates, RTRS.

One area where the MSRB determined that an enhanced description of RTRS functionality would be beneficial is in reference to real-time dissemination. The RTRS IF frequently references that RTRS disseminates transaction data in ''real-time'' but does not uniformly describe ''real-time'' processing. Instead, the RTRS IF suggests that real-time is ''as soon as it is received'' or ''as soon as possible.'' In addition, in one section, the RTRS IF provides that ''[t]he MSRB anticipates that, during peak traffic periods, these automated functions will be accomplished within two minutes, and during lighter periods will be accomplished within a few seconds.''

The proposed rule change would clarify that real-time dissemination for RTRS functionality occurs ''promptly following processing in RTRS.'' This description of real-time dissemination reflects the fact that, prior to dissemination, RTRS, among other things, conducts format checks, validates the submitter, timestamps and assesses the trade against the reporting deadline and conducts content checks.

The proposed rule change would also clarify the impact of failing certain checks in RTRS processing. The proposed rule change would revise the RTRS IF to highlight that messages that fail certain format or content checks are not processed further and an error message describing the deficiency is returned to the submitter. The RTRS Users Manual sets forth additional information regarding format and content checks.[10]

(vi) Removal of Certain Technical and Ancillary Information

Given that the purpose of the RTRS IF is to set forth the material aspects of RTRS' operation, highly technical and ancillary information regarding RTRS is more appropriately left to the RTRS Users Manual and similar documents that the MSRB maintains that describe RTRS functionality.

Specifically, the MSRB maintains two specifications documents for RTRS, the ''Specifications for Real-Time Reporting of Municipal Securities Transactions'' (''RTRS Reporting Specifications'') and the ''Specifications Document for the RTRS Subscription Service'' (''RTRS Subscription Specifications''). Both of these specifications documents are available on the MSRB's publicly available website, *msrb.org.*[11] The RTRS Reporting Specifications provide detailed information regarding, among other things, input and output specifications, message formatting, structure and flow and error messages and feedback. The RTRS Subscription Specifications provide specifications and requirements to access, retrieve and understand RTRS subscription services. The MSRB also maintains an ''MSRB Subscription Services Price List'' on *msrb.org* to inform interested individuals about the pricing for RTRS subscription services.

The proposed rule change would remove certain technical and ancillary information from the RTRS IF that is presented in the RTRS Reporting Specifications, RTRS Subscription Specifications and MSRB Subscription Services Price List. The removal of such information will streamline the RTRS IF by presenting the information that is necessary to describe the material aspects of the operation of RTRS.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with the provisions of Section 15B(b)(2)(C) of the Act.[12] which provides that the MSRB's rules shall:

> 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 municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

Specifically, the proposed rule change would contribute to the MSRB's continuing efforts to improve market transparency by improving business continuity and the security of RTRS subscriber connections. As RTRS disseminates information about transactions occurring in the municipal securities market, any improvement with respect to the resiliency and security of RTRS will further perfect the mechanism of a free and open market in municipal securities by making it more likely that the market is continuously provided with transaction information.

The RTRS enhancements will improve the speed of dissemination of trade information and enhance the resiliency of RTRS by allowing RTRS to failover to backup sites more efficiently. This re-engineering of RTRS will also migrate the Real-Time Service to encrypted messaging and further enhance the security of subscriber connections. The MSRB is continuously seeking to enhance system security and the RTRS re-engineering is consistent with this objective.

The proposed rule change would also increase clarity and accuracy with respect to the description of basic RTRS functionality and the high-level parameters by which the MSRB operates RTRS. The MSRB believes that dealers, submitters and subscribers will benefit from a clearer understanding of this information. While additional technical information regarding RTRS is set forth in the RTRS Users Manual and similar documents that the MSRB maintains, the MSRB believes that it is important that fundamental information regarding RTRS be clearly described in the RTRS IF and the proposed rule change serves this purpose.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Act[13] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change consists of revisions to the RTRS IF to better align the language of the information facility to the MSRB's administration of RTRS. The proposed rule change seeks to clarify existing services and make minor changes of a technical nature to the information facility resulting from the re-engineering. The proposed rule change will not modify the manner in which the MSRB administers RTRS in collecting and disseminating information on transactions in the municipal securities market. Accordingly, the MSRB does not believe

[10] The RTRS Users Manual is currently available on the MSRB's website at *http://www.msrb.org/Market-Transparency/Trade-Data/RTRS-Users-Manual.aspx.*

[11] The RTRS Reporting Specifications are currently available on the MSRB's website at *http://www.msrb.org/msrb1/RTRS/RTRS-Specifications.pdf.* The RTRS Subscription Specifications are currently available on the MSRB's website at *http://www.msrb.org/msrb1/RTRS/Specifications-Document-for-RTRS-Subscription-Service.pdf.*

[12] 15 U.S.C. 78*o*–4(b)(2)(C).

[13] *Id.*

that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Board did not solicit comment on the proposed change. Therefore, there are no comments on the proposed rule change received from members, participants or others.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15]

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–MSRB–2018–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2018–02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2018–02 and should be submitted on or before May 9, 2018.

For the Commission, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–08052 Filed 4–17–18; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission staff will hold a public roundtable on Monday, April 23, 2018 at 9:30 a.m.

PLACE: The roundtable will be held in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE, Washington, DC.

STATUS: The roundtable will begin at 9:30 a.m. and will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 9:00 a.m. Visitors will be subject to security checks. The roundtable will be webcast on the Commission's website at *www.sec.gov.*

MATTERS TO BE CONSIDERED: The Commission staff will host a roundtable on the market structure for thinly-traded exchange-listed securities. The roundtable is open to the public and the public is invited to submit written comments. This Sunshine Act notice is being issued because a majority of the Commission may attend the roundtable.

The agenda for the roundtable will focus on the challenges faced by participants in the market for thinly-traded exchange-listed securities, and potential improvements that might be considered to the market structure for these securities.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: April 16, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–08254 Filed 4–16–18; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83041; File No. SR–CBOE–2018–027]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Select Customer Options Reduction Program

April 12, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 2, 2018, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change a 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Select Customer Options Reduction program.

The text of the proposed rule change is also available on the Exchange's

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Select Customer Options Reduction program (''SCORe'').[3] By way of background, SCORe is a recently adopted discount program for Retail ,[4] Non-FLEX Customer (''C'' origin code) volume in the following options classes: SPX (including SPXW), VIX, RUT, MXEA, MXEF & XSP (''Qualifying Classes''). The SCORe program is available to any Trading Permit Holder (''TPH'') Originating Clearing Firm or non-TPH Originating Clearing Firm that sign up for the program.[5] The SCORe program currently utilizes two measures for participation and discounts: (1) The Qualifying Tiers, which determine whether a firm qualifies for the discounts in either Tier A or Tier B and (2) the Discount Tiers, which determine the Originating Firm's applicable discount tiers and corresponding discounts. The Exchange proposes to amend the lower threshold for Tier B of the Qualifying Tiers.

To determine an Originating Firm's Qualifying Tier, the Originating Firm's total Retail volume in the Qualifying Classes is divided by the Originating Firm's total Customer volume, Retail and non-Retail, in the Qualifying Classes. Currently if an Originating Firm's Retail volume is between 35.00% and 69.99%, the Originating Firm will qualify for Tier B discounts. If an Originating Firm's Retail volume is at or above 70.00%, the Originating Firm will qualify for Tier A discounts. The Qualifying Tier that is applied in a given month is based on an Originating Firm's Retail volume in the prior month (*e.g.,* an Originating Firm's volume in January determines which Qualifying Tier applies in February). The Exchange proposes to amend the lower threshold to qualify for Tier B. Particularly, the Exchange proposes to lower the 35.00% threshold to 20.00% such that in order to qualify for Tier B discounts, an Originating Firm's Retail volume would need to be between 20.00% and 69.99%. The purpose of the proposed change is to adjust for current volume trends and make it easier for Originating Firms to obtain discounts.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes the proposed amendment to SCORe is reasonable because it adjusts for current volume trends and makes it easier for Customers orders from Originating Firms that register for the program to meet the qualifying threshold and receive the corresponding discount. The Exchange notes that SCORe will continue to provide an incremental incentive for Originating Firms to strive for the highest tier level, which provides increasingly higher discounts. The proposed rule change is designed to encourage increased Retail volume in the Qualifying Classes, which provides increased volume and greater trading opportunities for all market participants. The Exchange believes the proposed change is equitable and not unfairly discriminatory because the qualifying volume thresholds apply to all registered Originating Firms uniformly. The Exchange also notes that the rates set forth in the Discount Tiers are not changing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while the discounts apply only to Customer orders from Originating Firms, the Program is designed to encourage increased Customer options volume in the Qualifying Classes, which provides greater trading opportunities for all market participants. Additionally, there is a history in the options markets of providing preferential treatment to Customers orders. The Exchange notes that the proposed change applies to all Originating Firms uniformly. The Exchange believes that the proposed rule change will not cause an unnecessary burden on intermarket competition because the Qualifying Classes are products that only trade on Cboe Options. To the extent that the proposed changes make the Exchange a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

[3] The proposed SCORe amendment will be effective April 1, 2018 (*i.e.,* April discounts will be based on March 2018 volume using the proposed threshold change).

[4] For purposes of the program ''Retail'' orders will be defined as Customer orders for which the original order size (in the case of a simple order) or largest leg size (in the case of a complex order) is 100 contracts or less.

[5] For this program, an ''Originating Clearing Firm'' is defined as either (a) the executing clearing Options Clearing Corporation (''OCC'') number on any transaction which does not also include a Clearing Member Trading Agreement (''CMTA'') OCC clearing number or (b) the CMTA in the case of any transaction which does include a CMTA OCC clearing number.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(4).

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) of the Act [9] and paragraph (f) of Rule 19b–4 [10] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2018–027 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–CBOE–2018–027. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2018–027 and should be submitted on or before May 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–08055 Filed 4–17–18; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83044; File No. 4–631]

Joint Industry Plan; Order Approving the Seventeenth Amendment to the National Market System Plan To Address Extraordinary Market Volatility by Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange LLC, NYSE American LLC, and NYSE Arca, Inc.

April 12, 2018.

I. Introduction

On February 26, 2018, NYSE Group, Inc., on behalf of the other parties [1] to the National Market System Plan to Address Extraordinary Market Volatility (the ''Plan''), filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 608 thereunder,[3] a proposal to amend the Plan.[4] The proposal represents the seventeenth amendment to the Plan, and reflects proposed changes unanimously approved by the Participants (''Seventeenth Amendment''). The proposed Seventeenth Amendment was published for comment in the **Federal Register** on March 21, 2018.[5] The Commission received no comment letters regarding the amendment. This order approves the Seventeenth Amendment to the Plan as proposed.

II. Description of the Proposal

In the Seventeenth Amendment, the Participants propose to extend the pilot period of the Plan from April 16, 2018 to April 15, 2019.

III. Discussion and Commission Findings

The Commission finds that the Seventeenth Amendment is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the Seventeenth Amendment is consistent with Section 11A of the Act [6] and Rule 608 thereunder [7] in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and that it removes impediments to, and perfects the mechanism of, a national market system.

The Participants propose to extend the pilot period for an additional year to April 15, 2019. As the Participants note, the twelfth and thirteenth amendments to the Plan [8] as well as the associated amendments to the Primary Listing Exchanges' [9] reopening procedures were implemented on November 20, 2017. The Participants state that an extension of the pilot period would provide additional time for the public, the Participants, and the Commission to assess the impact of modifications from the twelfth and thirteenth amendments

[1] Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Chicago Stock Exchange, Inc., the Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors Exchange LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC (''Nasdaq''), New York Stock Exchange LLC (''NYSE''), NYSE Arca, Inc., NYSE National Inc., and NYSE American LLC (collectively, the ''Participants'').

[2] 15 U.S.C. 78k–1.

[3] 17 CFR 242.608.

[4] *See* Letter from Elizabeth King, General Counsel and Corporate Secretary, NYSE, to Brent Fields, Secretary, Commission, dated February 23, 2018. (''Transmittal Letter'').

[5] *See* Securities Exchange Act Release No. 82888 (March 15, 2018), 83 FR 12432.

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Securities Exchange Act Release Nos. 79845 (January 19, 2017), 82 FR 8551 (January 26, 2017) (approving the twelfth amendment to the Plan), 80455 (April 13, 2017), 82 FR 18519 (April 19, 2017) (approving the thirteenth amendment to the Plan).

[9] Unless otherwise specified, the terms used herein have the same meaning as set forth in the Plan.

to the Plan on market operations as well as to consider other potential modifications to the Plan including how NMS Stocks are tiered under the Plan and the applicable percentage parameters associated with such tiers, the elimination of double-wide Price Bands at the open and close of trading, and recommendations made by the Equity Market Structure Advisory Committee with respect to Plan operations.[10]

The Commission believes that a one-year extension of the Plan will allow the Participants to continue their examination and analysis of the Plan's operation. Accordingly, the Commission believes that it is appropriate in the public interest, for the protection of investors and the maintenance of a fair and orderly market to approve the amendment to extend the pilot period until April 15, 2019.

For the reasons noted above, the Commission finds that the Seventeenth Amendment to the Plan is consistent with Section 11A of the Act [11] and Rule 608 thereunder.[12] The Commission reiterates its expectation that the Participants will continue to monitor the scope and operation of the Plan and study the data produced, and will propose any modifications to the Plan that may be necessary or appropriate.[13]

IV. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act [14] and Rule 608 thereunder,[15] that the Seventeenth Amendment to the Plan (File No. 4–631) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Brent J. Fields,

Secretary.

[FR Doc. 2018–08080 Filed 4–17–18; 8:45 am]

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[10] *See* U.S. Securities and Exchange Commission Equity Market Structure Advisory Committee, *Recommendations for Rulemaking on Issues of Market Quality,* dated November 29, 2016, available here: *https://www.sec.gov/spotlight/emsac/emsac-recommendations-rulemaking-market-quality.pdf.*

[11] 15 U.S.C. 78k–1.

[12] 17 CFR 242.608.

[13] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[14] 15 U.S.C. 78k–1.

[15] 17 CFR 242.608.

[16] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83039; File No. SR–PEARL–2018–02]

Self-Regulatory Organizations; MIAX PEARL, LLC; Order Granting Approval of a Proposed Rule Change To Adopt Rules Relating to Index Options

April 12, 2018.

I. Introduction

On February 8, 2018, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt rules relating to index options. The proposed rule change was published for comment in the **Federal Register** on February 27, 2018.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

A. Overview

The Exchange proposes to amend MIAX PEARL Rule 504 and adopt new Chapter XVIII to accommodate the trading of index options on the Exchange by MIAX PEARL Members; and establish generic listing standards and maintenance standards to permit the Exchange to list ''broad-based'' and ''narrow-based'' index options on the Exchange pursuant to Rule 19b–4(e) under the Act.[4] Proposed MIAX PEARL Chapter XVIII would incorporate by reference Chapter XVIII of the rules of the Exchange's affiliate, Miami International Securities Exchange, LLC (''MIAX Options'').[5] The proposed generic listing and maintenance standards for broad-based indices listed and traded on the Exchange require, among other things, that options on the index be a.m.-settled; that the index be capitalization-weighted, modified capitalization-weighted, price-weighted, or equal dollar-weighted; and that the index be comprised of at least fifty securities, all of which must be ''NMS stocks,'' as defined in Rule 600 of Regulation NMS.[6] The proposed generic listing and maintenance standards for narrow-based indices require, among other characteristics, that the proposed indices must consist of ten or more component securities.[7]

Because the rules related to options in indices are product specific in many areas,[8] certain rules will indicate that they apply to ''Specified'' indices. Proposed Rules 1800, 1801(n), 1804(a), 1807(a), 1809, and 1811 all contain provisions that are dependent upon the Exchange identifying specific index products in the rule. Accordingly, Proposed Rule 1800 states that where the rules in Chapter XVIII indicate that particular indices or requirements with respect to particular indices will be ''Specified,'' the Exchange will file a proposed rule change with the Commission pursuant to Section 19 of the Act [9] and Rule 19b–4 [10] thereunder to specify such indices or requirements. Because MIAX PEARL has incorporated the rules in MIAX Options Chapter XVIII by reference, MIAX PEARL's rules will be amended when MIAX Options files a proposed rule change with the Commission pursuant to Section 19 of the Act [11] and Rule 19b–4 [12] thereunder to specify such indices or requirements.[13] As more fully set forth in the Notice and further described below, the proposed new Exchange Rules are based on the existing rules of other options exchanges.[14]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82756 (February 21, 2018), 83 FR 8538 (''Notice'').

[4] 17 CFR 240.19b–4(e). The term ''broad-based index'' is defined as an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries. *See* Proposed Rule 1801(k). The term ''narrow-based index'' is defined as an index designed to be representative of a particular industry or a group of related industries or an index whose constituents are all headquartered within a single country. *See* Proposed Rule 1801(j).

[5] The Commission has separately issued an order granting the Exchange an exemption pursuant to Section 36(a) of the Act from the rule filing requirements of Section 19(b) of the Act with respect to the rules in MIAX Options Chapter XVIII that the Exchange seeks to incorporate by reference. *See* Securities Exchange Act Release No. 83040 (April 12, 2018). *See also* Securities Exchange Act Release No. 81739 (September 27, 2017), 82 FR 46111 (October 3, 2017) (order approving SR–MIAX–2017–39) (''MIAX Options Order''). The Commission notes that the MIAX Options Order also approved changes to MIAX Options Rules 308, 313, and 700, which rules are already incorporated by reference in MIAX PEARL's rules. *See id.* at 46112 & nn. 13 & 15. *See also* Notice, *supra* note 3, at 8539. In the description of the proposed rule change below, the term ''Proposed Rule'' shall refer to the rules in MIAX Options Chapter XVIII, which the Exchange has proposed to be incorporated by reference into the MIAX PEARL Rules and thereby become applicable to MIAX PEARL Members.

[6] *See* Proposed Rule 1802(d)(4).

[7] *See* Proposed Rule 1802(b)(2).

[8] *See* Notice, *supra* note 3, at 8539.

[9] 15 U.S.C. 78s.

[10] 17 CFR 240.19b–4.

[11] 15 U.S.C. 78s.

[12] 17 CFR 240.19b–4.

[13] *See* Notice, *supra* note 3, at 8539. *See also supra* note 5.

[14] *See, e.g.,* MIAX Options Rules Chapter XVIII; Nasdaq ISE, LLC (''ISE'') Rules, Chapter 20, Index Rules; Nasdaq GEMX, LLC Rules, Chapter 20, Index

B. Index Options Procedural Rules

MIAX PEARL proposes to add new Chapter XVIII to the Exchange rules (''Proposed Rules''), which would incorporate by reference the rules in Chapter XVIII of MIAX Options.[15] The proposal would, among other things, set forth general procedural rules that address the trading sessions for index options, including the days and hours of business, opening rotation, and halts and suspensions.[16] Existing MIAX PEARL Rules further provide for the procedures Members must follow with respect to the exercise of American-style, cash settled index options.[17]

The Proposed Rules also establish position limit and exercise limits for index options.[18] In addition, existing MIAX PEARL Rules and the Proposed Rules provide for exemption standards from position limits and procedures for requesting exemptions from those rules.[19] The proposed position limits and exercise limits, as well as the proposed exemptions, are different for broad-based index options and narrow-based index options.[20]

C. Generic Listing Standards and Maintenance Standards for Broad-Based Index Options

The Exchange also proposes to establish generic listing and maintenance standards in Proposed Rule 1802 to enable the Exchange to list and trade new broad-based index options pursuant to Rule 19b–4(e) under the Act.[21] Proposed Rule 1802(d) sets forth the initial listing standards for broad-based index options. The listing standards require, among other things, that the underlying index be broad-based, as defined in Rule 1801(k); that options on the index be a.m. settled; that the index be capitalization-weighted, modified capitalization-weighted, price-weighted, or equal dollar-weighted; and that the index consist of 50 or more component securities, each of which must be an ''NMS stock'' as defined in Rule 600 of Regulation NMS under the Act.[22] In addition, Proposed Rule 1802(d) requires that the index's component securities meet certain minimum market capitalization and average daily trading volume requirements; that no single component account for more than10% of the weight of the index and that the five highest weighted component securities represent no more than 33% of the weight of the index; that the index value be widely disseminated at least once every 15 seconds; and that the Exchange have written surveillance procedures in place with respect to the index options. Proposed Rule 1802(e) establishes maintenance standards for broad-based index options listed pursuant to Proposed Rule 1802(d). The Exchange states that the proposed listing and maintenance standards are modeled after standards approved by the Commission for other options exchanges.[23]

D. Generic Listing Standards and Maintenance Standards for Narrow-Based Index Options

The Exchange further proposes to establish generic listing and maintenance standards in Proposed Rule 1802 to enable the Exchange to list and trade new narrow-based index options pursuant to Rule 19b–4(e) under the Act.[24] Proposed Rule 1802(b) sets forth the initial listing standards for narrow-based index options. The listing standards require, among other things, that options on the index be a.m. settled; that the index be capitalization-weighted, price-weighted, equal dollar-weighted, or modified capitalization-weighted; and that the index consist of 10 or more component securities, each of which must be an ''NMS stock'' as defined in Rule 600 of Regulation NMS under the Act.[25] In addition, Proposed Rule 1802(b) requires that the index's component securities meet certain minimum market capitalization and average daily trading volume requirements; that no single component account for more than 30% of the weight of the index and that the five highest weighted component securities represent no more than 50% (65% for an index consisting of fewer than 25 component securities) of the weight of the index; that the index value be widely disseminated at least once every 15 seconds; and that non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 20% of the weight of the index. Proposed Rule 1802(c) establishes maintenance standards for narrow-based index options listed pursuant to Proposed Rule 1802(b). The Exchange states that the proposed listing and maintenance standards are modeled after standards approved by the Commission for other options exchanges.[26]

E. Surveillance and Capacity

The Exchange represents that it has an adequate surveillance program in place for index options. The Exchange is a member of the Intermarket Surveillance Group (''ISG''), which is comprised of an international group of exchanges, market centers, and market regulators.[27] The Exchange further represents that it has analyzed its capacity and believes the Exchange and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the additional traffic associated with the listing and trading of index options.[28]

F. Implementation

The Exchange will announce the implementation date of the proposed rule change by Regulatory Circular to be published no later than 90 days following the approval of the proposed rule change. The implementation date will be no later than 90 days following the issuance of the Regulatory Circular.

Rules; Nasdaq MRX, LLC Rules, Chapter 20, Index Rules; NASDAQ PHLX LLC (''Phlx'') Rules 1000A–1108A; and Chicago Board Options Exchange, Inc. (''CBOE'') Rules, Chapter XXIV, Index Options; Cboe C2 Exchange, Inc. Rules, Chapter 24, Index Options. *See also* Notice, *supra* note 3, at 8539.

[15] The Exchange also proposes to amend MIAX PEARL Rule 504 (Trading Halts) to address index options.

[16] *See* Proposed Rule 1808.

[17] *See* MIAX PEARL Rules 313(a)(3) and 700(h). *See also supra* note 5.

[18] *See* Proposed Rules 1804, 1805, and 1807.

[19] *See* MIAX PEARL Rule 308(b) and Proposed Rule 1806. *See also supra* note 5.

[20] *See* Proposed Rules 1804 to 1807.

[21] 17 CFR 240.19b–4(e). Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4, if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO's trading rules, procedures, and listing standards for the product class that includes the new derivative securities product and the SRO has a surveillance program for the product class. When relying on Rule 19b–4(e), the SRO must submit Form 19b–4(e) to the Commission within five business days after the exchange begins trading the new derivative securities products. *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) (File No. S7–13–98).

[22] *See* 17 CFR 242.600.

[23] *See, e.g.,* MIAX Options Rule 1802(d); NYSE American LLC (''NYSE American'') Rule 901C.02(a) and (b); CBOE Rule 24.2(f) and (g); NYSE Arca, Inc. (''NYSE Arca'') Rule 5.12–O; Phlx Rule 1009A(d) and (e); and ISE Rule 2002(d) and (e).

[24] 17 CFR 240.19b 09 094(e). *See also supra* note 21.

[25] *See* 17 CFR 242.600.

[26] *See, e.g.,* MIAX Options Rule 1802(b) and (c); NYSE American Rule 901C.03; CBOE Rule 24.2(b) and (c); NYSE Arca Rule 5.13–O; Phlx Rule 1009A(b) and (c); and ISE Rule 2002(b) and (c).

[27] *See* Notice, *supra* note 3, at 8552. The ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. The purpose of the ISG is to provide a framework for the sharing of information and the coordination of regulatory efforts among exchanges trading securities and related products to address potential intermarket manipulations and trading abuses. *Id.* The ISG plays a crucial role in information sharing among markets that trade securities, options on securities, security futures products, and futures and options on broad-based security indexes. *Id.*

[28] *See id.*

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 and, in particular, with Section 6(b) of the Act.[29] In particular, the Commission believes that the Exchange's proposal to establish rules and procedures applicable to index options and establish generic listing and maintenance standards for broad-based and narrow-based index options is consistent with Section 6(b)(5) of the Act,[30] 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 remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes that permitting the trading of options on an index of securities (including a narrow-based index) enables investors to participate in the price movements of the index's underlying securities and allows investors holding positions in some or all of such securities to hedge the risks associated with their portfolios. The Commission further believes that options on an index provide investors with an important trading and hedging mechanism that is designed to reflect accurately the overall movement of the component stocks. In particular, the Commission believes that the proposed position and exercise limits should serve to minimize potential manipulation concerns.

A. Generic Listing and Maintenance Standards for Broad-Based and Narrow-Based Index Options

In considering the proposed generic listing and maintenance standards for broad-based and narrow-based index options, the Commission notes that they are consistent with the listing and maintenance standards for broad-based and narrow-based index options that other exchanges [31] have developed and that the Commission has previously approved.[32] The Commission finds that the generic standards covering minimum capitalization, monthly trading volume, and relative weightings of component stocks are designed to ensure that the trading markets for component stocks are adequately capitalized and sufficiently liquid, and that no one stock or stock group dominates the index. Thus, the Commission believes that the satisfaction of these requirements significantly minimizes the potential for manipulation of the index.

The Commission also finds the requirements that all securities comprising the index be an ''NMS stock'' as defined in Rule 600 of Regulation NMS under the Act,[33] and that the index value be disseminated at least once every 15 seconds during trading hours of the index, will contribute significantly to the transparency of the market for such index options.

The Commission further notes that the Exchange's rules that are applicable to broad-based and narrow-based index options, including provisions addressing sales practices, floor trading procedures, position and exercise limits, margin requirements, and trading halts and suspensions, will continue to apply to any broad-based or narrow-based index options listed pursuant to Rule 19b–4(e) under the Act.

The Commission's approval of the Exchange's proposed listing standards for broad-based and narrow-based index options will allow those index option products that satisfy the generic listing standards to begin trading pursuant to Rule 19b–4(e) under the Act, without the need for notice and comment and Commission approval. The Exchange's ability to rely on Rule 19b–4(e) under the Act for these products potentially reduces the time frame for listing and trading these securities, and thus enhances investors' opportunities.[34]

B. Surveillance

As noted above,[35] the Commission believes that the Exchange must maintain regulatory oversight over any products listed under the generic listing standards through adequate surveillance, and the Exchange represents that it has an adequate surveillance program in place for index options. The Commission also believes that a surveillance sharing agreement between an Exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. The Commission notes that such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. When a new derivative securities product based upon domestic securities is listed and traded on an exchange pursuant to Rule 19b–4(e) under the Act, the exchange should determine that the markets upon which all of the U.S. component securities trade are members of the ISG, which provides information relevant to the surveillance of the trading of securities on other market centers.[36] In this regard, all of the registered national securities exchanges, including the Exchange, as well as the Financial Industry Regulatory Authority (FINRA), are members of the ISG.

For new derivative securities products based on securities from a foreign market, the SRO should have a comprehensive Intermarket Surveillance Agreement with the market for the securities underlying the new securities product.[37] Accordingly, the Commission finds that the requirement that no more than 20% of the weight of the index may be comprised of non-U.S. component securities (stocks or ADRs) that are not subject to a comprehensive surveillance sharing agreement between the particular U.S. exchange and the primary market of the underlying security will continue to ensure that the Exchange has the ability to adequately surveil trading in the broad-based and narrow-based index options and the ADR components of the index.[38]

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[29] 15 U.S.C. 78f(b). 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).

[30] 15 U.S.C. 78f(b)(5). *See also supra* note 5.

[31] *See, e.g.,* MIAX Options Rules Chapter XVIII; NYSE American Rules 901C.02 and 901C.03; CBOE Rule 24.2; NYSE Arca Rules 5.12–O and 5.13–O; Phlx Rule 1009A; and ISE Rule 2002.

[32] *See, e.g.,* MIAX Options Order, *supra* note 5 (order approving rules for index options, including generic listing and maintenance standards for broad-based and narrow-based index options); Securities Exchange Act Release Nos. 48405 (August 25, 2003), 68 FR 52257 (September 2, 2003) (SR–ISE–2003–05) (order approving rules for index options and generic listing and maintenance standards for narrow-based index options); 52578 (October 7, 2005), 70 FR 60590 (October 18, 2005) (SR–ISE–2005–27) (order approving generic listing and maintenance standards for broad-based index options); and 75650 (August 7, 2015), 80 FR 48600 (August 13, 2015) (SR–EDGX–2015–18) (order approving options trading rules, including generic listing and maintenance standards for broad-based and narrow-based index options).

[33] *See* 17 CFR 242.600.

[34] The Exchange, however, must maintain regulatory oversight over any products listed under the generic listing standards through adequate surveillance. The Exchange represents that it has an adequate surveillance program in place for index options. *See* Notice, *supra* note 3, at 8552.

[35] *See supra* note 34.

[36] *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) (File No. S7–13–98).

[37] *Id.*

[38] *See* Proposed Rule 1802(b)(9) and (d)(10).

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[39] that the proposed rule change (SR–PEARL–2018–02), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–08053 Filed 4–17–18; 8:45 am]

BILLING CODE 8011–01–P

[39] 15 U.S.C. 78s(b)(2).

[40] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public of that submission.

DATES: Submit comments on or before May 18, 2018.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW, 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: SBA is required to survey affected disaster areas, within a state upon request by the Governor of that state to determine if there is sufficient damage to warrant a Disaster Declaration, Information is obtained from individuals, businesses, and public officials.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

Summary of Information Collections

Title: Disaster Survey Worksheet.

Description of Respondents: Affected Disaster Areas.

Form Number: SBA Form 987.

Estimated Annual Respondents: 2,760.

Estimated Annual Responses: 2,760.

Estimated Annual Hour Burden: 229.

Curtis Rich,

Management Analyst.

[FR Doc. 2018–08064 Filed 4–17–18; 8:45 am]

BILLING CODE 8025–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1253]

State of South Dakota Acting by and Through its Department of Transportation—Adverse Discontinuance of Operating Authority—Napa-Platte Regional Railroad Authority

On March 29, 2018, the State of South Dakota acting by and through its Department of Transportation (the State) filed an application under 49 U.S.C. 10903 requesting that the Surface Transportation Board (the Board) authorize the third-party, or ''adverse,'' discontinuance of the operating authority of Napa-Platte Regional Railroad Authority (NPRRA) [1] over approximately 13.4 miles of rail line extending from milepost (MP) 0.0, referred to as Napa Junction, in South Dakota, to MP 13.4+/− near Tabor, S.D. (the Napa-Tabor Line). The Napa-Tabor Line traverses United States Postal Service Zip Codes 57078 and 57063.[2]

According to the State, the Napa-Tabor Line is part of a longer line that runs from MP 0.0 to MP 83.3 near Platte, S.D. (the Napa-Platte Line). The State explains that the Napa-Platte Line was authorized for abandonment in 1980 but, prior to being abandoned, was acquired by the State. *See Ogilvie—Aban.—in S.D., Iowa, & Neb.,* AB 7 (Sub-No. 88) (ICC served May 14, 1980); *see also Napa-Platte Reg'l R.R. Auth.—Modified Rail Certificate,* FD 35026, slip op. at 1–2 (STB served June 14, 2007). The State further explains that, in 2007, NPRRA obtained Board authority to lease and operate the Napa-Tabor Line. *See Napa-Platte Reg'l R.R. Auth.—Lease & Operation Exemption—Dakota Short Line Corp.,* FD 35025 (STB served May 31, 2007). According to the State, NPRRA's last lease from the State expired on September 20, 2015. The State claims that neither NPRRA nor any other rail carrier provided common carrier service over the Napa-Tabor Line between 2007 and September 20, 2015. The State further claims that, beginning September 21, 2015, the State has leased the Napa-Tabor Line and a connecting line segment to the Dakota Southern Railway Company (DSRC). *See Dakota S. Ry.—Notice of Modified Certificate of Pub. Convenience & Necessity—Yankton, Bon Homme, & Charles Mix Ctys., S.D.,* FD 36086 (STB served Jan. 25, 2017). According to the State, following the termination of NPRRA's lease, the State requested that NPRRA seek a voluntary termination of its lease and operating authority over the Napa-Tabor Line, but NPRRA has not done so. The State now seeks Board authority through an adverse discontinuance proceeding to terminate NPRRA's regulatory authority to lease and operate the Napa-Tabor Line. The State asserts that NPRRA does not oppose the State's application for adverse discontinuance.

In a decision served in this proceeding on May 31, 2017, the State was granted exemptions from several statutory provisions as well as waivers of certain Board regulations that were not relevant to its adverse discontinuance application or that sought information not available to the State.

According to the State, the Napa-Tabor Line does not contain federally granted rights-of-way. Any documentation in the State's possession will be made available promptly to those requesting it. The State's entire case-in-chief for adverse abandonment and discontinuance was filed with the application.

Any interested person may file written comments concerning the proposed adverse discontinuance or protests (including protestant's entire opposition case) by May 14, 2018. Persons who may oppose the proposed adverse discontinuance but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons opposing

[1] According to the State, NPRRA is a political subdivision of the State of South Dakota and is a non-operating common carrier railroad.

[2] In a letter filed April 11, 2018, the State informed the Board that United States Postal Service Zip Code 57058 had inadvertently been included in its verified notice.

the proposed adverse discontinuance who wish to participate actively and fully in the process should file a protest, observing the filing, service, and content requirements of 49 CFR 1152.25. The State's reply is due by May 29, 2018.

All filings in response to this notice must refer to Docket No. AB 1253 and must be sent to: (1) Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001; and (2) John H. LeSeur, Slover & Loftus LLP, 1224 Seventeenth Street NW, Washington, DC 20036.

Filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's ''*www.stb.gov*'' website, at the ''E-FILING'' link. Any person submitting a filing in the traditional paper format should send the original and 10 copies of the filing to the Board with a certificate of service. Except as otherwise set forth in 49 CFR 1152, every document filed with the Board must be served on all parties to this adverse discontinuance proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full discontinuance regulations at 49 CFR 1152. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Board decisions and notices are available on our website at ''*WWW.STB.GOV*.''

Decided: April 12, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Raina Contee,

Clearance Clerk.

[FR Doc. 2018–08134 Filed 4–17–18; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

60-Day Notice of Intent To Seek Extension of Approval and Merger of Collections: Statutory Authority To Preserve Rail Service

AGENCY: Surface Transportation Board.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, the Surface Transportation Board (STB or Board) gives notice that it is requesting from the Office of Management and Budget (OMB) an extension of approval for the information collections. The Board is also seeking approval to merge into this collection (OMB Control Number: 2140–0022) the collection of information about notifications of Trails Act agreement and substitute sponsorship (OMB Control Number: 2140–0017).

DATES: Comments on this information collection should be submitted by June 18, 2018.

ADDRESSES: Direct all comments to Chris Oehrle, PRA Officer, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001, or to *PRA@stb.gov.* When submitting comments, please refer to ''Paperwork Reduction Act Comments, Statutory Authority to Preserve Rail Service.''

FOR FURTHER INFORMATION CONTACT: For further information regarding this collection, contact Michael Higgins, Deputy Director, Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0284 or at *michael.higgins@stb.gov.* [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board currently collects information from those seeking statutory authority to preserve rail carrier service under OMB Control Number 2140–0022. The authority under OMB Control Number 2140–0022 includes the collection of information under the Trails Act and its regulations, such as the notifications of Trails Act agreement and substitute sponsorship, which is also addressed under OMB Control Number 2140–0017. This request proposes to combine collections under Control Numbers 2140–0017 and 2140–0022, with 2140–0022 being the survivor. The Board will request to discontinue Control Number 2140–0017 upon OMB approval of the merger.

Comments are requested concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

Description of Collection 1

Title: Statutory Authority to Preserve Rail Service.

OMB Control Number: 2140–0022.

STB Form Number: None.

Type of Review: Extension without change.

Respondents: Affected shippers, communities, or other interested persons seeking to preserve rail service over rail lines that are proposed or identified for abandonment, and railroads that are required to provide information to the offeror or applicant.

Number of Respondents: 40.

Frequency: On occasion.

TABLE—NUMBER OF YEARLY RESPONSES

Type of filing	Number of filings
Offer of Financial Assistance	1
OFA—Railroad Reply to Request for Information	1
OFA—Request To Set Terms and Conditions	1
Request for Public Use Condition	1
Feeder Line Application	5
Trail-Use Request	23
Trail-Use Request Extension	84

Total Burden Hours (annually including all respondents): 826 Hours (sum total of estimated hours per response × number of responses for each type of filing).

TABLE—ESTIMATED HOURS PER RESPONSE

Type of filing	Number of hours per response
Offer of Financial Assistance	32
OFA—Railroad Reply to Request for Information	10
OFA—Request To Set Terms and Conditions	4
Request for Public Use Condition	2
Feeder Line Application	70
Trail-Use Request	4
Trail-Use Request Extension	4

Total ''*Non-hour Burden*'' *Cost:* None identified. Filings may be submitted electronically to the Board.

Needs and Uses: Under the ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803 (1995), *amended by* the Surface Transportation Board Reauthorization Act of 2015, Public Law 114–110 (2015), and under Section 8(d) of the Trails Act, persons seeking to preserve rail service over a rail line that is in the process of being abandoned may file pleadings before the Board to

acquire or subsidize a rail line for continued service, or to impose a trail use/railbanking or public use condition.

First, under 49 U.S.C. 10904, the filing of an ''Offer of Financial Assistance'' (OFA) starts a process of negotiations to define the financial assistance needed to purchase or subsidize the rail line sought for abandonment. Once the OFA is filed, the offeror may request additional information from the railroad, which the railroad must provide. If the parties cannot agree to the sale or subsidy, either party also may file a request for the Board to set the terms and conditions of the financial assistance. Or, under section 10905, a public use request allows the Board to impose a 180-day public use condition on the abandonment of a rail line, permitting the parties to negotiate a public use for the rail line. Alternatively, under section 10907, a feeder line application provides the basis for authorizing an involuntary sale of a rail line.

Finally, under the Trails Act and its regulations (49 CFR 1152.29), a trail-use request, if agreed upon by the abandoning carrier, requires the Board to condition the abandonment by issuing a Notice of Interim Trail Use (NITU) or Certificate of Interim Trail Use (CITU). The CITU/NITU permits parties, for 180 days, to negotiate for an interim trail use/railbanking agreement for the rail line. If parties reach an agreement, the CITU/NITU automatically authorizes interim trail use/railbanking, and the parties must notify the Board that they have reached an agreement. The interim trails use/railbanking preserves the rail corridor for possible future use as an active rail line again. If no agreement is reached, then upon expiration of the negotiation period, the CITU/NITU authorizes the railroad to exercise its option to fully abandon the line without further action by the Board.

The collection by the Board of these offers, requests, and applications, and the railroad's replies (when required), enables the Board to meet its statutory duty to regulate the referenced rail transactions.

Description of Collection 2

Title: Notifications of Trails Act Agreement and Substitute Sponsorship.

OMB Control Number: 2140–0017.

STB Form Number: None.

Type of Review: Merger.

Respondents: Rail carriers; parties to an interim trail use agreement; substitute trail sponsors; and state and local governments.

Number of Respondents: 40.

Estimated Time per Response: One hour.

Frequency: On occasion.

Total Burden Hours (annually including all respondents): 40 hours.

Total ''Non-hour Burden'' Cost: None identified. Submissions may be submitted electronically to the Board.

Needs and Uses: As described in ''Description of Collection 1'' above, the STB will issue a CITU or NITU to a prospective trail sponsor who seeks a trails use/railbanking agreement with the rail carrier of the rail line that is being abandoned. The CITU/NITU permits parties, for 180 days, to negotiate for a trails use/railbanking agreement. If parties reach an agreement, then, under 49 CFR 1152.29, they must jointly notify the Board of that fact and must identify the exact location of the right-of-way subject to the agreement, including a map and milepost marker information. The rules also require parties to file a petition to modify or vacate the CITU/NITU if the trail use/railbanking agreement applies to less of the right-of-way than what is covered by the CITU/NITU. Finally, the rules require that a substitute trail sponsor must acknowledge that interim trail use is subject to restoration and reactivation at any time. The collection by the Board of this information enables the agency to ensure that the documentation for activities under the Trails Act remains current.

The Board makes this submission because, under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. The Board also notes that it will be seeking approval to merge the two related collections, as described above. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under 44 U.S.C. 3506(c)(2)(A), federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: April 13, 2018.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2018–08095 Filed 4–17–18; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No: FAA–2011–0786]

Deadline for Notification of Intent To Use the Airport Improvement Program's (AIP) Primary, Cargo, and Nonprimary Entitlement Funds Available for Fiscal Year (FY) 2018

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

ACTION: Notice.

SUMMARY: The FAA announces May 15, 2018, as the deadline for each airport sponsor to notify the FAA whether or not it will use its FY 2018 entitlement funds (also referred to as apportioned funds) available under 49 U.S.C. 47114 to support AIP-eligible projects that the airport sponsor previously identified through the Airports Capital Improvement Plan process during the preceding year.

FOR FURTHER INFORMATION CONTACT: Elliott Black, Director, Office of Airport Planning and Programming, APP–1, at (202) 267–8775.

SUPPLEMENTARY INFORMATION: Title 49 U.S.C. 47105(f) provides that the sponsor of each airport to which entitlement funds are apportioned shall notify the Secretary by such time and in a form as prescribed by the Secretary of the airport sponsor's intent to apply for its available entitlement funds. Therefore, the FAA is hereby notifying airport sponsors of the steps required to ensure that the FAA has sufficient time to carry-over and convert remaining entitlement funds. This notice applies only to those airports that have had entitlement funds apportioned to them, except those nonprimary airports located in designated block grant states. Airport sponsors intending to apply for any of their available entitlement funds, including those unused from prior years, shall make their intent known by 12 p.m. prevailing local time on Tuesday, May 15, 2018. This notice must address all entitlement funds available for FY 2018, including those entitlement funds not obligated from prior years. These notifications are critical to ensure efficient planning and administration of the AIP. The final grant application deadline is Tuesday, July 10, 2018. All notifications and grant applications must be provided to the designated FAA Airports District Office (or regional office in regions without Airports District Offices).

The airport sponsor's notification must address all entitlement funds

available for FY 2018, as well as any entitlement funds not obligated from prior years. After Tuesday, July 10, 2018, the FAA will carry over any currently available entitlement funds for which the airport sponsor has not notified the FAA of its intention to use and these funds will not be available again until at least the beginning of FY 2019. This notification requirement does not apply to nonprimary airports covered by the State Block Grant Program.

Historically this deadline has been May 1 of each year. Due to the timing of the FY 2018 appropriation and extension of authorizing legislation, the FAA is extending the normal deadline. However, the FAA encourages airport sponsors to communicate with the FAA as soon as possible. Regional offices may establish earlier deadlines due to constraints on construction seasons.

Absent notification of the intent to use entitlement funds or submission of a grant application by the relevant deadlines noted above, the FAA will proceed after Tuesday, July 10, 2018, to carry over the remainder of available entitlement funds. These funds will not be available again until at least the beginning of FY 2019. This notice is promulgated to expedite and facilitate the grant-making process.

Issued in Washington, DC, on April 6, 2018.

Elliott Black,

Director, Office of Airport Planning and Programming.

[FR Doc. 2018–07658 Filed 4–17–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2018–0009]

Surface Transportation Project Delivery Program; Ohio Department of Transportation Audit Report

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice; Request for comment.

SUMMARY: The Moving Ahead for Progress in the 21st Century Act (MAP–21) established the Surface Transportation Project Delivery Program that allows a State to assume FHWA's environmental responsibilities for environmental review, consultation, and compliance under the National Environmental Policy Act (NEPA) for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely responsible and liable for carrying out the responsibilities it has assumed, in lieu of FHWA. This program mandates annual audits during each of the first 4 years of State participation to ensure compliance with program requirements. This notice announces and solicits comments on the second audit report for the Ohio Department of Transportation (ODOT).

DATES: Comments must be received on or before May 18, 2018.

ADDRESSES: Mail or hand deliver comments to Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE Room W12–140, Washington, DC 20590. You may also submit comments electronically at *www.regulations.gov.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone can search the electronic form of all comments in 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, or labor union). The DOT posts these comments, without edits, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Mr. James G. Gavin, Office of Project Development and Environmental Review, (202) 366–1473, *James.Gavin@dot.gov,* Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590 or Mr. David Sett, Office of the Chief Counsel, (404) 562–3676, *david.sett@dot.gov,* Federal Highway Administration, U.S. Department of Transportation, 61 Forsyth Street 17T100, Atlanta, GA 30303. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the specific docket page at *www.regulations.gov.*

Background

The Surface Transportation Project Delivery Program, codified at 23 United States Code (U.S.C.) 327, commonly known as the NEPA Assignment Program, allows a State to assume FHWA's responsibilities for environmental review, consultation, and compliance for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely liable for carrying out the responsibilities it has assumed, in lieu of the FHWA. The ODOT published its application for assumption under the NEPA Assignment Program on April 12, 2015, and made it available for public comment for 30 days. After considering public comments, ODOT submitted its application to FHWA on May 27, 2015. The application served as the basis for developing the memorandum of understanding (MOU) that identifies the responsibilities and obligations that ODOT would assume. The FHWA published a notice of the draft MOU in the **Federal Register** on October 15, 2015, at 80 FR 62153, with a 30-day comment period to solicit the views of the public and Federal agencies. After the comment period closed, FHWA and ODOT considered comments and executed the MOU.

Section 327(g) of Title 23, U.S.C., requires the Secretary to conduct annual audits to ensure compliance with the MOU during each of the first 4 years of State participation and, after the fourth year, monitor compliance. The results of each audit must be made available for public comment. The first audit report of ODOT compliance was finalized on July 7, 2017. This notice announces the availability of the second audit report for ODOT and solicits public comment on same.

Authority: Section 1313 of Public Law 112–141; Section 6005 of Public Law 109–59; 23 U.S.C. 327; 23 CFR 773.

Issued on: April 11, 2018.

Brandye L. Hendrickson,

Acting Administrator, Federal Highway Administration.

Surface Transportation Project Delivery Program

Draft FHWA Audit of the Ohio Department of Transportation

August 6, 2016 to August 4, 2017

Executive Summary

This is the second audit of the Ohio Department of Transportation's (ODOT) assumption of National Environmental Policy Act (NEPA) responsibilities, conducted by a team of Federal Highway Administration (FHWA) staff (the team). The ODOT made the

effective date of the project-level NEPA and environmental review responsibilities it assumed from FHWA on December 28, 2015, as specified in a memorandum of understanding (MOU) signed on December 11, 2015. The ODOT delegated these responsibilities to ODOT representatives located in the Division of Planning. This audit examined ODOT's performance under the MOU regarding responsibilities and obligations assigned therein.

Prior to the on-site visit, the team performed reviews of ODOT's project NEPA approval documentation in EnviroNet (ODOT's official environmental document filing system). This review consisted of a statistically valid sample of 92 project files out of 736 approved documents in ODOT's EnviroNet system with an environmental approval date between May 31, 2016, and March 31, 2017. The team also reviewed ODOT's response to the pre-audit information request (PAIR) and ODOT's Self-Assessment report. In addition, the team reviewed ODOT's environmental processes, manuals, and guidance; ODOT NEPA Quality Assurance and Quality Control (QA/QC) Processes and Procedures; and the ODOT NEPA Assignment Training Plan (collectively, ''ODOT procedures''). The team conducted on-site interviews with ODOT's Central Office and during the on-site portion of the review from July 31 to August 4, 2017. The team interviewed the resource agencies the week prior to the on-site review.

Overall, the team finds ODOT continues to make reasonable progress in implementing the NEPA Assignment Program. The team found one non-compliance observation that will require ODOT to respond with corrective action by its next self-assessment and subsequent report. The team also noted five (5) general observations and three (3) successful practices.

Background

The Surface Transportation Project Delivery Program (NEPA Assignment Program) allows a State to assume FHWA's responsibilities for review, consultation, and compliance with environmental laws for Federal-aid highway projects. When a State assumes these responsibilities, it becomes solely responsible and liable for carrying out the responsibilities assumed, in lieu of FHWA.

The State of Ohio represented by ODOT completed the application process and entered into an MOU with FHWA on December 28, 2015. With this agreement, ODOT assumed FHWA's project approval responsibilities under NEPA and NEPA-related Federal environmental laws.

The FHWA is obligated to conduct four annual compliance audits of the ODOT's compliance with the provisions of the MOU. Audits serve as FHWA's primary mechanism of overseeing ODOT's compliance with applicable Federal laws and policies, evaluate ODOT's progress toward achieving the performance measures identified in the MOU, and collect information needed for the Secretary's annual report to Congress.

The team provided a draft of this report to ODOT for its review and the team considered its comments in preparing this draft, which will be available for public review and comment. The FHWA will consider any public comments on this draft in finalizing the report.

Scope and Methodology

The team conducted a careful examination of the ODOT NEPA Assignment Program through a review of ODOT procedures and project documentation, ODOT's PAIR response, and the self-assessment summary report, as well as interviews with ODOT Central Office and district environmental staff and resource agency staff. This review focuses on the following six NEPA Assignment Program elements: (1) Program management, (2) documentation and records management, (3) (QA/QC, (4) legal sufficiency, (5) performance measurement, and (6) training.

The PAIR consisted of 22 questions, based on responsibilities assigned to ODOT in the MOU. The team reviewed ODOT's response, and compared the responses to ODOT's written procedures. The team utilized ODOT's responses to draft interview questions to clarify information in ODOT's PAIR response.

The ODOT provided its NEPA Assignment Self-Assessment summary report 30 days prior to the team's on-site review. The team considered this summary report both in focusing on issues during the project file reviews and in drafting interview questions. The report was compared against the previous year self-assessment report and the requirements in the MOU to identify any trends.

Between April 21 and June 5, 2017, the Review Team conducted a project file review of a statistically valid sample of 92 project files representing ODOT NEPA project approvals in ODOT's online environmental file system, EnviroNet with an environmental approval date between May 31, 2016 and March 31, 2017. The sample size of 92 projects was calculated using a 90 percent confidence interval with a 10 percent margin of error. The projects reviewed represented all NEPA classes of action available, all 12 ODOT Districts and the Ohio Rail Development Commission (ORDC).

During the on-site review week, the team conducted interviews with 37 ODOT staff members at the central office and three districts: District 1 (Lima); District 11 (New Philadelphia); and District 12 (Cleveland). Interviewees included District Environmental Coordinators (DEC), environmental staff, and executive management, representing a diverse range of expertise and experience. The interviews at the ODOT Districts included a discussion with staff regarding NEPA Assignment.

The team conducted interviews the week prior to the on-site review with personnel from the Ohio Environmental Protection Agency Division of Air Pollution Control, U. S. Environmental Protection Agency (EPA) Region V Office, and the Ohio Historic Preservation Office. These agencies provided valuable insight to the Review Team regarding ODOT's performance and relationships with partner resource agencies.

The team identified gaps between the information from the desktop review of ODOT procedures, PAIR, self-assessment, project file review, and interviews. The team documented the results of its reviews and interviews and consolidated the results into related topics or themes. From these topics or themes, the team developed the review observations and successful practices. The audit results are described below.

Overall, the team found evidence that ODOT made reasonable progress in implementing the NEPA Assignment Program based on the Audit 1 observations and demonstrated commitment to success of the program. The team found one non-compliance observation that will require ODOT to respond with corrective action by its next self-assessment and subsequent report. The team also noted five (5) general observations and three (3) successful practices.

The FHWA expects ODOT to develop and implement timely corrective action to address the non-compliance observation. In addition, based on the observations noted below, the team urges ODOT to consider improvements in order to build upon the early successes of its program.

Observations and Successful Practices

Program Management

Observation 1: Implementation of ODOT Policy, Manuals, Procedures, and Guidance Is Inconsistent Across the State, Particularly Involving Local Governments and Consultants

The Review Team noted inconsistencies in the application of various ODOT procedures in project file reviews. These inconsistencies were particularly apparent in documents produced and actions taken by Local Public Agencies (LPA) and consultants, likely due to variability in these outside parties' understanding of ODOT procedures and requirements in areas such as public involvement (PI) and environmental justice (EJ). Inconsistencies included items such as not initiating contact with emergency and public services as part of PI during the NEPA process and a failure to include EJ forms in project files.

The ODOT representatives reported in response to interviews that they have already taken action to train LPA and consultant staff in response to this observation. The ODOT staff said that they moved registration for the environmental training program from their office to the Office of Local Technical Assistance Program (LTAP) and the result was greater visibility and exposure of environmental training opportunities for the LPAs. The ODOT representatives are hopeful the additional focus on training will mitigate any inconsistencies in their program.

Successful Practice 1: ODOT Has Effective Program Management Processes in Place Resulting in Successful Project Delivery

In the 2 years since ODOT has assumed NEPA responsibilities, ODOT has approved more than 1000 NEPA actions. Since Audit 1, ODOT undertook measures to solidify its program management approach. The ODOT representatives assigned subject matter experts with responsibility for ODOT's procedures in their subject areas providing a sense of ownership and allowing for ODOT to stay current in its program management responsibilities. The ODOT developed and implemented over 140 procedures to document how to implement NEPA Assignment, manage the program and provide detailed instruction for completion of environmental actions to document preparers and reviewers. The ODOT implemented a quarterly update system for new or revised ODOT procedures using a listserv approach and a single Web-based repository of all guidance to share information. The ODOT continues to use routine statewide NEPA chats and DEC Meetings to share updated information with NEPA practitioners and to hear concerns from the field. Lastly, ODOT is committed to continued process improvements to refine areas of noted deficiency.

Documentation and Records Management

Non-Compliance Observation 1: Disclosure Language Required by Sections 3.1.2 or 3.1.3 of the MOU Was Missing From Project Materials and Documents

The team identified 10 project files where PI materials lacked the required disclosure language required in MOU Sections 3.1.2 or 3.1.3. The disclosure in both sections states, ''*The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by ODOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 11, 2015 and executed by FHWA and ODOT.*'' In addition to these 10 projects, ODOT identified 9 additional projects in which various other documents lacked the required disclosure language, as part of its self-assessment.

The projects identified by FHWA came from 8 of ODOT's 12 districts and included both ODOT and LPA projects. The projects identified by ODOT have a similar distribution among districts and project sponsors. The team considers this problem to be systemic across Ohio, identified in about 20 percent of the FHWA sample.

The team acknowledges that ODOT has already developed an action plan to address this issue, including the following:

- *In support of NEPA Assignment, ODOT has issued over 140 pieces of guidance, manuals or instructions on ODOT's process and implementation of the NEPA Assignment Program. The ODOT will review guidance that references this section of the MOU and ensure that there are no changes that we could make to better provide direction or guidance to our teams on how to comply with this requirement.*
- *The MOU Section 3.1.3 requirement is already a part of several of ODOT environmental training classes, including the PI class, Categorical Exclusion (CE) class, 1-Week NEPA class, among others. However, ODOT will review these classes to ensure Section 3.1.3 requirements are included and seek to include this compliance area into other classes.*
- *In addition, ODOT will make this area a renewed focus at our NEPA chats and DEC meetings. Both of these events are training events with all of ODOT's environmental staff, statewide. In addition, this topic will be presented to our consultant teams at our next Consultant Environmental Update Meeting and our Ohio Transportation Engineering Conference). Lastly, ODOT will look for opportunities to increase outreach to our LPA's on this subject. The ODOT will keep working to improve our overall performance in this area.*

Observation 2: Project-Level Compliance Issues Were Identified in Four Areas: Public Involvement, Environmental Justice, Environmental Commitments, and Fiscal Constraint. In Addition, Instances Were Identified Where the Information Included in the Online Environmental File Did Not Comply With ODOT Standards

The FHWA identified project-level compliance issues on 17 projects in 4 areas in Audit 2. Three areas were identified in both Audit 1 and Audit 2 (*i.e.,* PI, EJ, and environmental commitments) and one was a new area of issue in the current audit (*i.e.,* fiscal constraint). Three of the areas in need of improvement from the FHWA Audit 1 (*i.e.,* floodplains, Wetlands Findings per E.O. 11990, and Section 4(f)) were not identified in this audit, as shown in Table 1. As a result of the first FHWA audit and ODOT's first self-assessment, ODOT updated many procedures relating to the NEPA process and NEPA Assignment to improve its processes and meet Federal requirements. This may be a contributing factor to the changes in the areas in need of improvement identified in FHWA Audit 1 and FHWA Audit 2

The ODOT's second Self-Assessment summary report also identified PI, EJ, and environmental commitments as areas of needed improvements and fiscal constraint as a compliance issue. During Audit 2, ODOT informed FHWA about planned changes and improvements to EnviroNet that should address some of the errors identified in the FHWA project file review.

TABLE 1—AREAS WITH PROJECT-LEVEL COMPLIANCE ISSUES BY YEAR

Area	FHWA Audit 1 (2016)	FHWA Audit 2 (2017)
Public Involvement	✓	✓
Environmental Justice	✓	✓
Environmental Commitments	✓	✓
Fiscal Constraint		✓
Floodplains	✓	
Wetlands Findings per E.O. 11990	✓	
Section 4(f)	✓	

In addition, FHWA identified issues with project file management in both Audit 1 and Audit 2. The ODOT also identified project file management as an area in need of improvement through its Self-Assessment summary reports. For example, the team could not find required documentation in the Project File Tab even though there were indications that a related task was completed. The areas under which the errors occurred, include, but are not limited to PI, EJ, environmental commitments, maintenance of traffic, and fiscal constraint. The projects identified represent all ODOT's 12 districts and included ODOT, ORDC, and LPA projects.

The team considers these to be project level compliance issues because, although documentation expected to be in the project file was missing, the files generally contained indications that the necessary review or commitments were being implemented. The team strongly encourages ODOT to continue improvements to EnviroNet and ODOT procedures to ensure complete documentation and compliance on future projects. The FHWA will more closely review these project level compliance issues in its next Audit review.

Quality Assurance/Quality Control (QA/QC)

Observation 3: There Are Variations in Awareness, Understanding, and Implementation of QA/QC Process and Procedures

The inconsistencies and missing information so far described are an indication that ODOT's QA/QC process requires attention. The interviews revealed that middle and upper management at the districts are not involved in the QA/QC process. The ODOT District environmental staff and non-environmental staff said that they rely on the ODOT Central Office to be the final backstop for QA/QC. However, most district staff indicated a lack of awareness or understanding of the overall QA/QC process. No training is provided exclusively for QA/QC.

Successful Practice 2: EnviroNet Serves as QA/QC in Terms of Process and Consistency

Interviews with district and ODOT Central Office staff indicated that, overall, EnviroNet has changed the NEPA review process for the better and represents a ''one-stop shop'' for documentation of the NEPA process. The ODOT staff indicated that with everything now on-line, including electronic signatures, communication is easier between ODOT, the LPAs and consultants. The use of drop down menus and response selections within the project file resource areas acts as QC, creating increased standardization and consistency statewide.

The system of checks built into the system includes error messages and a hard stop of the project if a peer review is required and not completed. Another safeguard of EnviroNet is ''validation'' which instigates a hard stop if required fields are not filled in the project file. There are security protocols to allow access to the appropriate staff for project file review and input, peer review and ultimately approval officials.

Legal Sufficiency Review

To date, ODOT has not applied the ''ODOT NEPA Assignment Legal Sufficiency Review Guidance'' guidance because it did not have any documents that required legal sufficiency review. There are no observations to report at this time.

Performance Measures

Observation 4: Some of ODOT's Performance Measures Are Ineffective

The ODOT developed Performance Measures as required in MOU Section 10.2 to provide an overall indication of ODOT's execution of its responsibilities assigned by the MOU. The team urges ODOT to refine or revise performance measures to reveal any occasional or ongoing challenges in agency relationships as well as any possible need to adjust approaches to QC.

Training Program

The ODOT has a robust environmental training program and provides adequate budget and time for staff to access a variety of internal and external training. The ODOT updated its training plan in January 2017, and provided the plan to FHWA and resource agencies for their review, as required by Section 12.2 of the MOU. The training plan includes both traditional, instructor-based training courses and quarterly DEC meetings as well as monthly NEPA chats, where ODOT Central Office staff can share new information and guidance with district staff, including interactive discussions on the environmental program. Furthermore, the training plan includes a system to track training needs within ODOT. In addition, ODOT holds bi-annual meetings with consultants to provide on-going updates about the environmental program

Successful Practice 3: ODOT Continues the Practice of Required and Continuous Training of Both Staff and Consultants Involved in the Environmental Process

The ODOT's training plan states that all ODOT environmental staff (both central and district offices) and environmental consultants are required to take the pre-qualification training courses. Staff is also encouraged to take training offered beyond the minimum required training. All staff interviewed indicated that ODOT management fully supports required training of staff and consultants.

Observation 5: Opportunities Exist for Expanding Training in Environmental Justice (EJ)

Currently, ODOT's training plan does not include a stand-alone training course on EJ. In the Self-Assessment summary report, ODOT identified EJ as an area needing improvement. This observation and that the team found project level compliance issues related to EJ indicate that additional attention should be paid by ODOT to EJ compliance. The FHWA encourages

ODOT to include specific EJ training opportunities in its training plan, such as the Web-based course currently under development, and other EJ courses offered by the National Highway Institute (NHI), the FHWA Resource Center, and/or the EPA.

Next Steps

The FHWA provided a draft of this audit report to ODOT for a 14-day review and comment period and considered ODOT's comments in developing this draft report. In addition, FHWA will consider comments on the draft report received from the public within the 30-day comment period after publication in the **Federal Register**, pursuant to 23 U.S.C. 327(g). No later than 60 days after the close of the comment period, FHWA will respond to all comments submitted, pursuant to 23 U.S.C. 327(g)(2)(B). Once finalized, FHWA will publish the final audit report in the **Federal Register**.

The FHWA will consider the results of this audit in preparing the scope of the next annual audit. The next audit report will include a summary that describes the status of ODOT's corrective and other actions taken in response to this audit's conclusions.

[FR Doc. 2018–08101 Filed 4–17–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2018–0004]

Surface Transportation Project Delivery Program; Florida DOT Audit #1 Report

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice, request for comment.

SUMMARY: The Surface Transportation Project Delivery Program allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely responsible and liable for carrying out the responsibilities it has assumed, in lieu of FHWA. This program mandates annual audits during each of the first 4 years of State participation to ensure compliance with program requirements. This is the first audit of the Florida Department of Transportation's (FDOT) performance of its responsibilities under the Surface Transportation Project Delivery Program (National Environmental Policy Act (NEPA) assignment program). This notice announces and solicits comments on the first audit report for the FDOT's participation in accordance to FAST Act requirements.

DATES: Comments must be received on or before May 18, 2018.

ADDRESSES: Mail or hand deliver comments to Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590. You may also submit comments electronically at *www.regulations.gov.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). The DOT posts these comments, without edits, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Marisel Lopez Cruz, Office of Project Development and Environmental Review, (202) 493–0356, *marisel.lopez-cruz@dot.gov,* or Mr. David Sett, Office of the Chief Counsel, (404) 562–3676, *david.sett@dot.gov,* Federal Highway Administration, Department of Transportation, 61 Forsyth Street 17T100, Atlanta, GA 30303. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the specific docket page at *www.regulations.gov.*

Background

The Surface Transportation Project Delivery Program (or NEPA Assignment Program) allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal highway projects. This provision has been codified at 23 U.S.C. 327. When a State assumes these Federal responsibilities, the State becomes solely responsible and liable for carrying out the responsibilities it has assumed, in lieu of FHWA. The FDOT published in the *Florida Administrative Register* its application for assumption under the NEPA Assignment Program on April 15, 2016, and made it available for public comment for 30 days. After considering public comments, FDOT submitted its application to FHWA on May 31, 2016. The application served as the basis for developing the memorandum of understanding (MOU) that identifies the responsibilities and obligations FDOT would assume. The FHWA published a notice of the draft MOU in the **Federal Register** on November 1, 2016, with a 30-day comment period to solicit the views of the public and Federal agencies. After the close of the comment period, FHWA and FDOT considered comments and proceeded to execute the MOU. Effective December 14, 2016, FDOT assumed FHWA's responsibilities under NEPA, and the responsibilities for reviews under other Federal environmental requirements.

Section 327(g) of Title 23, United States Code, requires the Secretary to conduct annual audits during each of the first 4 years of State participation. After the fourth year, the Secretary shall monitor the State's compliance with the written agreement. The results of each audit must be made available for public comment. This notice announces the availability of the first audit report for FDOT and solicits public comment on same.

Authority: Section 1313 of Public Law 112–141; Section 6005 of Public Law 109–59; Public Law 114–94; 23 U.S.C. 327; 49 CFR 1.85; 23 CFR 773.

Issued on: April 11, 2018.

Brandye L. Hendrickson,

Acting Administrator, Federal Highway Administration.

DRAFT

Surface Transportation Project Delivery Program

FHWA Audit #1 of the Florida Department of Transportation

December 2016 to May 2017

Executive Summary

This is the first audit of the Florida Department of Transportation's (FDOT's) performance of its responsibilities under the Surface Transportation Project Delivery Program (National Environmental Policy Act (NEPA) assignment program). Under the authority of 23 United States Code

(U.S.C.) 327, FDOT and Federal Highway Administration (FHWA) executed a memorandum of understanding (MOU) on December 14, 2016, whereby FHWA assigned and FDOT assumed FHWA's NEPA responsibilities and liabilities for Federal-aid highway projects and other related environmental reviews for transportation projects in Florida.

The FHWA formed a team in January 2017 to conduct an audit of FDOT's performance according to the terms of the MOU. The Audit Team held internal meetings to prepare for an on-site visit to the Florida Division and FDOT offices. Prior to the on-site visit, the Audit Team reviewed FDOT's NEPA project files, FDOT's response to FHWA's pre-audit information request (PAIR), and FDOT's Self-Assessment Summary Report of its NEPA program. The Audit Team conducted interviews with FDOT and resource agency staff and prepared preliminary audit results from October 16 to 20, 2017. The Audit Team presented these preliminary observations to FDOT Office of Environmental Management (OEM) leadership on October 20, 2017.

Upon accepting the NEPA assignment responsibilities, FDOT updated its procedures and processes as required by the MOU. Overall, the Audit Team found that FDOT is committed to establishing a successful NEPA program. This report describes several successful practices, three observations, and one non-compliance observation. The FDOT has carried out the responsibilities it has assumed in keeping with the intent of the MOU and FDOT's Application. Addressing the observations in this report will allow FDOT to continue to move the program toward success.

Background

The purpose of the audits performed under the authority of 23 U.S.C. 327 is to assess a State's compliance with the provisions of the MOU as well as all applicable Federal statutes, regulations, policies, and guidance. The FHWA's review and oversight obligation entails the need to collect information to evaluate the success of the NEPA Assignment Program; to evaluate a State's progress toward achieving its performance measures as specified in the MOU; and to collect information for the administration of the NEPA Assignment Program. This report summarizes the results of the first audit in Florida. Following this audit, FHWA will conduct three annual audits. The second audit report will include a summary discussion that describes progress since the last audit.

Scope and Methodology

The overall scope of this audit review is defined both in statute (23 U.S.C. 327) and the MOU (Part 11). An audit generally is defined as an official and careful examination and verification of accounts and records, especially of financial accounts, by an independent unbiased body. With regard to accounts or financial records, audits may follow a prescribed process or methodology and be conducted by ''auditors'' who have special training in those processes or methods. The FHWA considers this review to meet the definition of an audit because it is an unbiased, independent, official and careful examination and verification of records and information about FDOT's assumption of environmental responsibilities.

The Audit Team consisted of NEPA subject matter experts from the FHWA offices in Juneau, Alaska, Denver, Colorado, Columbus, Ohio, Washington, District of Columbia, Atlanta, Georgia, Austin, Texas, as well as staff from the FHWA Florida Division. The diverse composition of the team, as well as the process of developing the review report and publishing it in the **Federal Register**, are intended to make this audit an unbiased official action taken by FHWA.

The Audit Team conducted a careful examination of FDOT policies, guidance, and manuals pertaining to NEPA responsibilities, as well as a representative sample of FDOT's project files. Other documents, such as the June 2017 Six-month status update report from FDOT, the August 2017 PAIR responses, and FDOT's September 2017 Self-Assessment Summary Report, informed this review. The Audit Team interviewed FDOT staff and resource agency staff. This review is organized around six NEPA assignment program elements: Program management, documentation and records management, quality assurance/quality control (QA/QC), legal sufficiency, performance measurement, and training program. In addition, the Audit Team considered three cross-cutting focus areas: (1) Engineering Analysis within the NEPA process; (2) Archaeological and Historical Resources; and (3) Protected Species and Habitat.

The Audit Team defined the timeframe for highway project environmental approvals subject to this first audit to be between December 2016 and May 2017, when 209 projects were approved. The team drew both representative and judgmental samples totaling 77 projects from data in FDOT's online file system, Statewide Environmental Project Tracker (SWEPT). In the context of this report, Type 1 CE and Type 2 CE are consistent with FDOT's Project Development and Environmental Manual. The FHWA judgmentally selected all Type 2 categorical exclusions (CEs) (3 projects), all reevaluations (12 projects), all Environmental Assessments (EAs) with Findings of No Significant Impacts (FONSIs) (3 projects), all Environmental Impact Statements (EISs) with Records of Decision (RODs) (no projects fell into this category), and all Type 1 CE projects completed under 23 CFR 771.117(d) CEs (9 projects). Fifty randomly selected project files came from the remaining 182 Type 1 CEs completed under 23 CFR 771.117(c), applying a 90 percent confidence level and a 10 percent margin of error to the sample. The Audit Team reviewed projects in all FDOT's seven districts.

The Audit Team submitted a PAIR to FDOT that contained 55 questions covering all six NEPA assignment program elements. The FDOT responses to the PAIR were used to develop specific follow-up questions for the on-site interviews with FDOT staff.

The Audit Team conducted a total of 42 interviews. Interview participants included staff from four of FDOT's seven district offices—District 1 (Bartow), District 2 (Lake City), District 5 (Deland), and District 7 (Tampa)—and FDOT Central Office. The audit team interviewed FDOT environmental staff, middle management, and executive management, regional representatives from the U.S. Army Corps of Engineers (USACE), U.S. Fish and Wildlife Service (USFWS), and the State Historic Preservation Officer (SHPO) from the Florida Department of State, Division of Historic Resources.

The Audit Team compared the procedures outlined in FDOT policies and environmental manuals (including the published 2016 Project Development & Environment (PD&E) Manual) to the information obtained during interviews and project file reviews to determine if there are discrepancies between FDOT's performance and documented procedures. Individual observations were documented during interviews and reviews and combined under the six NEPA Assignment Program elements. The audit results are described below by program element.

Overall Audit Opinion

The Audit Team recognizes that FDOT is in the early stages of the NEPA Assignment Program and FDOT's programs, policies, and procedures may still be in the process of being incorporated into its program statewide. The FDOT's efforts have been focused

on establishing and refining policies, procedures and guidance documents; establishing the SWEPT tracking system for ''official project files''; training staff; establishing a QA/QC Plan; and conducting a self-assessment for monitoring compliance with the assumed responsibilities. The FDOT has carried out the responsibilities it has assumed consistent with the intent of the MOU and FDOT's Application. By addressing the observations in this report, FDOT will continue to move the program toward success.

Non-Compliance Observation

A non-compliance observation is an instance where the Audit Team finds the State is not in compliance or is deficient with regard to a Federal regulation, statute, guidance, policy, State procedure, or the MOU. Non-compliance may also include instances where the State has failed to secure or maintain adequate personnel and or financial resources to carry out the responsibilities they have assumed. The FHWA expects the State to develop and implement corrective actions to address all non-compliance observations.

The Audit Team identified one non-compliance observation during this first audit.

Observations and Successful Practices

Observations are items the Audit Team would like to draw FDOT's attention to, which may improve processes, procedures, and/or outcomes. The Audit Team identified four observations in this report. Successful practices are practices that the Audit Team believes are successful, and encourages FDOT to consider continuing or expanding those programs in the future. The Audit Team identified several successful practices in this report. All six MOU program elements are addressed here as separate discussions.

The Audit Team acknowledges that sharing the draft audit report with FDOT allows the Agency to begin implementing corrective actions to improve the program. The FHWA will also consider the status of these observations as part of the scope of Audit #2.

Program Management

Successful Practices

The Audit Team learned that FDOT has maintained its good working relationship with the three resource agencies interviewed—USFWS, USACE, SHPO. Each agency stated that FDOT coordinated any changes in their program with the Agency to ensure satisfaction with their regulatory requirements.

Observation 1: FDOT environmental commitment documentation and tracking

The Audit Team noted in interviews and project file reviews that FDOT's environmental commitments were inconsistently documented, tracked, and implemented. During the interviews, OEM and district staff indicated a different understanding of how commitment compliance is accomplished in FDOT and the function and use of the Project Commitment Record (PCR) Form. District staff have developed different tools than the PCR to track commitment compliance. Both the Self-Assessment Summary Report and project file reviews indicated that commitments were not being included verbatim into the Commitments Section of some NEPA documents or reevaluations. The Audit Team noted that commitments are not consistently transferred onto PCR forms for tracking through the various phases of project development. The Audit Team encourages FDOT to implement the commitment compliance recommendations identified in their 2017 Self-Assessment Summary Report to address this observation.

Observation 2: FDOT Program level coordination to address MOU requirements

During the audit interviews, FDOT stated they are implementing new Federal or U.S. Department of Transportation (DOT) policy, including executive orders, without FHWA consultation. This approach may establish policy or guidance in advance of FHWA, which could increase the risk of conflict with any subsequent DOT/FHWA issued policy or guidance. If such a conflict should occur, FDOT would then need to change their policies and procedures to meet the DOT/FHWA guidance. According to MOU subpart 5.2.1 FDOT may not establish policy and guidance on behalf of the DOT Secretary or FHWA for highway projects covered in the MOU.

Quality Assurance/Quality Control

Successful Practices

The FDOT has implemented several successful practices to ensure the quality of its NEPA documents. As an example of a successful QA/QC practice, one district developed a checklist to provide better quality control in making sure they were uploading the necessary information into SWEPT for project review and coordination. As they received comments from OEM, the district adjusted their checklist so that future projects would also benefit from the OEM comments.

Observation 3: FDOT's approach to QA/QC could be broadened and made more responsive

The FDOT's QA/QC tool was the self-assessment. The FDOT's self-assessment considered five focus areas for compliance: commitments; ponds; species and habitat; QA/QC; and Type 1 CE projects. Both FHWA and FDOT reviewed the same 27 projects (exclusive of Type I CEs completed under 23 CFR 771.117(c)) and identified a similar number of projects with documentation issues for the focus areas in common (commitments and species and habitat). However, the Audit Team identified additional project documentation or compliance issues not identified by FDOT. While the FHWA acknowledges that FDOT has employed quality assurance as a corrective action to address missing information for projects, FDOT's obligation under the MOU is that its QA/QC process identify and address the full range of compliance obligations it has assumed. Though concentrating on focus areas is appropriate for a Self-Assessment Summary Report, FDOT's QA/QC overall process should be broader in scope in order to identify and correct any deficiencies.

Legal Sufficiency

The Audit Team's review of FDOT's legal sufficiency program found that FDOT has structured the legal sufficiency process for the NEPA Assignment Program by having in house counsel as well as being able to contract with outside counsel who have NEPA experience. Because FDOT is in the early stages of implementation, no legal sufficiency determinations have been made during the audit time frame.

Successful Practices

The FDOT Office of General Counsel (OGC) is fully engaged in the NEPA process. Legal staff participate in monthly coordination meetings and topic specific meetings with OEM and the districts. They also review other documents as requested for legal input. There is close collaboration throughout the process among OGC, OEM, the districts, and districts' attorneys.

Based on the information provided, the FDOT OGC is adequately staffed to provide management and oversight of the NEPA assignment process. In addition, FDOT attorneys located in each of the seven districts provide

supplemental support to the dedicated NEPA OGC staff as needed.

Training Program

Successful Practices

The Audit Team learned through interviews that employee training is a corporate priority at FDOT. The FDOT's training is considered a successful practice in four respects:

First, FDOT developed its own on-line NEPA Assignment training. These succinct Web-based training videos address new NEPA assignment processes, including performance measures, the FHWA audit process, QA/QC, and the FDOT self-assessment process. Such training contributes to a consistent understanding of and participation in these aspects of the NEPA Assignment Program among all FDOT staff.

Second, FDOT provides employees ample training opportunities. Employees are notified of those opportunities through training coordinators and the Learning Curve system, which provides a library of courses. The training helps FDOT employees understand new roles and responsibilities and is available as needed. In preparation for NEPA Assignment, OEM also provided several in-person sessions for the districts. The training was recorded and is available on line.

Third, FDOT employees are required to have an Individual Training Plan (ITP). The plan includes required subject matter courses and courses that promote development of technical and leadership skills.

Finally, training is integrated into employee performance evaluations and employees' ITPs are discussed with supervisors on an annual basis, thereby emphasizing the importance of training and promoting compliance with training requirements. Completion of training is incorporated into the employees' and supervisors' performance evaluations.

Performance Measures

The FDOT presented a discussion of their performance measures that implement those listed in MOU Section 10.2 in the July 2017 revision of their QA/QC Plan. In that discussion, FDOT developed several sub-measures along with performance targets, responsible parties, relevant processes, and desired outcomes identified (see Appendix A of the Plan—http://www.fdot.gov/environment/sched/files/APPROVED-FDOT-OEM-QAQC-Plan_-Dec222017-revised2017-0712.pdf). This plan also identifies FDOT's method of performance monitoring using SWEPT as well as how OEM will, when needed, take corrective action to improve performance.

The FDOT Self-Assessment Summary Report contained the results of FDOT's first report of its assessment of the NEPA Assignment Program and FDOT procedures compliance. This assessment, for the period between December 14, 2016, and April 30, 2017, entailed review of project files as well as results from a survey of Agency satisfaction. The report also included a discussion of FDOT's progress in attaining performance results.

Successful Practices

The FDOT has demonstrated it has taken an active interest in developing, monitoring, and implementing the performance measures as required by the MOU. In reviewing Section 3 of the FDOT Self-Assessment Summary Report, the Audit Team noted that FDOT is the first NEPA assignment State to create a training module on performance measures. This module, available to all FDOT staff, explains performance metrics, how the measures are computed in SWEPT, performance monitoring, and how the measures appear in FDOT's annual Self-Assessment Summary Report. During the interviews, FDOT's leadership indicated that they wanted performance measures to account for, objectively measure, and use quantitative data to support FDOT performance. They also made it clear that FDOT is measuring something worthwhile and plans to revisit the performance metrics over time.

Documentation and Records Management

The SWEPT has been identified as FDOT's project file of record, in which FDOT maintains approved reevaluations, CEs, EAs, and EISs. The Electronic Review and Comments (ERC) system is an internal tool to capture review and comments on the environmental documents. During the audit interviews, FDOT staff indicated only final documents are maintained in the SWEPT system. The Audit Team has full access to SWEPT but has no access to ERC.

Successful Practices

- The FHWA commends FDOT's use of the ERC system to document internal review and comments on NEPA documents and to maintain a record of the disposition of those comments.
- The FDOT's statewide implementation of SWEPT as the administrative file of record used for decision making and documenting compliance with the NEPA process facilitated the Audit Teams review of project files. The following features are particularly notable:
- The date-stamping of data in SWEPT is used for performance measurement tracking.
- The SWEPT, with its Bates stamping ability, facilitates administrative records and open records request compilations.
- The June 2017 SWEPT update includes Type 1 CE ''smartforms'' which provide internal controls that increases certainty of NEPA compliance.

Non-Compliance Observation 1: Some FDOT project files contain insufficient documentation to support the environmental analysis or decision

Both the MOU (subpart 10.2.1) and FDOT's PD&E Manual specify that documentation is needed to support compliance. The Audit Team observed that forty-seven (47) of the seventy-seven (77) project files reviewed did not have sufficient documentation in SWEPT to support the environmental analysis or NEPA decision. The FDOT Self-Assessment reached similar conclusions, and identified nine (9) of thirty-six (36) projects having insufficient documentation. The Audit Team could not determine if the discrepancy indicated documentation had not been uploaded into SWEPT or if the required process had not been completed. The team provided a list of these projects along with a draft of this report to FDOT for their review and comment. The FDOT provided their comments on this report, but did not provide additional information to clarify whether documentation was not uploaded or a required process was not completed.

The FDOT has committed to comply with all applicable environmental review requirements to highway projects it has assumed and to maintain documentation of this compliance. The file review of projects, most, but not all, of which were processed with a categorical exclusion, identified the following deficiencies in supporting documentation: (1) missing or outdated technical documents referenced in the NEPA document; (2) using FDOT standard specifications for Endangered Species Act compliance instead of conducting consultation when species are known to be present, missing documentation of consultation, missing impacts analysis, missing documentation which concludes with a finding, and missing concurrence documentation from applicable agencies; (3) missing documentation of

Section 106 consultation, (4) missing or incorrect documentation for fiscal constraint (for several levels of documents including Type 1 CEs); (5) missing environmental commitments identified in technical reports, and commitments not carried forward in reevaluations; (6) missing Section 4(f) impacts/avoidance analysis; (7) missing documentation to support floodplain effects finding; (8) missing documentation to support the wetlands finding; 9) missing documentation for Essential Fish Habitat consideration; (10) missing documentation of community and other resources impacts when addressing ROW changes; and (11) missing documentation of water quality considerations.

The FDOT has informed the Review Team that they have implemented some corrective actions to address missing documentation. The FDOT staff interviews revealed that the SWEPT system was updated to include a control to not allow a project file review to be completed without uploading all supporting documentation. The FDOT believes that this system improvement will ensure that supporting documentation, that was sometimes missing as SWEPT was initially implemented would now be present prior to an approval point. The implementation of these improvements was incorporated after the audit project file review time frame.

Next Steps

The FHWA provided a draft of the audit report to FDOT for a 14-day review and comment period, later extended to 21-days due to the holidays occurring during the review period. The Audit Team considered FDOT's comments in this draft audit report. The FHWA will publish a notice in the *Federal Register* for a 30-day comment period in accordance with 23 U.S.C. 327(g). No later than 60 days after the close of the comment period, FHWA will address all comments submitted to finalize this draft audit report pursuant to 23 U.S.C. 327(g)(B). Subsequently, FHWA will publish the final audit report in the *Federal Register*.

[FR Doc. 2018–08100 Filed 4–17–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0021, Notice 3]

Correction to Decision That Nonconforming Model Year 2000 East Lancashire Coachbuilders Limited Double Decker Tri-Axle Buses (With Volvo B7L Chassis) Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Correction to previous import eligibility decision.

SUMMARY: NHTSA is correcting an error made in its decision that certain model year (MY) 2000 East Lancashire Coachbuilders Limited Double Decker Tri-Axle buses (with Volvo B7L Chassis) that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS. The correction is being made to properly identify the subject vehicles as MY 2001 models.

DATES: The original eligibility decision became effective on July 30, 2015. The correction is effective as of April 8, 2018, and applies to any vehicle that may have been previously imported under the original eligibility decision.

ADDRESSES: For further information contact George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(B), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence that NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

US Specs, of Havre de Grace, Maryland (''US Specs'') (Registered Importer No. RI–03–321), petitioned NHTSA to decide whether MY 2000 East Lancashire Coachbuilders Limited Double Decker Tri-Axle buses (with Volvo B7L Chassis) are eligible for importation into the United States. NHTSA published a notice of the petition on January 26, 2015 (80 FR 4033) to afford an opportunity for public comment. No comments were received. The reader is referred to that notice for a thorough description of the petition.

A decision granting the referenced petition was published on August 25, 2015 (80 FR 46645). Under the decision, certain MY 2000 East Lancashire Coachbuilders Limited Double Decker Tri-Axle buses (with Volvo B7L Chassis) were determined eligible for importation into the United States.

Import eligibility decisions are made on a make, model, and model year basis, typically in response to petitions submitted by a RI. As specified in 49 CFR 593.6(b)(1), the petitioning RI must, among other things, identify the model year and model of the vehicle for which import eligibility is sought.

In its petition, US Specs identified the subject vehicle as a MY 2000 East Lancashire Coachbuilders Limited Double Decker Tri-Axle buses, built on a Volvo B7L Chassis. At time of submission, there was no reason for NHTSA to question this identification of the vehicle.

It has since come to the agency's attention that manufacturing operations on the subject vehicle were completed in calendar year 2001, the same year in which the bus entered service. Absent a model year designation from the manufacturer or the vehicle's country of origin, the year in which manufacturing operations are completed on the vehicle serves as the vehicle's model year, as that term is defined in 49 CFR 593.4.

Correction

Accordingly, on the basis of the foregoing, NHTSA hereby corrects the decision granting import eligibility to MY 2000 East Lancashire Coachbuilders Limited Double Decker Tri-Axle buses (mounted on a Volvo B7L Chassis) to identify the subject vehicles as the MY 2001 version.

Conditions for importation of vehicles eligible under this corrected decision remain as outlined in the original decision. The importer of a vehicle

admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VCP–59, the vehicle eligibility number assigned to vehicles admissible under the original decision, remains as the eligibility number for vehicles admissible under the decision as corrected in this notice.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.

Claudia W. Covell,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2018–08060 Filed 4–17–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2011–0177]

Notice of Submission of Proposed Information Collections to OMB; Agency Request for Renewal of Previously Approved Information Collections: Nondiscrimination on the Basis of Disability in Air Travel

AGENCY: Office of the Secretary (OST), Department of Transportation (Department or DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Department of Transportation's (Department or DOT) intention to renew an Office of Management and Budget (OMB) control number for certain information collections. The collections involve requirements for carriers to provide a mechanism on their websites for passengers to provide online notification of their requests for disability accommodation services and for carriers to ensure that a disclaimer is activated when a user clicks a link on a primary website to embedded third-party software or an external website. The disclaimer must inform the user that the software/website in not within the carrier's control and may not follow the same accessibility policies.

DATES: Written comments should be submitted by June 18, 2018.

ADDRESSES: You may submit comments identified by Docket No. DOT–OST–2011–0177 through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: John C. Wood, Office of the General Counsel, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, 202–366–9342 (Voice), 202–366–7152 (Fax), or *john.wood@dot.gov* (Email). Arrangements to receive this document in an alternative format may be made by contacting the above-named individual.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2105–0571.

Title: Nondiscrimination on the Basis of Disability in Air Travel.

Type of Review: Renewal of information collections.

Background: This notice covers two information collection requirements in the Department's Air Carrier Access Act (ACAA) implementing regulation, 14 CFR part 382 (part 382), Nondiscrimination on the Basis of Disability in Air Travel. Specifically, pursuant to section 382.43(d), covered carriers must provide an online mechanism for passengers to request disability accommodation services (*e.g.,* enplaning/deplaning assistance, deaf/hard of hearing communication assistance, escort to service animal relief area, etc.) for a particular flight. Pursuant to section 382.43(e), covered carriers must also ensure that when a user activates a link on a carrier's primary website to embedded third-party software or to an external website, a disclaimer is displayed notifying the user that the application or website may not be accessible. These requirements became effective on December 12, 2015, and December 12, 2016, respectively. Covered carriers are U.S. and foreign air carriers that operate at least one aircraft having a designed seating capacity of more than 60 passengers and own or control a primary website that markets passenger air transportation or a tour, or tour component that must be purchased with air transportation, to the general public in the United States.[1]

The title, a description of the information collection and respondents, and the periodic reporting burden are set forth below for each of the information collections:

1. Requirement to make a disability accommodation service request function available on the primary website. (14 CFR 382.43(d)).

Each covered carrier must provide a mechanism on its website for passengers to request a disability accommodation service for a future flight and provide advance notice of their request. Carriers may, but need not, require passengers to include contact information on the form in order to follow-up and request more specific information about the passengers' accommodation needs. Carriers may also use the aggregate data from the online service requests to understand and better plan for the volume and types of service requests they receive across time periods and routes, but also are not required to do so. While the content and design of the online service request form is up to the carriers, the Department anticipates that each covered U.S. and foreign carrier that markets scheduled air transportation to the general public in the United States would incur initial costs associated with developing and reviewing a design and implementation plan for the request form, developing, coding, and integrating the form into the website, as well as testing, debugging, and connecting the form with a backend database to store the information. The final regulatory analysis (FRA) for the final rule entitled Nondiscrimination on the Basis of Disability in Air Travel: Accessibility of Websites and Automated Kiosks at U.S. Airports estimated that it will take an average of 32 labor hours per carrier to develop, implement, integrate, connect, and test the online request form. Initial costs are reduced for carriers that rely on a request form developed by another entity. There are no recordkeeping or reporting requirements. However, carriers should use the service request information to facilitate appropriate, timely assistance to their passengers.

Respondents: Certificated U.S. and foreign air carriers operating to, from, and within the United States that operate at least one aircraft having a seating capacity of more than 60 passengers and own or control a primary website that markets air transportation to the general public in the U.S.

Estimated Number of Respondents: 165 U.S. and foreign carriers, of which the Department expects all to have achieved compliance with the requirement in a prior year. The

[1] While there are approximately 190 U.S. and foreign air carriers that conduct passenger-carrying service to, from, or in the United States with at least one aircraft having a designed seating capacity of more than 60 seats, not all of those carriers have a primary website that markets passenger air transportation to the general public in the U.S. The Department estimates that approximately 165 of those 190 carriers are subject to the Department's web-accessibility requirements as they operate such aircraft and have a primary website that markets to U.S. consumers.

Department estimates that each year there will be 3 new respondent carriers.

Estimated Annual Burden on Respondents: 0 hours per carrier compliant in a prior year, unless the carrier voluntarily elects to modify or improve its form, and 32 hours per carrier creating an online request form.

Estimated Total Annual Burden: 96 hours. This estimate was calculated by multiplying the total number of labor hours per year that a carrier is estimated to spend to develop, implement, integrate, connect, and test the online request form (32) by the estimated number of new respondent carriers each year (3).

Frequency: One-time requirement.

2. Requirement to provide a disclaimer notice to users when clicking a link on a primary website to embedded third-party software or an external website. (14 CFR 382.43(e)).

Carriers must provide a disclaimer notice for each link on their primary website that enables a user to access software or an external website that is not in the carrier's control. The disclaimer notice must be activated the first time a user clicks the link and must notify the user that the application/website is not within the carrier's control and may not follow the same accessibility policies as the primary website. The Department anticipates that each covered U.S. and foreign carrier will incur costs associated with identifying all links on their websites that may require a disclaimer such as developing and reviewing the design and language for the disclaimer notice, as well as developing, testing, and deploying the code to the appropriate web pages.

The incremental labor hours associated with providing the required disclaimer may vary depending on the number of links on the website to which this requirement applies. The FRA estimated that it will take an average of 6 labor hours per carrier to identify the links and then develop, test, and deploy the disclaimer notice on the website. We also estimate that it will take less than 30 minutes per year for a carrier to associate the notice with any new links to external websites or third-party software added to their websites.

Respondents: Certificated U.S. and foreign air carriers operating to, from, and within the United States that operate at least one aircraft having a seating capacity of more than 60 passengers and own or control a primary website that markets air transportation to the general public in the U.S.

Estimated Number of Respondents: 165 U.S. and foreign carriers, of which the Department expects all to have achieved compliance with the requirement in a prior year. The Department estimates that each year there will be 3 new respondent carriers.

Estimated Annual Burden on Respondents: 6 hours for carriers to create, test, and deploy the disclaimer. 30 minutes for carriers compliant in prior years to associate the notice with new links and third-party software.

Estimated Total Annual Burden: 100.5 hours. This estimate was calculated by multiplying the total number of labor hours per year that a carrier is estimated to spend to develop, test, and deploy the online request form (6) by the estimated number of new respondent carriers each year (3). To that total we added the product of the number of hours that we estimated carriers may spend associating the notice with new weblinks (.5 hours) and the number of carriers that are expected to have achieved compliance in a prior year (165).

Frequency: One-time and recurrent requirements.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued in Washington, DC, on April 11, 2018.

Blane A. Workie,

Assistant General Counsel for Aviation Enforcement and Proceedings.

[FR Doc. 2018–08107 Filed 4–17–18; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that a meeting of the Veterans' Advisory Committee on Rehabilitation (VACOR) will be held on Monday and Tuesday, May 7–8, 2018 in room 542, 1800 G Street NW, Washington DC 20006. The meeting will begin at 8:30 a.m. (EST) on May 7th and begin at 8:00 a.m. (EST) on May 8th and adjourn at 4:00 p.m. (EST) each day. Both meetings are open to the public.

The purpose of the Committee is to provide advice to the Secretary on the rehabilitation needs of Veterans with disabilities and on the administration of VA's rehabilitation programs.

On May 7, 2018, the Committee will be provided with ethics training, receive updated briefings from the Advisory Committee Management Office (ACMO), Vocational Rehabilitation and Employment (VR&E) Service and participate in group breakout sessions. On May 8, 2018, Committee members will receive updated briefings on various VA programs designed to enhance the rehabilitative potential of disabled Veterans. Members will also begin their consideration of potential recommendations to be included in the Committee's next annual report.

Although no time will be allocated for receiving oral presentations from the public, members of the public may submit written statements for review by the Committee to Sabrina McNeil, Designated Federal Officer, Veterans Benefits Administration (28), 810 Vermont Avenue NW, Washington, DC 20420, or via email at *Sabrina.McNeil@va.gov.* In the communication, writers must identify themselves and state the organization, association or person(s) they represent. Individuals who wish to attend the meeting should RSVP to Sabrina McNeil at (202) 461–9618, no later than close of business, April 30, 2018. Any member of the public seeking additional information should contact Sabrina McNeil at the phone number or email address noted above.

Dated: April 12, 2018.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2018–08005 Filed 4–17–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Research and Health Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Veterans' Rural Health Advisory Committee will meet on May 23–24, 2017. The meeting will be held at 400 Veterans Avenue, Rec Hall in Bldg. 17, Biloxi, Mississippi 39531 on May 23–24 the meeting sessions will begin at 8:30

a.m. (EST) each day and adjourn at 5:00 p.m. (EST). The meetings are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on rural health care issues affecting Veterans. The Committee examines Programs and policies that impact the delivery of VA rural health care to Veterans and discusses ways to improve and enhance VA access to rural health care services for Veterans.

The agenda will include updates from Department leadership, Network Director South Central VA Health Care Network, Director Gulf Coast Veterans Health Care System and the Director Office of Rural Health and Committee Chairman, as well as presentations on general health care access.

Public comments will be received at 4:30 p.m. on May 24, 2018. Interested parties should contact Ms. Judy Bowie, via email at *VRHAC@va.gov,* via fax at (202) 632–8615, or by mail at 810 Vermont Avenue NW (10P1R), Washington, DC 20420. Individuals wishing to speak are invited to submit a 1–2 page summary of their comment for inclusion in the official meeting record. Any member of the public seeking additional information should contact Ms. Bowie at the phone number or email address noted above.

Dated: April 13, 2018.

LaTonya L. Small,

Federal Advisory Committee Management Office.

[FR Doc. 2018–08112 Filed 4–17–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0791]

Agency Information Collection Activity: Notice of Disagreement

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 June 18, 2018.

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. 2900–0791'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia D. 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: Notice of Disagreement (VA Form 21–0958).

OMB Control Number: 2900–0971.

Type of Review: Revision of a currently approved collection.

Abstract: Veterans use VA Form 21–0958 to indicate disagreement with a decision issued by a Regional Office (RO) in order to initiate an appeal. This form is the first step in the appeal process.

Affected Public: Individuals and households.

Estimated Annual Burden: 36,000 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 144,000.

By direction of the Secretary.

Cynthia D. Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–07946 Filed 4–17–18; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Environmental Protection Agency

40 CFR Part 50

Review of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[EPA–HQ–OAR–2013–0146; FRL–9976–78–OAR]

RIN 2060–AR57

Review of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

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 oxides of nitrogen, as measured by nitrogen dioxide (NO_2), the EPA is retaining the current standards, without revision.

DATES: This final action is effective on May 18, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2013–0146. Incorporated into this docket is a separate docket established for the Integrated Science Assessment for this review (Docket ID No. EPA–HQ–ORD–2013–0232). All documents in these dockets are listed on the *www.regulations.gov* website. 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 will be publicly available only in hard copy form. It 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.*

Availability of Information Related to This Action

A number of the documents that are relevant to this decision are available through the EPA's website 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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References

Executive Summary

This document describes the completion of the EPA's current review of the primary NAAQS for oxides of nitrogen, of which nitrogen dioxide (NO_2) is the component of greatest concern for health and is the indicator for the primary NAAQS. This review of the standards and the air quality criteria (the scientific information upon which the standards are based) is required by the Clean Air Act (CAA) on a periodic basis. In conducting this review, the EPA has carefully evaluated the currently available scientific literature on the health effects of NO_2, focusing particularly on the information newly available since the conclusion of the last review. This section briefly summarizes background information about this action and the Administrator's decision to retain the current primary NO_2 standards. A full discussion of these topics is provided later in this document.

Summary of Background Information

There are currently two primary standards for oxides of nitrogen: A 1-hour standard established in 2010 at a level of 100 parts per billion (ppb) 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 based on annual average NO_2 concentrations.

Sections 108 and 109 of the 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 notice setting forth the EPA's final decision 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 welfare effects associated with NO_X and SO_X and the ecological welfare effects associated with PM. (U.S. EPA, 2017b).

Summary of Decision

In this action, the EPA is retaining the current primary NO_2 standards, without revision. This 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 2016 NO_X Integrated Science Assessment (ISA); analyses and considerations in the Policy Assessment (PA); the advice and recommendations of the Clean Air Scientific Advisory Committee (CASAC); and public comments.

Based on these considerations, the Administrator reaches the conclusion that the current body of scientific evidence and the results of quantitative analyses supports his judgment that the current 1-hour and annual primary NO_2 standards, together, are requisite to protect public health with an adequate margin of safety, and do not call into question any of the elements of those standards. These conclusions are consistent with the CASAC recommendations. In its advice to the Administrator, the CASAC ''recommend[ed] 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 EPA is retaining the current 1-hour and annual NO_2 primary standards, without revision.

As in the last review, the strongest evidence continues to come from studies examining respiratory effects following short-term NO_2 exposures.[1] In particular, the 2016 NO_X 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, p. 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. Additional supporting evidence comes from epidemiologic studies reporting associations between short-term NO_2 exposures and an array of respiratory outcomes related to asthma exacerbation (*e.g.,* asthma-related hospital admissions and emergency department (ED) visits in children and adults).

In addition to the effects of short-term exposures, the 2016 NO_X 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. 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.

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, that evidence, together with analyses of the potential for NO_2 exposures, does 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. Analyses based on information from these studies indicate that the current standards provide protection against the potential for NO_2 exposures that could increase AR in people with asthma. In addition, while epidemiologic studies report relatively precise associations with serious NO_2-related health outcomes (*i.e.,* ED 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.

After considering the current body of scientific evidence, the results of quantitative analyses, the CASAC advice, and public comments, the Administrator concludes that the current 1-hour and annual NO_2 primary standards, together, are requisite to protect public health with an adequate margin of safety. Therefore, in this review, the EPA is retaining the current 1-hour and annual NO_2 primary standards, without revision.

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

[1] The 2016 NO_X ISA defines short-term exposures as those with durations of minutes up to 1 month, with most studies examining effects related to exposures in the range of 1 hour to 1 week (U.S. EPA, 2016a, p. 1–15).

''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, [is] requisite to protect the public health.'' [2] 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.'' [3]

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 (D.C. Cir. 1980); *American Petroleum Institute* v. *Costle,* 665 F.2d 1176, 1186 (D.C. Cir. 1981); *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 Association,* 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,[4] 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).[5]

B. Related NO_2 Control Programs

States are primarily responsible for ensuring attainment and maintenance of ambient air quality standards once the EPA has established them. Under section 110 of the Act, 42 U.S.C. 7410, and related provisions, states are to submit, for the EPA's 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 the EPA, also administer the Prevention of Significant Deterioration permitting 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 for the NO_2 NAAQS (see 77 FR 9532 (February 17, 2012)). In addition, there are currently no monitors where there are design values (DVs) [6] above either the 1-hour or annual standard (U.S. EPA, 2017a, Figure 2–5), with the maximum DVs in 2015 being 30 ppb (annual) and 72 ppb (hourly) (U.S. EPA, 2017a Section, 2.3.1).

While NO_X [7] 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.[8] The EPA anticipates that NO_X

[2] 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).

[3] 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, 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.''

[4] As used here and similarly throughout this document, 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 lifestage.

[5] Lists of the CASAC members and members of the NO_2 Review Panel are available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/WebCASAC/CommitteesandMembership?OpenDocument.*

[6] 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. The requirements for calculating DVs for the primary NO_2 NAAQS from valid monitoring data are further specified in Appendix S to Part 50.

[7] In this context, NO_X refers to the sum of NO and NO_2, as is common within air pollution research and control communities. However, in the larger context of this NAAQS review, the terms ''oxides of nitrogen'' and ''nitrogen oxides'' generally refer more broadly to gaseous oxides of nitrogen, which include NO_2 and NO, as well as their gaseous reaction products.

[8] Highway vehicles include all on-road vehicles, including light duty as well as heavy duty vehicles,

emissions will continue to decrease over the next 20 years. For example, 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 non-road diesel engines, locomotives, and certain marine engines are becoming effective throughout the next decade. In future decades, these vehicles and engines meeting more stringent NO_X standards will become an increasingly large fraction of in-use mobile sources, leading to large NO_X emission reductions.[9]

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). 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 the 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 NO_X ISA and subsequently 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 NO_X 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 NO_X 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 recommendations on the second draft ISA and the draft REA planning document 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 the CASAC 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 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]

both gasoline- and diesel-powered, and on-highway motorcycles. Off-highway engines, vehicles and equipment include aircraft, marine vessels, locomotives, off-highway motorcycles, recreational vehicles and other non-road products (*e.g.,* lawnmowers, portable generators, chainsaws, forklifts). Fuel combustion sources includes electric power generating units (EGUs), which derive their power generation from all types of fuels.

[9] 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.

[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.*

On July 14, 2017, the proposed decision to retain the NO_2 NAAQS was signed, and it was published in the **Federal Register** on July 26 (82 FR 34792). The 60-day comment period ended on September 25, 2017, and comments were received from various government, industry, and environmental groups, as well as members of the general public.

In addition, in July 2016, a lawsuit was filed against the EPA that 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 the EPA should withhold consent.[12] The parties to the 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 [13] 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).[14] The EPA is separately reviewing the welfare effects associated with NO_X and SO_X and the ecological welfare effects associated with PM. (U.S. EPA, 2017a).[15]

D. Summary of Proposed Decisions

For reasons discussed in the proposal and summarized in section II.B.1 below, the Administrator proposed to retain the current primary standards for NO_2, without revision.

E. Organization and Approach to Final Decisions

This action presents the Administrator's final decision in the current review of the primary NO_2 standards. The final decision addressing the primary NO_2 standards is based on a thorough review in the 2016 NO_X ISA of scientific information on known and potential human health effects associated with exposure to NO_2 associated with levels typically found in the ambient air. This final decision also takes into account the following: (1) Staff assessments in the PA of the most policy-relevant information in the ISA, as well as quantitative exposure and risk information; (2) the CASAC advice and recommendations, as reflected in its letters to the Administrator and its discussions of drafts of the ISA and PA at public meetings; (3) public comments received during the development of these documents, both in connection with the CASAC meetings and separately; and (4) public comments received on the proposal. The primary NO_2 standards are addressed in section II below. Section III addresses statutory and executive order reviews.

II. Rationale for Decision on the Primary Standards

This section presents the rationale for the Administrator's decision to retain the existing primary NO_2 standards. This rationale is based on a thorough review in the 2016 NO_X ISA of the latest scientific information, generally published through August 2014, on human health effects associated with NO_2 and pertaining to the presence of NO_2 in the ambient air. This decision also takes into account: (1) The PA's staff assessments of the most policy-relevant information in the ISA and staff analyses of air quality, human exposure and health risks, upon which staff conclusions regarding appropriate considerations in this review are based; (2) the CASAC advice and recommendations, as reflected in discussions of drafts of the ISA and PA at public meetings, in separate written comments, and in the CASAC letters to the Administrator; (3) public comments received during the development of these documents, either in connection with the CASAC meetings or separately; and (4) public comments received on the proposal. Section II.A provides background on the general approach for review of the primary NO_2 standards and brief summaries of key aspects of the currently available air quality information, as well as health effects and exposure/risk information. Section II.B presents the Administrator's conclusions on the adequacy of the current primary NO_2 standards, drawing on consideration of this information, advice from the CASAC, and comments from the public. Section II.C summarizes the Administrator's decision on the primary NO_2 standards.

A. Introduction

The Administrator's approach to reviewing the current primary NO_2 standards is based, most fundamentally, on using the EPA's assessment of the current scientific evidence and associated quantitative analyses to inform his judgment regarding primary NO_2 standards that protect public health with an adequate margin of safety. 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 final decision draws 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 approach to informing these judgments is based on the recognition that the available health effects evidence generally reflects a continuum, consisting of levels at which scientists generally agree that health effects are likely to occur, through lower levels at which the likelihood and magnitude of the response become increasingly uncertain. This approach is consistent with the requirements of the NAAQS provisions of the Act and with how the EPA and the courts have historically interpreted the Act. These provisions require the Administrator to establish primary standards that, in the judgment of the Administrator, are requisite to protect public health with an adequate margin of safety. In so doing, 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

[12] One comment was received from the American Petroleum Institute (API) and one was received from an anonymous commenter. These comments are available in the docket for the proposed consent decree (EPA–HQ–OGC–2016–0719).

[13] These gaseous oxides of nitrogen can also be referred to as ''nitrogen oxides'' and include a broad category of gaseous oxides of nitrogen (*i.e.,* oxidized nitrogen compounds), including NO_2, NO, and their various reaction products.

[14] Additional information on the PM NAAQS is available at: *https://www.epa.gov/naaqs/particulate-matter-pm-air-quality-standards.*

[15] 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.*

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.

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 in this review that builds upon the general approach used in the last review and reflects the broader body of evidence and information now available. The Administrator's decisions in the prior review were based on an integration of information on health effects associated with exposure to NO_2 with information on the public health significance of key health effects, as well as on policy judgments as to when the standard is requisite to protect public health with an adequate margin of safety and advice from the CASAC and public comments. These considerations were informed by air quality and related analyses and quantitative exposure and risk information. Similarly, in this review, as described in the PA, the proposal, and elsewhere in this document, we draw on the current evidence and quantitative assessments of exposure pertaining to the public health risk of NO_2 in ambient air. In considering the scientific and technical information here, as in the PA, we consider both the information available at the time of the last review and information newly available since the last review, including most particularly that which has been critically analyzed and characterized in the current ISA. In considering the entire body of evidence presented in the current ISA, as in the PA and as in the last review, we focus particularly on those health endpoints for which the ISA finds associations with NO_2 to be causal or likely causal. The evidence-based discussions presented below draw upon evidence from both controlled human exposure studies and epidemiologic studies. Sections II.A.1 through II.A.3 below provide an overview of the current NO_2 air quality, health effects, and quantitative exposure and risk information with a focus on the specific policy-relevant questions identified for these categories of information in the PA (U.S. EPA, 2017a, Chapter 3).

1. 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 2016 NO_X ISA (U.S. EPA, 2016a, Chapter 2).[16] It presents a summary of NO_2 atmospheric chemistry (section II.A.1.a), trends in ambient NO_2 concentrations (section II.A.1.b), ambient NO_2 concentrations measured at monitors near roads (section II.A.1.c), the relationships between hourly and annual ambient NO_2 concentrations (section II.A.1.d), and background concentrations of NO_2 (section II.A.1.e).

a. Atmospheric Chemistry

Ambient concentrations of NO_2 are influenced by both direct NO_2 emissions and by emissions of 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.[17] [18]

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.[19]

b. 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, 2017a, Section 2.3.4).[20] 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, 2017a, 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

[16] The focus is on NO_2 in this document, 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 2016 NO_X ISA (U.S. EPA, 2016a, Chapter 2).

[17] This follows usages in 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.

[18] See Figure 2–1 of the NO_2 PA for additional information (U.S. EPA, 2017a).

[19] 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.

[20] 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 2016 NO_X ISA (U.S. EPA, 2016a, Section 2.5.6) and the PA (U.S. EPA, 2017a, Section 2.3.4).

concentrations (U.S. EPA, 2017a, Figure 2–5).[21] The annual and hourly DVs trended upward in less than 4% of the sites.[22] 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).

c. 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 farther 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[23] 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 1-hour 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).[24]

d. 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). Since the 1980s, the median annual NO_2 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; data from the new near-road monitoring network were not included the analysis of the relationship between hourly and annual NO_2 concentrations due to the limited amount of data available.[25] 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 indicates that 1-hour DVs at or below 100 ppb generally correspond to annual DVs below 35 ppb, with many monitors recording annual concentrations around 30 ppb. (U.S. EPA, 2017a, p. 2–21, Figure 2–11). Based on this, an area 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 re-evaluate the relationship between 1-hour and annual standards as more data become available from recently deployed near-road monitors.

2. Overview of the Health Effects Evidence

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 2016 NO_X 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 2016 NO_X 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[26] or lifestages (U.S. EPA, 2016a, 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 2016 NO_X 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, 2016a, Preamble, Table II).[27] As discussed further below, in evaluating the public health protection provided by the current standards, the EPA's focus is on health effects determined to have a ''causal'' or a ''likely to be causal'' relationship with NO_2 exposures. 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 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

[21] Based on an analysis of data from sampling sites with sufficient data to produce at least five valid DVs.

[22] It is not clear what specific sources may be responsible for the upward trends in ambient NO_2 concentrations at these sites. (*See* U.S. EPA, 2017a, Section 2.1.2).

[23] Prior to the 2010 rulemaking, monitors were ''not sited to measure peak roadway-associated NO_2 concentrations . . . .'' (75 FR 6479).

[24] 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.

[25] Area-wide sites are intended to characterize ambient NO_2 concentrations at the neighborhood and larger spatial scales.

[26] 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.

[27] 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 2016 NO_X ISA (U.S. EPA, 2016a).

variety of factors such as age, genetic background, nutritional status, immune competence, and social factors (U.S. 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 2016 NO_X 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 2016 NO_X ISA judges there is ''adequate'' evidence (U.S. EPA, 2016a, Table 7–27).

The sections below summarize the evidence for effects related to short-term NO_2 exposures (*e.g.,* minutes up to 1 month) and the evidence for effects related to long-term NO_2 exposures (*e.g.,* months to years).[28] The final section 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. The focus of these sections is on health effects that the 2016 NO_X ISA has determined to have a ''causal'' or ''likely to be causal'' relationship with NO_2. Health effects whose causal determinations have changed since the last review are also briefly addressed. More information on health effects for which causal determinations are suggestive of, but not sufficient to infer a causal relationship or inadequate to infer a causal relationship (*i.e.,* health effects for which the evidence is weaker) may be found in section II.C of the proposal (87 FR 34792, July 26, 2017).

a. 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.B.2.a.i 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 2016 NO_X ISA. Section II.B.2.a.ii discusses the NO_2 concentrations at which health effects have been demonstrated to occur, based on the considerations and analyses included in the PA. Section II.B.2.a.iii discusses NO_2 concentrations in controlled human exposure studies, while section II.B.2.a.iv. discusses NO_2 concentrations in locations of epidemiologic studies.

i. 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 NO_X 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 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 NO_X ISA noted an overarching uncertainty in determining the extent to which NO_2 is independently associated with effects or whether 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 that was critically evaluated in the 2016 NO_X 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).[29] Chapter 5 of the 2016 NO_X ISA presents a detailed assessment of the evidence for health effects associated with short-term NO_2 exposures (U.S. EPA, 2016a). In considering the available evidence and the causal determinations presented in the 2016 NO_X ISA, consistent with the PA (U.S. EPA, 2017a), this action focuses on respiratory effects described below. Cardiovascular effects and mortality are also briefly addressed.

Respiratory Effects

The 2016 NO_X 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 2016 NO_X 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 NO_X 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 NO_X 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 2016 NO_X 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).[30]

Strong evidence supporting this causal determination in the 2016 NO_X ISA comes from a meta-analysis of controlled human exposure studies that evaluate the potential for increased AR[31] following 20-minute to 1-hour NO_2 exposures (Brown, 2015).[32] While

[28] Short-term exposures are defined as those with durations of minutes up to 1 month, with most studies examining effects related to exposures in the range of 1 hour to 1 week (2016 NO_X ISA, p. 1–15).

[29] A list of causal determinations from the 2016 NO_X 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).

[30] 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.

[31] The 2016 NO_X ISA states that AR is ''inherent responsiveness of the airways to challenge by bronchoconstricting agents'' (U.S. EPA, 2016a, p. 5–9). 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.

[32] These studies evaluate the effect of inhaled NO_2 on the inherent responsiveness of the airways to challenge by bronchoconstricting agents.

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.[33] AR has been the key respiratory outcome from controlled human exposures in the previous and the current review of the primary NO_2 NAAQS. The 2016 NO_X 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,[34] most of which were available in the last review (U.S. EPA, 2017a, Tables 3–2 and 3–3). More specifically, the meta-analysis identified the fraction of individuals having an increase in AR following NO_2 exposure, compared to the fraction having a decrease, across studies.[35] 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.[36]

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 asthma. These controlled human exposure studies, the meta-analysis, and uncertainties in this body of evidence are discussed in greater detail below.

The 2016 NO_X 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 2016 NO_X ISA considered a halving of the provocative dose (PD) to indicate responses that may be clinically relevant.[37] [38] With regard to this approach, the 2016 NO_X 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).

Studies considered for inclusion into the meta-analyses by Brown (2015) were identified from the meta-analysis by Goodman et al. (2009), the 2016 NO_X ISA, and a literature search for controlled human exposure studies of individuals with asthma exposed to NO_2 that were published since the 2008 NO_X ISA. In one analysis, Brown (2015) showed 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) in 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 the analysis of PD is limited to a subset of the studies in which non-specific AR was assessed in individuals following resting exposures to NO_2 and air.[39] 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 2016 NO_X 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 2016 NO_X ISA also describes 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 2016 NO_X 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

[33] A meta-analysis synthesizes data from multiple studies using statistical analyses.

[34] 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, with the majority of study participants having a mild form of asthma. (Brown, 2015).

[35] More information on the distribution of study subjects across NO_2 concentrations can be found below (section II.A.2.ii). Information on the fraction of individuals who experienced an increase versus a decrease stratified by concentration can also be found in that section.

[36] ''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).

[37] 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).

[38] The 2016 NO_X 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 AR 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 2016 NO_X ISA to represent an increase in AR that indicates a clinically relevant response.

[39] Section 3.2.2.1 of the PA (U.S. EPA, 2017a) includes additional discussion of these uncertainties.

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 2016 NO_X 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 2016 NO_X 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 rarely studied, but NO_2 associations with asthma exacerbation tend to persist in the few available copollutant models. The 2016 NO_X ISA recognizes, however, that copollutant models have inherent limitations and cannot conclusively rule out confounding (U.S. EPA, 2015a, Preamble, Section 4.b).

The 2016 NO_X 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 2016 NO_X 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 2016 NO_X 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 2016 NO_X 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 fundamental understanding of the 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).

Cardiovascular Effects

The evidence for a causal relationship between cardiovascular health effects and short-term NO_2 exposures in the 2016 NO_X ISA was judged ''suggestive of, but not sufficient to infer, a causal relationship'' (U.S. EPA, 2016a, Section 5.3.11), which reflects a conclusion that the evidence for a causal relationship is stronger in the last review, when the conclusion was that the evidence was ''inadequate to infer the presence or absence of a causal relationship.'' The 2016 determination was primarily supported by consistent epidemiologic evidence from multiple new studies indicating associations between NO_2 concentrations and myocardial infarction. More information on these health effects may be found in section II.C.1.a.ii of the proposal (87 FR 34792, July 26, 2017).

Mortality

The 2016 NO_X ISA concludes that the evidence for a causal relationship between 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). More information on these health effects may be found in section II.C.1.a.iii of the proposal (87 FR 34792, July 26, 2017).

ii. 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 type of effect for which there is the strongest evidence supporting a causal relationship, as discussed in the section 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 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 that meet existing standards. These considerations are discussed below for controlled human exposure studies and epidemiologic studies.

iii. 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, the 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).[40] 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 2016 NO_X 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 in these studies 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 standards.[41]

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 in 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, having the advantage of being based on the same exposure conditions. The meta-analysis by Brown (2015) can also provide insight into the extent to which observed changes are due to NO_2 exposures, with the additional benefit of aiding in the identification of trends in individual-level responses across studies and the advantage of increased power to detect effects, even in the absence of statistically significant effects in individual studies, although each study in the meta-analysis may not be based on the exact same exposure conditions.[42]

Consideration of Group Mean Results From Individual Studies

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. In considering such studies, 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 at this concentration. 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 its results were not statistically significant (n = 4, Orehek et al., 1976). Thus, as noted above, 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 considering studies in individuals with asthma conducted with exercise and at lower concentrations, 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).[43]

Consideration of Results From the Brown (2015) Meta-Analysis

As discussed above, the 2016 NO_X ISA assessment of the evidence for AR

[40] 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.

[41] Despite the difficulty in interpreting the likelihood that these effects would occur at concentrations closer to the current standards, as described later (section II.A.3) the current standards are expected to protect against exposures at the exposure concentrations used in these studies.

[42] Tables 3–2 and 3–3 in the NO_2 PA (adapted from the 2016 NO_X 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 PD: The 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.

[43] 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 statistically significant results. Only one of four studies with exercising exposures of 400 or 600 ppb reported statistically significant increases in 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 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 exposure to filtered air.[44] 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 2016 NO_X 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)), which informed the 2016 NO_X ISA's emphasis on studies of resting exposures and non-specific challenge agents. Overall, the Brown 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).[45]

When evaluating results from the meta-analysis, the PA first considers results across all exposure conditions combined (*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 significantly different from 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 (*i.e.,* 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 non-specific 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.[46] For non-specific challenge agents, the differences between the fraction 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 exposure concentrations evaluated ($p < 0.001$).

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%, particularly when looking at the allergen challenge group, 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 non-specific 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. In contrast, for exposures during exercise, most study subjects did not experience NO_2-induced increases in specific AR.[47] 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 asthma could experience more serious effects and/or effects following exposures to lower NO_2 concentrations.[48] 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 600 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, and can be used to inform the characterization of the magnitude of the effects; however, the lack of an apparent dose-response relationship does not necessarily

[44] More specifically, the Brown (2015) meta-analysis combined information from the studies presented in Tables 3–2 and 3–3 of the PA. It 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.

[45] 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.

[46] 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.

[47] 48% 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.

[48] Brown (2015) notes, however, that disease status varied in the studies included in the meta-analysis, ranging from ''inactive asthma up to severe asthma in a few studies.''

indicate that there is no relationship between the exposure and effect, particularly in these analyses based largely on between-subject comparisons (*i.e.,* as opposed to comparisons within the same subject exposed to multiple concentrations). As discussed in the 2016 NO_X ISA, there are a number of methodological differences across studies that could contribute to between-subject differences and that could obscure or complicate a dose-response relationship between NO_2 and AR (U.S. EPA, 2016a, section 5.2.2.1).[49] 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 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 and reduces the ability to fully characterize the health risks associated with these exposures, it does not 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 current primary 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 2016 NO_X 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.[50]

Five studies provided data for each individual's PD. 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 PD (indicating increased AR) while 8% showed a doubling of the PD (indicating decreased AR). The relative distributions of the PDs 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 subset of studies. 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 an apparent 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. The PA placed weight on that lack of consistency, when considered in light of the lack of an apparent dose-response relationship between NO_2 and increased AR, as well as the uncertainty in the adversity of the reported effect.

iv. 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 2016 NO_X 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 standards, the PA emphasizes those studies conducted in the U.S. and Canada.[51] For short-term exposures to NO_2, the PA emphasizes studies reporting associations with effects judged in the 2016 NO_X 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 where there is the most confidence for NO_2-associated health effects and the range of concentrations over which confidence in such effects is appreciably

[49] For instance, Brown (2015) notes that the few studies evaluating effects at multiple NO_2 concentrations and at resting exposures may indicate some support for a dose-response relationship, as they show increasing AR with increasing exposure concentrations.

[50] 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.A.3 below.

[51] 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 are 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 2016 NO_X ISA's assessment of the weight of the evidence that informs the causal determinations.

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 effects 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.

The emphasis that the proposal and this final action place on studies to inform the question above is discussed in more detail in the proposal for this action (82 FR 34792, July 26, 2017, section II.F.4). Briefly, 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 (CI)) health effect 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).[52] 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.[53] These concentrations approximate the DVs that are used when determining whether an area meets the 1-hour primary NO_2 NAAQS.[54] 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.[55] 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 about whether an area would have met the current 1-hour standard during the study period can be reached based on study areas with DV estimates that are at or just below 100 ppb.[56]

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 2016 NO_X 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 multicity studies tend to have greater power to detect associations. The one multicity 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).[57] Associations in these studies

[52] 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).

[53] All study locations had maximum annual DVs below 53 ppb (U.S. EPA, 2017a, Appendix A).

[54] As described in section I.B., 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 DV 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).

[55] 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.A.1.d).

[56] 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.

[57] 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 the 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

Continued

were generally not statistically significant, were less precise (*i.e.,* wider 95% CI), 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 primary 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).[58] Of the studies 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-related hospital admissions and 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, section 3.5).

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 (Peel et al., 2005; Strickland et al., 2010), 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 lack precision and are not statistically significant, 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.

b. 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.A.2.b.i 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 2016 NO_X ISA. Sections II.A.2.b.ii and II.A.2.b.iii discuss the NO_2 concentrations at which health effects have been demonstrated to occur based on the considerations and analyses included in the PA.

i. 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 effects 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 2016 NO_X 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. Cardiovascular effects and diabetes, reproductive and developmental effects, premature mortality, and cancer are also briefly addressed.

Respiratory Effects

The 2016 NO_X 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.[59] 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

contracted for and sponsored by the New York State Energy Research and Development Authority and the ATSDR.

[58] In this case, differential exposure measurement error occurs when exposure measurement error varies by pollutant (*e.g.,* within a model exposure to $PM_{2.5}$ may be estimated with higher accuracy than exposure to SO_2).

[59] Asthma development is also referred to as ''asthma incidence'' in this document and elsewhere. Both asthma development and asthma incidence refer to the onset of the disease rather than the exacerbation of existing disease.

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 causal relationship'' in the current review represents a change from 2008 NO_X 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, 2016a, 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 2016 NO_X 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 models with good NO_2 prediction in some studies.

While the causal determination has been strengthened in this review, important uncertainties remain. For example, the 2016 NO_X 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 2016 NO_X 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 2016 NO_X 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 2016 NO_X 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)[60] 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 2016 NO_X ISA explains 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 2016 NO_X 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 provides 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.

To summarize, the 2016 NO_X 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

[60] 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 (forced expiratory volume in 1 second) −0.98 (−1.70, −0.26), (FVC) −2.14 (−4.20, −0.04), (peak expiratory flowF) −1.04 (−1.94, −0.13).

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, 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.

Cardiovascular Effects and Diabetes

In the previous review, the 2008 NO_X 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 2016 NO_X ISA judged the evidence to be ''suggestive, but not sufficient to infer'' a causal relationship (U.S. EPA, 2016a, Section 6.3). More information on these health effects may be found in section II.C.2.a.ii of the proposal (87 FR 34792, July 26, 2017).

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 NO_X 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 2016 NO_X 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 2016 NO_X 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. More information on these health effects may be found in section II.C.2.a.iii of the proposal (87 FR 34792, July 26, 2017).

Total Mortality

In the 2008 NO_X ISA, a limited number of epidemiologic studies assessed the relationship between long-term exposure to NO_2 and mortality in adults. The 2008 NO_X 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 2016 NO_X 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). More information on these health effects may be found in section II.C.2.a.iv of the proposal (87 FR 34792, July 26, 2017).

Cancer

The evidence evaluated in the 2008 NO_X 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 conclusion drawn from the integration of evidence is ''suggestive of, but not sufficient to infer, a causal relationship'' (U.S. EPA, 2016a, Section 6.6.9). More information on cancer outcomes may be found in section II.C.2.a.v of the proposal (87 FR 34792, July 26, 2017).

ii. 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, the EPA considers 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 type of effect for which there is 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 and experimental studies.

Ambient NO_2 Concentrations in Locations of Epidemiologic Studies

As discussed above for short-term exposures (Section II.A.2.a), 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 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 2016

NO_X ISA (U.S. EPA, 2016a, p. 6–7). 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 2016 NO_X ISA as providing key supporting evidence for the causal determination.[61] However, the PA also considers what the additional three U.S. and Canadian studies not identified as key studies in the 2016 NO_X ISA can indicate about the adequacy of the current standards, while noting the increased uncertainty in these studies related to exposure measurement and copollutant confounding (Table 6–5 of the 2016 NO_X ISA).

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 reflects 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.A.2.a), 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 2016 NO_X ISA's integrated mode of action information describing the biological plausibility for development of asthma (section II.B.1, below). In particular, studies demonstrate the potential for repeated short-term NO_2 exposures to induce pulmonary inflammation and development of allergic responses. The 2016 NO_X 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 2016 NO_X 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.[62]

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.[63] [64]

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 (section II.A.1, 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.A.c, above). In addition, mobile source NO_X emissions were substantially higher during the majority of study periods (1986–2006) than they are today (section II.A.b, above), 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.[65]

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 2016 NO_X 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

[61] 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 2016 NO_X ISA identifies three as key studies supporting the causal determination (Carlsten et al., 2011; Clougherty et al., 2007; Jerrett et al., 2008).

[62] 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.A.1 above, and in the CASAC letter to the Administrator on the draft PA (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 here to consider the extent to which a short-term standard could provide protection against longer-term pollutant exposures.

[63] 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).

[64] 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).

[65] As noted above for studies of short-term NO_2 exposures (II.A.2.a), 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.

Angeles estimated DVs) 53 ppb.[66] These seven communities also had 1-hour estimated DVs (maximum 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 et al., 2007)[67] or above (Carlsten et al., 2011) 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 2016 NO_X ISA (Clark et al., 2010; McConnell et al., 2010; Nishimura et al., 2013). The multicity 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, these studies do not report such associations at ambient NO_2 concentrations that would have clearly met both of 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, 2017a, 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; and (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 DVs 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 (*i.e.,* asthma development) are occurring below the levels of the current primary NO_2 standards is limited.

iii. 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.[68] 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 2016 NO_X ISA indicates that 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, these experimental studies, by themselves, do not provide insight into the occurrence of adverse health effects following exposures below the levels of the existing primary NO_2 standards.[69]

[66] 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, DV estimates for the Los Angeles and Riverside CBSAs were used to represent multiple study communities.

[67] 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 during the study period.

[68] While there are not controlled human exposure studies for long-term exposures, the 2016 NO_X 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 (U.S. EPA 2016a, chapter 6; U.S. EPA, 2017a, section 3).

[69] In addition, the 2016 NO_X 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.A.2 above.

Overall Conclusions for Long Term Exposures

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.A.2.d, 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.

c. 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 NO_X ISA 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 NO_X 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 NO_X 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 NO_X ISA again notes that 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, Section 7.5.6),[70] there is widespread potential for elevated ambient NO_2 exposures. For example, Rowangould (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 (U.S. EPA, 2017a, Section 3.4) draws from the 2016 NO_X ISA's assessment of the evidence (U.S. EPA, 2016a, Chapter 7). The 2016 NO_X 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 2016 NO_X 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 2016 NO_X ISA then uses a systematic approach for classifying the evidence for each potential at-risk factor (U.S. EPA, 2015a, 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.,* the recently completed review for ozone, 80 FR 65292, October 26, 2015), the PA focuses the consideration of potential at-risk populations on those factors for which the 2016 NO_X ISA determines there is ''adequate'' evidence (U.S. EPA, 2016a, Table 7–27). For NO_2, the at-risk populations identified include people with asthma, children and older adults (U.S. EPA, 2016a, Table 7–27), and this information is 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 conclusions regarding the populations at increased risk of NO_2-related effects 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? (U.S. EPA, 2017a, p. 3–40).

In addressing this question, the PA considers the evidence in the 2016 NO_X ISA for effects in people with asthma, children, and older adults (U.S. EPA, 2016a, Chapter 7, Table 7–27), respectively, as described below.

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)

[70] The 2016 NO_X 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).

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). The Brown (2015) meta-analysis 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 differences in time spent outdoors to suggest differences in NO_2 exposure. However, the Folinsbee et al. (1992) meta-analysis of information from controlled human exposure studies, which supported the 2016 NO_X ISA's determination of a causal relationship between short-term exposures and respiratory effects, clearly demonstrates that adults with asthma are at increased risk for NO_2-related respiratory health effects compared to healthy adults. Thus, consistent with observations made in the 2008 NO_X ISA (U.S. EPA, 2008a), in the current review the 2016 NO_X 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).

Children

According to the 2010 census, 24% of the U.S. population is less than 18 years of age, with 6.5% less than 6 years of age (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). Higher activity along with higher ventilation rates relative to lung volume and higher propensity for oronasal breathing could potentially result in greater NO_2 penetration to the lower respiratory tracts of children; however, this effect has not been examined for NO_2 (U.S. EPA, section 4.2.2.3). 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 NO_2-associated health effects with both short- and long-term 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 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 2016 NO_X 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).

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 NO_X 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 2016 NO_X 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).

PA Conclusions on At-Risk Populations

As described in the PA, and consistent with the last review, the 2016 NO_X 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% all children, 13% all 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.

3. Overview of Risk and Exposure Assessment Information

Beyond the consideration of the scientific evidence, discussed above in Section II.A.2, 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, 2015b) and in the PA (U.S. EPA, 2017a), 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. In

developing the final PA, staff also considered 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 on respiratory health effects associated with short and long-term exposure to NO_2 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 on short-term NO_2 exposures in its review of the REA Planning document, and for long-term exposures they agreed but encouraged the EPA to consider the feasibility of such an assessment for long-term exposures (Diez Roux and Frey, 2015b, p. 5). In its review of the draft PA the CASAC agreed with the EPA's conclusions on the feasibility of an epidemiologic risk assessment based on evidence of long-term NO_2 exposures (Diez Roux and Sheppard, 2016, p. 2).[71]

a. 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 new 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,[72] 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).[73]

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.[74] 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 100 to 300 ppb, based largely on studies of non-specific AR in study participants exposed to NO_2 at rest.[75] [76] 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, the risks of these exposures cannot be fully characterized based on existing studies and caution is appropriate when interpreting the potential public health implications of 1-hour NO_2 concentrations at or around 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.A.2 above and U.S. EPA, 2017a, Section 4.2.1).

b. Results of Updated Analyses

In considering the results of these updated analyses, the EPA focuses on the number of days per year that 1-hour NO_2 concentrations at or above the respective benchmarks 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 (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

[71] After considering the factors discussed above, we conclude that a quantitative risk assessment based on epidemiologic studies of long-term NO_2 exposures is not warranted in this review because of a lack of U.S. epidemiologic studies identified by the 2016 NO_X ISA as being key studies, lack of baseline incidence rates for the health effects of interest, uncertainty regarding the shape of the concentration-response function, and a lack of studies that have controlled for potential confounders, making it difficult to determine the true magnitude of effect (U.S. EPA, 2017a, sections 4.4.2.2 and 4.4.2.3).

[72] As discussed above, near-road monitors are required within 50 m of major roads in large urban areas that met certain criteria for population size or traffic volume. 40 CFR part 58, appendix E, Sec. 6.4(a). 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).

[73] 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).

[74] 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).

[75] Benchmarks from the upper end of this range are supported by the results of individual studies, the majority of which 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.

[76] While benchmarks between 100 to 200 ppb were considered, analyses were only conducted on concentrations between 100 to 200 ppb as 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.

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).

c. 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, 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.

i. 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.A.2), 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 individual studies show more consistent results above 250 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,[77] there remains uncertainty in the degree to which the effects identified in individual studies within the Brown (2015) meta-analysis would be of public health concern, specifically at lower concentrations (*e.g.,* 100 ppb). In particular, the uncertainties regarding the potential for adverse effects following NO_2 exposures at lower concentrations when looking across individual studies 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,[78] these uncertainties have the potential to be of particular importance for interpreting the public health implications of ambient NO_2 concentrations at or around the 100 ppb benchmark.[79]

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.A.2), 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 was 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 experienced a halving of the PD of challenge agent following NO_2 exposures. This magnitude of change has been recognized by the ATS and the ERS 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 subset of volunteers for which non-specific AR was reported following exposures to NO_2 and air at rest, and the interpretation of these results for any specific exposure concentration within the range of 100 to 530 ppb is uncertain (see section II.A.2, above).

ii. 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 approach to adjusting ambient NO_2 concentrations was supported by the CASAC, who found the approach both suitable and appropriate (Diez Roux and Frey, 2015b, p.1). This approach is meant to illustrate a hypothetical scenario and does not represent expectations regarding future air quality trends. There are, however, some uncertainties in this approach. 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.[80] In locations where near-road monitors

[77] 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.''

[78] As discussed previously, while the meta-analysis indicates that a statistically significant majority of study volunteers experienced increased non-specific AR following exposures to 100 ppb NO_2, results were only 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.

[79] 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.

[80] However, 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).

measure the highest NO_2 DVs, reliance on those near-road monitors to identify air quality adjustment factors would likely 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.

iii. 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 on and 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.

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, and Los Angeles in the EPA's database of metadata for near-road monitors).[81] 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, is likely to effectively capture the types of locations around roads where the highest NO_2 concentrations can occur.[82]

This conclusion is consistent with the 2016 NO_X 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 2016 NO_X 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 power generation facilities (EGUs) and airports, the two types of non-roadway sources that are associated with the highest NO_X emissions in the U.S (U.S. EPA, 2017a, Appendix B, Section B2.3.2).

While it is difficult to isolate non-road impacts from certain non-road sources like ports and airports, looking at monitors that are influenced by non-road emissions can help characterize the potential for such exposures. As discussed below, several study areas have non-near-road NO_2 monitors sited to better characterize the impacts of such sources.

As described in the PA (U.S. EPA, 2017a, Section 4.1.2.3), table 2–12 in the 2016 NO_X 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, and very close to a major rail yard (*i.e.,* Bedford Park Rail Yard) and to a four-lane arterial road (US 12 and US 45) (U.S. EPA, 2016a, Section 2.5.3.2). 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. 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, site that is not part of the near-road monitoring network. 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 commercial heating and other activities, as well as local traffic (U.S. EPA, 2016a, Section 2.5.3.2).

d. Conclusions

As discussed above and in the REA Planning document (U.S. EPA, 2015b, 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 I.B, recent NO_2 concentrations measured in all U.S.

[81] This database is found at *http://www3.epa.gov/ttn/amtic/nearroad.html.*

[82] In the current review, 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). 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).

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 all years, including worst-case years and 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).[83]

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.[84] These results are similar to the results presented in the REA from the last review (U.S. EPA, 2008b, tables 7–23 through 7–25), 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, though there is some uncertainty as to whether these results fully characterize on and near-road exposures, in part because most near-road monitors do not yet have three years of data. (U.S. EPA, 2017a, Appendix B, Section B5.9, Table B5–66).[85]

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 adversity of the reported NO_2-induced increases in AR following exposures to 100 ppb NO_2. However, by 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 potentially adverse NO_2-attributable effects is more consistent, as well as against exposures to NO_2 concentrations at 100 ppb, for which the evidence of potentially adverse NO_2-attributable effects is less consistent, but where the meta-analysis indicates that a marginally significant majority of study participants experienced an increase in AR following exposures (Brown, 2015).

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 level for the 1-hour standard (*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), as the REA analyses already estimate no days with 1-hour NO_2 concentrations at or above the 200 ppb benchmark in areas just meeting the current 1-hour standard. 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 that provide a different degree of public health protection. Additionally, in its review of the PA, 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).

B. Conclusions on the Primary Standards

In drawing conclusions on the adequacy of the current primary NO_2 standards, in view of the advances in scientific knowledge and additional information now available, the Administrator considers the evidence base, information, and policy judgments that were the foundation of the last review and reflects upon the body of evidence and information newly available in this review. In so doing, the Administrator has taken into account both evidence-based and exposure- and risk-based considerations, advice from the CASAC, and public comment. Evidence-based considerations draw upon the EPA's assessment and integrated synthesis of the scientific evidence from epidemiological studies and controlled human exposure studies evaluating health effects related to exposures to NO_2 as presented in the ISA, with a focus on policy-relevant considerations as discussed in the PA. The exposure- and risk-based considerations draw from the results of the quantitative analyses presented in the 2008 REA and the additional updated analyses presented in the PA (as summarized in section II.D of the proposal and section II.A.3 above) and consideration of these results in the PA. As described in section II.A.2 of the proposal, consideration of the evidence and exposure/risk information in the PA and by the Administrator is framed by consideration of a series of key policy-relevant questions. Section II.B.1 below summarizes the rationale for the Administrator's proposed decision, drawing from section II.E.4 of the proposal. Advice received from the CASAC in this review is briefly summarized in section II.B.2 below. A fuller presentation of PA considerations and conclusions, and advice from the CASAC, which were all taken into account by the Administrator, is provided in sections II.E.1 through II.E.3 of the proposal. Public comments on the proposed decision are addressed in section II.B.3 below. The Administrator's conclusions in this review regarding the current primary standards are described in section II.B.4 below.

1. Basis for the Proposed Decision

At the time of the proposal, the Administrator carefully considered the

[83] 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.

[84] The 98th percentile generally corresponds to the 7th or 8th highest 1-hour concentration in a year.

[85] 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 B5–66).

assessment of the current evidence and the conclusions reached in the 2016 NO_X ISA; the currently available exposure/risk information, including associated limitations and uncertainties; considerations and staff conclusions and associated rationales presented in the PA; the advice and recommendations from the CASAC; and public comments that had been offered up to that point. In reaching his proposed conclusion on the primary standard, the Administrator took note of evidence-based considerations (as summarized in section II.B.1.a below) and exposure- and risk-based considerations (as summarized in section II.B.1.b below).

a. Evidence-Based Considerations

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 was the nature of the health effects attributable to NO_2 exposures, drawing upon the integrated synthesis of the health evidence in the 2016 NO_X ISA and the evaluations in the PA (Chapter 3). The following questions guided this consideration: (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 were addressed in the proposal for both short-term and long-term NO_2 exposures, with a focus on health endpoints for which the 2016 NO_X 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, the proposal noted that, as in the last review, the strongest evidence continues to come from studies examining respiratory effects. In particular, the 2016 NO_X 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. The proposal further noted that 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 2016 NO_X 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.[86]

Supporting evidence for a range of NO_2-associated respiratory effects also comes from epidemiologic studies. In this regard, the proposal placed particular focus on studies that have examined NO_2 associations with asthma-related hospital admissions or ED visits, outcomes which are clearly adverse. 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 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), as well as regarding the potential for exposure measurement error and the extent to which near-road NO_2 concentrations are reflected in the available air quality data.

Thus, while some new evidence is available in this review, the proposal noted that that new evidence did not substantially alter the understanding of the respiratory effects that occur following short-term NO_2 exposures. This evidence is summarized in Section II.C.1 of the proposal, as well as in Section II.A.2 above, and is discussed in detail in the 2016 NO_X ISA (U.S. EPA, 2016a, section 5.2.2).

With regard to long-term NO_2 exposures, the 2016 NO_X 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. Uncertainties in interpreting associations with asthma development include 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. 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 of the proposal, as well as in Section II.A.2 above, and is discussed in detail in the 2016 NO_X ISA (U.S. EPA, 2016a, section 6.2.2).

Given the evaluation of the evidence in the 2016 NO_X ISA, and the 2016 NO_X ISA's causal determinations, the EPA's further consideration of the evidence in the proposal focused 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 considered 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

[86] This is particularly true at low concentrations (*i.e.,* 100 ppb).

current primary NO_2 standards? In addressing this question, the sections below summarize the proposal's consideration of the evidence in the context of the indicator, averaging times, levels, and forms of the current standards.

i. 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 (U.S. EPA, 2016a, Chapter 2), 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, the CASAC agreed with this conclusion (Diez Roux and Sheppard, 2017). In light of these considerations, EPA proposed to retain the indicator for the current standards.

ii. Averaging Time

The current primary NO_2 standards are based on 1-hour and annual averaging times. The proposal explained that, 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 the CASAC advice in the last review 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).

The proposal explained that, 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 2016 NO_X ISA continue to provide evidence that NO_2 exposures from less than one 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 2016 NO_X 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 2016 NO_X 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). As in the last review, the 2016 NO_X 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 2016 NO_X 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). Thus, 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). In light of these considerations, EPA proposed to retain the averaging time for the current 1-hour standard.

With regard to protecting against long-term exposures, the proposal explained that 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, section 7).

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 2016

NO_X 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, pp. 6–64 and 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, the CASAC supported this approach of 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, the 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). In light of these considerations, EPA proposed to retain the averaging time for the current annual standard.

iii. 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 considered 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 proposal's consideration of these issues is discussed below for short-term and long-term NO_2 exposures.

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).[87] In evaluating the NO_2 exposure concentrations at which increased AR has been observed, the proposal considered both the group mean results reported in individual studies and the results from a recent meta-analysis evaluating individual-level data (Brown, 2015; U.S. EPA, 2016a, Section 5.2.2.1).[88]

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.[89] As discussed in more detail in Section II.C.1 of the proposal, and in Section II.A.2 above, 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 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 and summarized in the proposal, provided information about the ambient NO_2 concentrations in locations where such studies have examined associations with asthma-related hospital admissions or ED visits (short-term) or with asthma incidence (long-term). In particular, these studies informed 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 epidemiologic 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 proposal noted 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

[87] As discussed in Section II.C of the proposal and Section II.A.2 above, 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.

[88] As noted earlier in this section, 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, allowing us to evaluate the strength of the NO_2 and AR relationship across different concentrations of NO_2 in each study, and these studies have the advantage of being based on the same exposure conditions. The meta-analysis by Brown (2015) can also provide insight into the extent to which observed changes are due to NO_2 exposures, but has the additional benefit of aiding in the identification of 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, though each study in the meta-analysis may not be based on the exact same exposure conditions.

[89] 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).

the one study location with a maximum DV of 100 ppb (Atlanta) would have violated the existing 1-hour standard during study periods.[90] 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 proposal also considered 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 ED visits in locations likely to have violated the current 1-hour NO_2 standard, the proposal placed weight on the PA's conclusion 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 the 1-hour standard, the proposal noted 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.[91] In addition, the proposal noted that a 98th percentile form is consistent with the EPA'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.[92] In light of these considerations, EPA proposed to retain the level and form for the current 1-hour standard.

Long-Term

With regard to health effects related to long-term NO_2 exposures, the proposal first considered 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 (75 FR 6474, February 9, 2010).

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 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. 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 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 remains 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 proposal recognized the above uncertainties, it considered 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 proposal considered the degree to which the evidence indicates adverse respiratory effects associated with long-term NO_2 exposures in locations that would have met the current NAAQS. As summarized in Section II.C.2 of the proposal, and in Section II.A.2 above, the causal determination for long-term exposures is supported both by studies of long-term NO_2 exposures and by studies indicating a potential role in asthma development for repeated short-term exposures to high NO_2 concentrations.[93]

As such, when considering the ambient NO_2 concentrations present during study periods, the proposal considered these concentrations within

[90] 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).

[91] 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).

[92] The 98th percentile typically corresponds to about the 7th or 8th highest daily maximum 1-hour NO_2 concentration in a year.

[93] There remains some uncertainty as to whether the health effects associated with long term exposure to NO_2 are due to repeated higher short term exposures, a longer, cumulative exposure, or some mixture of both.

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.[94] The 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 of the proposal, and in Section II.A.2 above, 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) (U.S. EPA, 2016a, section 2.5.3.1, *e.g.,* Tables 2–6 and 2–8, Figures 2–16 and 2–17).

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 proposal placed weight on the PA's conclusion 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 proposal noted the PA's evaluation indicating 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. In light of these considerations, EPA proposed to retain the level and form for the current annual standard.

b. Exposure- and Risk-Based Considerations

Exposure- and risk-based considerations were also important to the proposed decision and its rationale, like the consideration of the health evidence discussed in section II.B.1.a above. As described in greater detail in Section II.A.3 above, and in the REA Planning document (U.S. EPA, 2015b, 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. These analyses were presented in the PA. The staff further concluded in the PA 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 proposal began by noting the PA's focus 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.A.3 above, and in section II.D.1 of the proposal, 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 updated analyses in the PA consider 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-specific AR in people with asthma exposed to NO_2 at rest. As discussed in more detail in section II.D of the proposal, 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.[95]

In further considering the potential public health implications of exposures to NO_2 concentrations at or around benchmarks, there are multiple uncertainties, as discussed in section II.C.I of the proposal and section II.A.3 above. As discussed in more detail in those sections, these uncertainties include the lack of an apparent a dose-response relationship between NO_2 and AR in people with asthma, and uncertainty in the potential adversity of the reported NO_2-induced increases in AR.

As discussed in section II.D.2 of the proposal, and in section II.A.3 above, 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[96] 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

[94] As noted in the PA, near-road monitors were not included in this analysis due to the limited amount of data available (U.S. EPA, 2017a, Figure 2–11).

[95] 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).

[96] 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 (U.S. EPA, 2017a, Section 4.2.1).

at or above 150 ppb.[97] 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.

Section II.D.2 of the proposal noted that 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 the risk of such effects occurring (*i.e.,* at or near 100 ppb). Given the results of these analyses, and the uncertainties inherent in their interpretation, the proposal placed weight on the PA's conclusion 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.

2. The CASAC Advice in This Review

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 2016 NO_X ISA (Frey, 2014a; 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 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 2016 NO_X 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 2016 NO_X 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.[98] 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 agreed with its conclusion that the available evidence, taken together, does not support the need for increased protection against short- or long-term NO_2 exposures, beyond that provided by the existing standards, 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). Further, 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 further 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 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 ''a 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).

[97] Comparisons of NO_2 air quality to health-based benchmarks that estimated occurrences of NO_2 concentrations exceeding the 150 and 200 ppb health-based benchmarks are found in Figure 4–1 of the PA (U.S. EPA, 2017a).

[98] 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).

• *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, 2017, p. 8). However, the CASAC recognized that these studies ''are also subject to uncertainty, including possible confounding with other traffic-related pollutants'' (Diez Roux and Sheppard, 2017, p. 8). The 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, the CASAC recognized the causal associations between long-term exposures, or repeated short-term exposures, and asthma development (Diez Roux and Sheppard, 2017, p. 7) and the appropriateness of considering the protection provided by the current suite of standards together (Diez Roux and Sheppard, 2017, p. 9). Therefore, the CASAC advice on the annual standard takes into account the degree of protection provided by that 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, the 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, the 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, the 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, the 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).

3. Comments on the Proposed Decision

This section presents the responses of the EPA to the public comments received on the 2017 NO_2 NAAQS proposal (82 FR 34792, July 26, 2017). All significant issues raised in timely public comments have been addressed in this document, as the EPA is not preparing a separate Response to Comments document. We have additionally considered comments submitted after the close of the public comment period, to the extent practicable.

Overall, the EPA received 17 sets of comments, with the majority expressing support for the Administrator's proposed decision to retain the current primary standards, without revision. Comments supporting the Administrator's proposed decision were received from various industry groups,[99] individuals, and state environmental or health agencies.[100] These commenters generally note their agreement with the Administrator's rationale provided in the proposal and many note the CASAC concurrence with the EPA that the current evidence does not support revision to the standards. Some of the commenters also agree with the EPA and the CASAC statements that the information in this review has not substantially altered our previous understanding of the concentrations at which effects can occur, and that the scientific evidence does not support standards more protective than the current 1-hour and annual standards.

Several groups, including some that support the Administrator's proposed decision to retain the current standards, provided additional comments, including on the EPA's causal determinations in the 2016 NO_X ISA, the margin of safety provided by the current standards, and the potential for the scientific information to support alternative standards that are less stringent than the current standards. In addition, one organization (The American Lung Association) argues for more stringent primary NO_2 standards, noting the strong evidence for respiratory effects following both short- and long-term NO_2 exposures.

The following sections discuss the public comments on the proposal and the EPA's responses to those comments. Section II.B.3.a discusses comments on the EPA's assessment of the scientific evidence. Section II.B.3.b discusses comments on the degree of protection provided by the current standards and on the potential for the available scientific information to support standards that are less stringent than the current standards. Section II.B.3.c discusses comments recommending that the EPA revise the current standards to be more stringent. Section II.B.3.d briefly explains the EPA's approach to comments related to implementation of the NAAQS, which are outside the scope of this action.

a. Comments on the Assessment of the Scientific Evidence

There were several comments submitted related to the EPA's assessment of the scientific evidence. Some commenters agree with the causal framework used in the 2016 NO_X ISA and with the ISA's conclusions regarding the strength of the evidence for various health outcomes and for at-risk populations. Other commenters, while agreeing with the overall proposed decision to retain the existing primary standards, assert that the ISA framework for causal determinations does not result in a systematic, balanced, and rigorous evaluation of the evidence. As discussed below, these commenters generally claim that the 2016 NO_X ISA does not adequately address uncertainties and biases in the evidence and recommend that the EPA should strengthen its causal framework.

Some comments received on the proposed decision express an overall

[99] Comments were received from the following industry groups: The NAAQS Implementation Coalition, the Utility Air Regulatory Group, Edison Electric Institute, Interstate National Gas Associations of America, Cleco Power, the American Fuel and Petrochemical Manufacturers, the American Petroleum Institute, The Tri-state Generation and Transmission Association, and the Class of '85 Regulatory Response Group.

[100] Comments were received from the following state environmental or health agencies: Texas Commission on Environmental Quality (TCEQ) and Arkansas Department of Environmental Quality (ADEQ).

objection to ISA conclusions that the evidence linking NO_2 exposures with a variety of health effects has become stronger in this review. A subset of these comments further imply that the 2016 NO_X ISA's conclusions on the strength of evidence, and the corresponding discussions in the PA, are not entirely consistent with the uncertainties noted by the Administrator throughout the discussion of his proposed decision on the primary NO_2 standards.

In responding to these comments, the EPA notes that the ISA's causal framework has been implemented and refined over multiple NAAQS reviews, drawing from extensive interactions with the CASAC and from the public input received as part of the CASAC review process. Based on application of that framework in the current review, the 2016 NO_X ISA has made causal determinations for a variety of health outcomes. The ISA provides a careful and detailed rationale for all of its causal determinations, explicitly characterizing the key evidence, the reason for the change from the 2008 NO_X ISA (if a change occurred), and the uncertainties remaining in the body of evidence (see, *e.g.,* U.S. EPA, 2016a, Table 1–1). In most cases where the causal determination has changed since the 2008 NO_X ISA, the change has been due to the availability, in the current review, of additional studies that reduce uncertainty or bias in the evidence (U.S. EPA, 2016a, Table 1–1).[101] The causal determinations in the NO_X ISA underwent extensive CASAC review, which included multiple opportunities for public input. The EPA considered the CASAC advice and the public input in making final causal determinations. The CASAC concurred with the 2016 NO_X ISA's causal determinations and explained the reasons for its concurrence (Diez Roux and Frey, 2015a, p.1; Diez Roux and Sheppard, 2017, p. 7).

For example, in concluding 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), the ISA cites ''epidemiologic evidence for NO_2-associated asthma exacerbation and biological plausibility from NO_2-induced increases in [AR] and allergic inflammation in adults with asthma'' (U.S. EPA, 2016a, p. 5–247). In agreement with this causal determination, the CASAC states the following (Diez Roux and Sheppard, 2017, p. 7):

> The CASAC concurs with the finding that short-term exposures to NO_2 are causal for respiratory effects based on evidence for asthma exacerbation. The strongest evidence is for an increase in airway responsiveness based on controlled human exposure studies, with supporting evidence from epidemiologic studies.

In addition, in concluding that ''[t]here is likely to be a causal relationship between long-term NO_2 exposure and respiratory effects based on evidence for the development of asthma'' (U.S. EPA, 2016a, p. 1–20), the ISA notes that ''[r]ecent epidemiologic studies consistently indicate increases in asthma incidence in children particularly in association with NO_2 exposures estimated at or near children's homes or schools'' and that experimental evidence ''provides biological plausibility by characterizing a potential mode of action by which long-term NO_2 exposure may lead to asthma development'' (U.S. EPA, 2016a, p. 6–67). In agreement with this causal determination, the CASAC states 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 co-pollutants on the association between NO_2 and asthma incidence.

Thus, based on the evidence considered in the 2016 NO_X ISA, and consistent with the CASAC advice, we disagree with comments that the strengthening of the causal determinations in the 2016 NO_X ISA is not justified.

The EPA further disagrees with comments claiming that, in his consideration of the levels of the primary standards, the Administrator's discussion of uncertainties and limitations in the scientific evidence is inconsistent with the conclusions of the 2016 NO_X ISA that the evidence for several health endpoints is stronger now than in the last review. As an initial matter, we note that the issues faced by the EPA in drawing causal determinations in the 2016 NO_X ISA differ from EPA's considerations in evaluating the public health protection provided by the standards. In drawing the causal determinations, the ISA focuses on the degree to which the available evidence indicates that NO_2 exposures can cause specific health effects. These causal determinations reflect the ISA's assessment of studies spanning a relatively wide range of exposure concentrations, encompassing the full body of evidence relevant for the review. In contrast, in the proposal and in this final action, the EPA is additionally tasked with determining what the evidence can tell us about the adequacy of the public health protection provided by a particular standard or standards. This step typically involves focusing on the subset of studies that, together with risk and exposure information, can best inform the EPA's consideration of the public health impacts associated with particular air quality concentrations. Consideration of uncertainties is important for both tasks, but the nature of those uncertainties, and exactly how the various uncertainties factor into each aspect of the review, may differ. For example, strengthening of a causal determination in the ISA may be based on studies that clarify a proposed mode of action linking exposures with an observed effect, despite being conducted at exposure concentrations that would not be allowed by the current standards. Such studies may reduce uncertainties in a way that supports strengthening a causal determination, but not revising the standard. Thus, the Administrator's consideration of uncertainties in the evidence when reaching conclusions on the standards is not inconsistent with the ISA conclusions that the evidence supports strengthening some causal determinations in this review.

We further note that, in reaching his proposed and final decisions, the Administrator's consideration of the evidence, including its limitations and uncertainties, draws directly from the 2016 NO_X ISA's assessment of that evidence and from the PA's considerations and conclusions related to the adequacy of the public health protection provided by the current standards. Both the ISA and PA include extensive discussion and consideration of the scientific evidence and its uncertainties. As noted above, Table 1–1 in the ISA summarizes the key evidence for various NO_2-related health

[101] The exception to this is the 2016 NO_X ISA determination that a causal relationship exists between short-term NO_2 exposure and respiratory effects. This conclusion is strengthened from the ''likely to be causal'' relationship determined in the 2008 NO_X ISA for Oxides of Nitrogen. Rather than new evidence, the 2016 NO_X ISA notes that integrated experimental and epidemiologic evidence for asthma exacerbation, with due weight to controlled human exposure studies, supports a causal relationship between short-term NO_2 exposure and respiratory effects. Specifically, the 2016 NO_X ISA explains that the conclusion is strengthened from the previously determined ''likely to be causal'' relationship because the combined controlled human exposure and epidemiologic evidence 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, pp. 1–17 to 1–19).

outcomes, including the remaining uncertainties inherent in that evidence. In addition, drawing from the ISA, the PA includes extensive consideration of uncertainties and limitations in the evidence as they relate to conclusions on the adequacy of the public health protection provided by the current primary NO_2 NAAQS (U.S. EPA, 2017a, sections 3.2.2.1, 3.2.2.2, 3.3.2.1). Contrary to the comments noted above, the Administrator's proposed and final decisions draw from the characterization in those documents of uncertainties and limitations in the evidence (*e.g.,* sections II.A.2, II.A.3, II.B.4 of this final action). The Administrator's proposed and final decisions to retain the current primary NO_2 standards are consistent with the PA's conclusions (U.S. EPA, 2017a, section 5.4). Moreover, these decisions are consistent with recommendations of the CASAC to retain the current standards (Diez Roux and Sheppard, 2017).

Some comments further criticize the Agency's characterization of the evidence by asserting that the EPA places too much emphasis on epidemiologic studies that are methodologically flawed and insufficient for determining a standard. While we agree that there are uncertainties inherent in epidemiologic studies, these uncertainties, which have been extensively considered as part of the assessment of the evidence in the ISA and the evaluation of policy options in the PA, as well as in the proposal and this final action (*e.g.,* summarized in sections II.A.2 and II.B.1 above), do not make the epidemiologic evidence insufficient for informing decisions on the primary NO_2 standards. Rather, conclusions in this review draw from the consideration of scientific evidence from a range of disciplines, each with its own strengths and limitations.[102] In particular, the 2016 NO_X ISA's causal determinations are based on the integration of evidence across controlled human exposure, epidemiologic, and animal toxicological studies. The focus of the ISA's integration is on evaluating the consistency and inconsistency in the pattern of effects across studies and endpoints as well as the strengths and limitations of the evidence across the various disciplines (U.S. EPA, 2016a, p. 1). For each study, the 2016 NO_X ISA systematically evaluates study design, populations evaluated, approach to exposure assessment/assignment, approach to outcome assessment, potential for confounding, and statistical methodology (U.S. EPA, 2016a, Table A–1). As described below, and more fully in the ISA (see *e.g.,* U.S. EPA, 2016a, Table 1–1), uncertainties and limitations in the evidence, including in the evidence from epidemiologic studies, are explicitly considered in the ISA's causal determinations and can affect how various aspects of the evidence are weighed in making those determinations.

For example, while the ISA concludes that epidemiologic studies do indicate the occurrence of NO_2-associated asthma exacerbation, it further concludes that ''epidemiologic evidence on its own does not rule out the influence of other traffic-related pollutants'' (U.S. EPA, 2016a, p. 1–18). The ISA further concludes that ''[t]he key evidence that NO_2 exposure can independently exacerbate asthma are the findings from previous controlled human exposure studies for increases in airway responsiveness in adults with asthma'' (U.S. EPA, 2016a, p. 1–18). Thus, based in part on uncertainties in the available epidemiologic evidence, the ISA's conclusion that ''[a] causal relationship exists between short-term NO_2 exposure and respiratory effects'' (U.S. EPA, 2016a, p. 1–17) places the greatest emphasis on information from controlled human exposure studies (*e.g.,* U.S. EPA, 2016a, p. 5–247). As noted above, the CASAC endorsed this emphasis, stating 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). In fact, the CASAC recommended that the controlled human exposure studies, alone, are sufficient to justify the causal determination for short term NO_2 exposures and respiratory effects (Diez Roux and Frey, 2015a, cover letter at p. 2).[103] Consistent with this, information from controlled human exposure studies is emphasized in the PA's conclusions on the public health protection provided by the current standards against short-term NO_2 exposures (U.S. EPA, 2017a, sections 3.2 and 5.4) and in the Administrator's conclusion to retain those standards in this final decision (section II.B.4, below).

In addition, the 2016 NO_X ISA's conclusion on long-term NO_2 exposure and respiratory effects recognizes uncertainty in epidemiologic studies due to potential confounding by other traffic-related pollutants. The ISA specifically concludes that uncertainty remains ''in identifying an independent effect of NO_2 exposure from traffic-related copollutants because evidence from experimental studies for effects related to asthma development is limited, and epidemiologic analysis of confounding is lacking'' (U.S. EPA, 2016a, p. 1–32).[104] However, in making its overall determination that ''there is likely to be a causal relationship between long-term NO_2 exposure and respiratory effects'' the ISA also notes that support for biological plausibility comes from experimental studies in animals (*e.g.,* U.S. EPA, 2016a, Table 1–1). While recognizing remaining uncertainties in the evidence, the CASAC agreed with this ISA causal determination, observing that ''[t]he strongest evidence is for asthma incidence in children in epidemiologic studies, with supporting evidence from experimental animal studies'' (Diez Roux and Sheppard, 2017, p. 7).

Thus, the 2016 NO_X ISA's conclusions reflect the consideration of information from all lines of evidence, not only epidemiologic studies, including appropriate consideration of the uncertainties and limitations in that evidence. The CASAC reviewed and endorsed the 2016 NO_X ISA's approach to assessing the evidence, including uncertainties and limitations in that evidence, and its key conclusions based on the application of that approach (*e.g.,* Diez Roux and Frey, 2015a; Diez Roux and Sheppard, 2017, p. 7). Additionally, the ISA's careful consideration of scientific evidence from multiple disciplines, and the uncertainties and limitations in that evidence, including in epidemiologic studies, informed the PA's conclusions on the public health protection provided by the current standards and the Administrator's decision to retain those standards, without revision, in this review. Thus, the EPA does not agree with comments that undue emphasis was placed on epidemiologic studies.

Several comments further contend that the 2016 NO_X ISA overstates the consistency of results across

[102] In fact, relative to other types of evidence, strengths of epidemiologic studies can include providing information on the most serious pollutant-associated effects in human populations, including populations with pre-existing conditions, or at particular life stages, that put them at increased risk of such effects.

[103] Specifically, the CASAC recommended that ''the evidence supporting changes to the causal determination status for oxides of nitrogen for associations with short-term exposures be based primarily on the findings from the controlled human exposure studies, as they alone are sufficient to justify the change'' (Diez Roux and Frey, 2015a, cover letter at p.2).

[104] Such uncertainties also informed the PA's conclusions on the public health protection provided by the current standards (U.S. EPA, 2017a, section 5.4).

epidemiologic studies and that it does not adequately capture uncertainties in the epidemiologic evidence. The EPA disagrees with these comments. As noted above, the 2016 NO_X ISA appropriately characterizes the uncertainties and limitations in the epidemiologic evidence, including uncertainties resulting from inconsistent results across studies (*e.g.,* U.S. EPA, 2016a, Tables 5–39 and 6–5). For endpoints where the epidemiologic evidence is not consistent, the 2016 NO_X ISA discusses the inconsistencies. For example, the ISA states that ''[e]pidemiologic evidence for NO_2-related decreases in lung function in populations with asthma is inconsistent as a whole'' (U.S. EPA, 2016a, p. 5–241). In contrast, the ISA appropriately characterizes the consistent results of epidemiologic studies that evaluate asthma-related outcomes. In particular, the 2016 NO_X ISA notes that ''[r]ecent studies that examined the association between short-term NO_2 exposure and asthma hospital admissions and ED visits consistently report positive associations and support the results of U.S. and Canadian studies evaluated in the 2008 ISA for Oxides of Nitrogen.'' (U.S. EPA, 2016a, p. 5–91). Figures 5–16 and 5–17 in the 2016 NO_X ISA illustrate the consistent, positive associations reported in studies that have evaluated the potential for confounding of the NO_2 association by co-occurring pollutants, a key potential uncertainty in NO_2 epidemiologic studies (U.S. EPA, 2016a, pp. 5–248 to 5–249). Based on its assessment of such studies of short-term NO_2 exposure and asthma-related effects, the 2016 NO_X ISA concludes that ''the pattern of association observed for NO_2 supports the consistency of evidence and does not indicate a high probability of associations found by chance alone'' (U.S. EPA, 2016a, p. 5–241).

Some comments criticizing the 2016 NO_X ISA's characterization of consistency of results across epidemiologic studies, and the ISA's consideration of uncertainties in those studies, focus specifically on studies of long-term NO_2 exposures. Such comments claim that the EPA overstates the consistency of the epidemiologic evidence, particularly given the potential for copollutant confounding and exposure measurement error in studies of long-term NO_2 exposures. As discussed below, the EPA disagrees with these comments.

Figure 6–1 in the 2016 NO_X ISA illustrates the consistently positive associations between long-term exposures and asthma incidence in children. Based on such studies, the ISA concludes the following (U.S. EPA, 2016a, p. 6–63):

> Multiple longitudinal studies demonstrate associations between higher ambient NO_2 concentrations measured in the first year of life, in the year of diagnosis, or over a lifetime and asthma incidence in children. Results are consistent across locations based on various study designs and cohorts.

In reaching this conclusion, the 2016 NO_X ISA also thoroughly discusses the uncertainties and limitations in these studies, including uncertainties and limitations stemming from the potential for copollutant confounding and exposure measurement error (U.S. EPA, 2016a, section 6.2.2.1). For example, with respect to studies of long-term exposures, the ISA notes that ''[e]pidemiologic studies of asthma development in children have not clearly characterized potential confounding by $PM_{2.5}$ or traffic-related pollutants'' (U.S. EPA, 2016a, p. 6–64). Drawing from this discussion in the ISA, the potential for such confounding is a key consideration in the PA's conclusions on the adequacy of the public health protection provided by the current primary NO_2 NAAQS (U.S., EPA, 2017, section 5.4). The Administrator has further considered such uncertainty in reaching his proposed and final decisions in this review (82 FR 34792, July 26, 2017, section II.F.4; and see section II.B.4 below). The 2016 NO_X ISA also characterizes the potential for exposure measurement error in these studies and uncertainties related to reliability of asthma diagnosis and age of children and temporality between diagnosis and exposures (U.S. EPA, 2016a, section 6.2). Based on the broader body of evidence (*i.e.,* including controlled human exposure and animal toxicological studies), the 2016 NO_X ISA concludes that uncertainty in the epidemiologic evidence base ''is partly reduced by the biological plausibility provided by findings from experimental studies'' (U.S. EPA, 2016a, p. 6–64). When taken together, the 2016 NO_X ISA concludes that the evidence supports a relationship between long-term NO_2 exposure and respiratory effects that is ''likely to be causal,'' and the CASAC supported this conclusion in its review of drafts of the 2016 NO_X ISA and the PA (Diez Roux and Frey, 2015a; Diez Roux and Sheppard, 2017, p. 7).

Some comments additionally contend that the ISA provides a skewed and unbalanced picture of the scientific record by failing to discuss null associations in epidemiologic studies and by focusing on results at the lag that had the most positive and statistically significant association. These comments assert that the ISA ignores temporal differences in the lag at which the strongest association was found.

With regard to reporting null associations, the EPA agrees that the assessment of the scientific evidence should consider all relevant, well-conducted studies that meet the ISA's criteria for inclusion, regardless of whether results are positive, null, or negative. Accordingly, the EPA employs a comprehensive approach to ensure that all of the relevant literature is identified for consideration and evaluation in the ISA (U.S. EPA, 2015a, Figure III, p. 6). As an initial step in the development of the 2016 NO_X ISA, a call for information was published in the **Federal Register** (77 FR 7149, February 2, 2012). This call for information invited members of the public to provide information relevant to the assessment, including the identification of publications that evaluate potential relationships between pollutant exposures and health effects or data from the fields of atmospheric or exposure science. Subsequent to this call for information, the EPA conducted a comprehensive literature search and an evaluation and integration of evidence from the identified studies. As part of this process, the EPA evaluated study quality according to predefined criteria that are consistent with widely established methods in the field (U.S. EPA, 2016a, Table A–1, p. A2). This evaluation and assessment of the evidence, which included studies that reported null or negative results, was presented in two drafts of the ISA, each of which was reviewed by the CASAC at a public meeting where there were opportunities for members of the public to provide comments. As discussed above, in its advice to the Administrator, the CASAC concurred with key conclusions in the ISA regarding the strength of the evidence linking NO_2 exposures with various health outcomes (Diez Roux and Frey, 2015a, cover letter at p. 1; Diez Roux and Sheppard, 2017, p. 7).

In addition, we note that there is ample discussion throughout the ISA of null and negative results when they are reported in the studies, including epidemiologic studies (*e.g.,* U.S. EPA, 2016a, Figures 5–7 and 6–1, and accompanying text).[105] Summary tables

[105] The 2016 NO_X ISA also recognizes the potential for publication bias, stating that ''[p]ublication bias is another source of uncertainty that can impact the magnitude of estimated health or welfare effects. It is well understood that studies reporting non-null findings are more likely to be published than reports of null findings'' (U.S. EPA, 2016a p. li).

of key evidence in the ISA for each causal determination discuss outcomes for which negative or inconsistent results are observed (see Table ES–1 of the 2016 NO_X ISA for a comprehensive list of summary tables included in the ISA). Additionally, the EPA notes that while these comments criticized the EPA's assessment of the evidence, they did not identify well-conducted studies, regardless of association observed, or lack thereof, that were not included in the 2016 NO_X ISA. Thus, given the extensive public process that the EPA has used to identify and assess the relevant scientific evidence, including multiple opportunities for CASAC to provide advice and for members of the public to provide input, together with the ISA's discussion of all relevant, well-conducted studies, regardless of results, we do not agree with comments claiming that the ISA provides an unbalanced picture of the scientific record by failing to account for studies reporting null or negative associations.

Additionally, the EPA does not agree with comments criticizing the 2016 NO_X ISA's approach to identifying the most appropriate lags in epidemiologic studies of short-term NO_2 exposures. We note that lag structure can vary within the population according to differences among individuals in time-activity patterns, pre-existing disease, or other factors that influence exposure and responses to exposure. The ISA specifically notes that ''[t]he lag structure for associations with NO_2 exposure may vary among health effects depending on differences in the time course by which underlying biological processes occur'' (U.S. EPA, 2016a, p. 1–39). In addition, differences in associations among exposure lags may be influenced by ''differences in the extent to which single-day and multiday average ambient NO_2 concentrations represent people's actual exposures'' (U.S. EPA, 2016a, p. 1–39).

In assessing the support for specific lags in epidemiologic studies of short-term NO_2 exposures and asthma-related effects, the ISA notes support for same-day exposures and for exposures averaged over multiple days (U.S. EPA, 2016a, section 1.6.2). The ISA further notes support for these lags from experimental studies (U.S. EPA, 2016a, section 1.6.2). Specifically, controlled human exposure studies found airway responsiveness in adults with asthma to increase immediately after, or 20 minutes to 4 hours after, a single NO_2 exposure and over 4 days of repeated exposure (U.S. EPA, 2016a, section 5.2.2.1). In experimental studies, NO_2 exposure enhanced allergic inflammation 30 minutes up to 19 hours after a single- or 2-day exposure in humans and 7 days after exposure in rats (U.S. EPA, 2016a, section 5.2.2.5). Thus, based on its assessment of the evidence, the ISA concludes that ''findings from experimental studies provide biological plausibility for the asthma-related effects observed in epidemiologic studies in association with 2- or 5-hour exposures, same-day NO_2 exposures, as well as exposures averaged over multiple days'' (U.S. EPA, 2016a, p. 1–40). Accordingly, when assessing epidemiologic studies of short-term NO_2 exposures, the ISA focuses on the lags that are best supported in the evidence, with a recognition that the most appropriate lag can vary according to the specific endpoint evaluated, time-activity patterns of members of the study population, the prevalence of pre-existing disease in the study population, and other factors that influence pollutant exposures or the responses to those exposures.

Some comments recommend that the EPA conduct quantitative analyses of uncertainty whenever possible. As discussed above and elsewhere in this document (*e.g.,* sections II.A.2, II.A.3, II.B.1, II.B.4), the EPA has thoroughly considered uncertainties in the evidence and in available quantitative analyses throughout this review of the primary NO_2 NAAQS. Uncertainties have been evaluated through a combination of qualitative and quantitative approaches, with the specific approach depending on the uncertainty being evaluated and the data available for its evaluation. For example, the 2016 NO_X ISA's conclusions are based on an evaluation of the strengths and weaknesses in the overall collection of studies across disciplines. The ISA's approach to evaluating the evidence and drawing causal determinations generally involves qualitative consideration of uncertainties in the various lines of evidence (U.S EPA, 2016a, preamble). As noted above, this framework has been implemented and refined over multiple NAAQS reviews, drawing from extensive interactions with the CASAC and from the public input received as part of the CASAC review process. The CASAC has reviewed the causal determinations in the NO_X ISA, including the ISA's consideration of uncertainties in the evidence, and has concurred with those determinations (Diez Roux and Frey, 2015a, cover letter at p.1; Diez Roux and Sheppard, 2017, p. 7).

With regard to analyses comparing NO_2 air quality and health-based benchmarks, the PA includes both quantitative and qualitative evaluation of uncertainties. For example, quantitative sensitivity analyses were used to evaluate the degree to which study areas adequately reflect influential factors that could contribute to variability in NO_2 concentrations and potential exposures (U.S. EPA, 2017a, Appendix B, section 2.3.2) and to examine the potential impacts of NO_2 exposures on or near roadways (U.S. EPA, 2017a, Appendix B, section 2.4.2). In addition, the PA includes extensive qualitative discussion of uncertainties in air quality-benchmark comparisons, and the implications of these uncertainties for the interpretation of analysis results (U.S. EPA, 2017a, section 4.2.1.3). This includes consideration of uncertainties in evidence underlying the health-based benchmarks, in the approach to adjusting ambient NO_2 concentrations to simulate just meeting the current standard, and in the degree to which monitored NO_2 concentrations reflect the highest potential NO_2 exposures. Thus, as part of this review, the EPA has thoroughly considered uncertainties in the evidence and in available quantitative analyses, with the specific approach depending on the uncertainty being evaluated and the data available for its evaluation.

b. Comments Relating to Consideration of Less Stringent Standards

Though most commenters express support for the proposed decision to retain the current primary NO_2 standards, some of these commenters additionally encourage the identification and consideration of less stringent standards. Such comments are often based on criticisms of the EPA's approach to assessing the scientific evidence, as discussed in section II.B.3.a above, with some comments contending that the proposal understates the margin of safety provided by the current 1-hour and annual standards. Some comments further conclude that limitations and uncertainties in the body of scientific evidence support the possibility that the current standards are more protective than is requisite, claiming that, in its consideration of the adequacy of the protection provided by the current standards, the EPA failed to consider whether the NO_2 NAAQS should be made less stringent. One comment additionally asserts that the failure to identify alternative, less stringent standards is arbitrary and capricious, stating that the EPA has not adequately examined whether the uncertainties in the evidence call into question the proposed decision to retain the current standards or whether the standard level(s) should be less stringent. This

comment contends that the EPA must examine the possibility that the current standards may be too stringent and that, without such an examination, there is not adequate foundation in the record to support the proposed decision to retain those standards.

The Administrator has carefully considered whether standards less stringent than the current standards would be sufficient to protect public health with an adequate margin of safety and, thus, whether retaining the current standards would not be requisite (see discussion in proposal at 82 FR 34792, July 26, 2017, section II.F.4, and below). This consideration is informed by the thorough discussions of the uncertainties in the scientific evidence in the 2016 NO_X ISA, the PA, and elsewhere in this document (U.S. EPA, 2016a, table 1–1; U.S. EPA, 2017a, section 3; and section II.A.3, above). The Administrator is not required to identify or evaluate specific alternative standards in order to make a determination than an existing standard or suite of standards provide the requisite protection. To the contrary, where the record supports a judgment that the current standards are requisite to protect public health with an adequate margin of safety, and that more or less stringent standards would not be requisite, the EPA may conclude, as it has here, that detailed evaluation of specific alternative standards is not warranted.[106]

Further, we disagree with the suggestion that, by focusing on whether the current standards adequately protect public health, the EPA has failed to consider the possibility that those standards should be revised to be less stringent in order to provide the requisite level of protection. Comments making this claim mistakenly presume that, in considering the adequacy the current primary NO_2 NAAQS and the public health protection they provided, the EPA has not considered whether the current standards should be revised to be less stringent. In fact, the EPA's consideration of the adequacy of the current standards and the public health protection they provide is intended to inform, and therefore substantively overlaps with, the Administrator's consideration of whether more or less stringent standards would, in his judgment, be requisite under the Clean Air Act. Accordingly, in considering the adequacy of the current standards to satisfy the CAA's requirements, the EPA also evaluates whether identification of potential alternative standards, either more or less stringent, is warranted. As described below, several considerations support the EPA conclusion in this review that standards less stringent than the current standards would not be requisite.

First, compared to the current standards, less stringent standards would be more likely to allow NO_2 exposures that could exacerbate respiratory effects in people with asthma. The current NO_2 standards are 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.,* 250 ppb and above). In addition, the current standards provide a margin of safety, in part by limiting the potential for exposures to 1-hour NO_2 concentrations at or above 100 ppb, an exposure concentration with the potential to exacerbate asthma symptoms but for which the evidence indicates uncertainty in the risk of such effects occurring (U.S. EPA, 2017a, sections 5.2, 5.4). Although limitations in this evidence take on increased importance when considering the potential public health implications of such exposures to 100 ppb, as discussed in greater detail below (e.g, sections II.B.3.c and II.B.4), the CAA requires that a primary NAAQS protect the public health even where, as here, the risks from the pollutant cannot be quantified or ''precisely identified as to nature or degree.'' *API* v. *EPA,* 684 F.3d at 1350 (internal citation omitted). Further, in setting a standard with an adequate margin of safety, the EPA is to ''err on the side of caution.'' *Id.* at 1352. Thus, EPA places weight on the consideration that less stringent standards would be expected to be less effective than the current standards at protecting against these short-term exposures to NO_2 concentrations at or above health-based benchmarks.

Second, less stringent standards would be more likely to allow the ambient NO_2 concentrations that have been reported in epidemiologic studies to be associated with clearly adverse effects. For example, such standards would be more likely to allow the short-term ambient NO_2 concentrations that have been shown in epidemiologic studies conducted in the U.S. or Canada to be associated with asthma-related hospitalizations. In addition, recognizing that the current 1-hour standard contributes substantially to protection against long-term NO_2 exposures, less stringent standards would also be more likely to allow the long-term ambient concentrations that have been reported in epidemiologic studies to be associated with asthma development in children. While the EPA recognizes the limitations and uncertainties in these studies, they provide evidence for associations with asthma-related effects in locations likely to have violated the current standards (U.S. EPA, 2017a, sections 3.2.2.2 and 3.3.2.1). Therefore, the EPA also places weight on the consideration that, compared to the current standards, less stringent standards would allow greater risk of the serious health effects reported in these studies.

Finally, the CASAC advice also supports the EPA conclusion that a detailed evaluation of less stringent potential alternative standards is not warranted in the current review. Specifically, the CASAC advised that the current primary NO_2 standards, but not less stringent standards, provide protection against adverse effects associated with both short- and long-term NO_2 exposures. Based on its consideration of the evidence, the CASAC concluded 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 p. 9) 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, for the reasons discussed above, we disagree with comments advocating for a detailed evaluation of potential alternative standards that would be less stringent than the current standards and with comments contending that EPA has not considered whether the current standards are too stringent and, thus, should not be retained.

Comments advocating for the identification of less stringent standards often focus on specific uncertainties in the available health evidence, claiming that, because of these uncertainties, the margin of safety provided by the current primary NO_2 standards is larger than acknowledged in the proposal. For example, some comments question the EPA's interpretation of controlled human exposure studies examining AR, claiming that these studies do not demonstrate adverse effects at exposure concentrations below 300 ppb. Such comments contend that the EPA should clearly articulate the limitations in controlled human exposure studies of AR following NO_2 exposures, and in the Brown (2015) meta-analysis of individual-level data from these studies.

The EPA agrees that there are uncertainties in the evidence from

[106] For example, in the final decision in the recently completed review of the National Ambient Air Quality Standards for Lead (81 FR 71906, October 18, 2016), the standards were retained without consideration of potential alternative levels.

controlled human exposure studies of NO_2-induced changes in AR. These uncertainties have been discussed and considered extensively throughout this review, including in the 2016 NO_X ISA and the PA (U.S. EPA, 2016a; U.S. EPA, 2017a), and in the Administrator's consideration of the evidence in both the proposal (82 FR 34792, July 26, 2017, section II.F.4) and this final action (section II.B.4, below). Specifically, important limitations in the evidence for increased AR following NO_2 exposures include the lack of an apparent dose-response relationship, which limits our ability to fully characterize the health risks associated with these exposures, and uncertainty in the adversity of the reported increases in AR (*e.g.,* see U.S. EPA, 2017a, section 3.2.2.1, and section II.A.2.a.iii above). While we agree that it is appropriate to consider these uncertainties in reaching decisions on the primary NO_2 NAAQS, as described below, we disagree that such uncertainties indicate that the reported effects do not have the potential to be adverse to public health.

In particular, as discussed in the ISA, increases in AR are considered to be a hallmark of asthma and can lead to poorer control of symptoms in people with the disease. Drawing on guidelines from the ATS and the ERS, analyses discussed in the 2016 NO_X ISA indicate that the increases in AR reported following exposures to NO_2 concentrations from 100 to 530 ppb have the potential to be clinically relevant in some people with asthma (82 FR 34804, July 26, 2017; U.S., EPA, 2016a section 5.2.2.1). While there are no universally agreed upon criteria for determining whether such increases should be considered adverse, they represent respiratory effects that could be of particular concern for people with more severe cases of asthma than have typically been evaluated in the available studies of NO_2 exposures. These studies have generally evaluated people with mild asthma, while people with moderate or severe asthma could be more susceptible to NO_2-induced increases in AR, and thus more likely to exhibit adverse responses following NO_2 exposures (Brown, 2015).[107] Therefore, the uncertainty over the adversity of the response reported in controlled human exposure studies and the Brown (2015) meta-analysis does not mean that the NO_2-induced increase in AR is not adverse to any population. Rather, the evidence indicates a risk of adversity for some people, especially for those with more than mild asthma, though this risk cannot be fully characterized based on existing studies. When considered at a population level, these risks are amplified and take on public health significance.

In light of these observations, we disagree with the assertion that controlled human exposure studies do not demonstrate effects that could be adverse to public health following exposures to NO_2 concentrations below 300 ppb and with comments that the proposal overstates the margin of safety provided by the current standards. Rather, while acknowledging uncertainties in the evidence, and that the risk cannot be fully characterized based on existing studies, the EPA remains concerned about the potential for adverse respiratory effects following exposures to such NO_2 concentrations, particularly in people with more severe cases of asthma than have generally been evaluated in the available studies of NO_2 exposures. Further, given the large percentage of people with asthma that experienced an NO_2-induced increase in AR in these studies, including at exposures at and below 300 ppb,[108] and the large size of the asthmatic population in the United States, the EPA concludes that it is appropriate to place weight on NO_2-induced increases in AR in considering the potential for adverse public health effects following NO_2 exposures.

Additionally, some comments support placing more emphasis on a meta-analysis of information from controlled human exposure studies by Goodman et al. (2009). These comments assert that Goodman et al. concluded that exposures to NO_2 concentrations up to 600 ppb are not associated with clinically relevant effects.

The particular basis for these comments appears to be the conclusions reached by Goodman et al. (2009) that there is no dose-response relationship between NO_2 exposures and increased AR, and that the magnitude of any NO_2 effect on airway responsiveness is too small to be considered adverse. While the EPA acknowledges the lack of an apparent dose-response relationship between NO_2 exposures and increased AR, potentially due to differences in study protocols in the NO_2-airway response literature (U.S. EPA, 2016a, section 5.2.2.1), the EPA disagrees with the approach taken in the Goodman study to use existing data to attempt to evaluate whether a dose-response relationship exists. Specifically, the EPA notes that while Goodman et al., (2009) did not observe a dose-response relationship, this could be due to a variety of factors inherent to the study design rather than a true absence of a dose-response relationship.[109] Examples of such differences between studies include the NO_2 exposure method (*i.e.,* mouthpiece versus chamber), subject activity level (*i.e.,* rest versus exercise) during NO_2 exposure, choice of airway challenge agent, and physiological endpoint used to quantify airway responses.

As a result of these differences in study protocols, the 2016 NO_X ISA judged it appropriate to assess only the fraction of study participants who experienced increased or decreased airway responsiveness following NO_2 exposures. The CASAC endorsed this approach of comparing the fractions of study participants, which was adopted in the meta-analysis by Brown (2015) and was the focus of discussion in the 2016 NO_X ISA (U.S. EPA, 2016a, section 5.2.2.1). When commenting on Brown (2015) in the draft ISA, the CASAC noted that it was ''impressed with the meta-analysis of controlled human exposure studies'' and found that ''this analysis facilitates the inferences that can be drawn from the studies contained in the analysis'' (Diez Roux and Frey, 2015a, p. 2 of cover letter, p. 7 of consensus comments).

When the fraction of study participants who experienced increased or decreased airway responsiveness was analyzed, both Brown (2015) and Goodman et al. (2009) reported that exposures to NO_2 concentrations at and above 100 ppb increased airway responsiveness in the majority of people with asthma. Specifically, Table 4 of the Goodman et al. (2009) study reports that 64% (95% CI: 58%, 71%) of resting asthmatics exposed to NO_2 experienced an increase in airway responsiveness. Furthermore, Figure 2a of the Goodman et al. (2009) study reports that for exposures less than 200 ppb, 61%

[107] Furthermore, the potential for such effects in other at-risk populations that have generally not been evaluated in NO_2 controlled human exposure studies (*i.e.,* children and older adults) cannot be well-characterized based on the available studies.

[108] For example, as discussed elsewhere in this document (*e.g.,* section II.A.2 above), the Brown (2015) meta-analysis reported that following resting NO_2 exposure in the range of 200 ppb to 300 ppb, increased non-specific AR was reported in 78% of study participants.

[109] *CF. API* v. *EPA,* 684 F.3d at 1350 (nothing in the context of the last NO_2 NAAQSreview that ''the [Goodman] study did not establish there was 'no dose-response relationship'''). In a decision upholding the 2010 primary NO_2 NAAQS , the court held that EPA was ''justified in revising the NAAQS considering the evidence of a statistically significant relationship between relevant health conditions and NO_2 exposure at various concentrations, even if the agency did not know the precise dose-response relationship between V and airway responsiveness, among other health effects.'' *Id.* at 1351.

experienced an increase in AR (95% CI: 52%, 70%), while for exposures of 200 to 300 ppb, 66% experienced an increase (95% CI: 59%, 74%). These findings are consistent with those reported by Brown (2015) and discussed in the 2016 NO_X ISA (U.S. EPA, 2016a, section 5.2.2.1).

Thus, both Goodman et al. (2009) and Brown (2015) report that the majority of study subjects experienced increased AR following resting NO_2 exposures. As discussed further above, increases in AR can lead to poorer control of symptoms in people with asthma and analyses in the 2016 NO_X ISA indicate that the increases in AR reported following resting exposures to NO_2 concentrations from 100 to 530 ppb have the potential to be clinically relevant in some people with asthma. In addition, people with more severe cases of asthma than have typically been evaluated in the available studies of NO_2 exposures could be more likely to exhibit adverse responses following such exposures. Therefore, while we agree with comments that it is appropriate to consider the meta-analysis by Goodman et al. (2009), in addition to that by Brown (2015), we do not agree that such consideration supports the conclusion that exposures to NO_2 concentrations up to 600 ppb are not associated with clinically relevant effects.

Some comments assert that the EPA should place more emphasis on controlled human exposure studies that employ allergen challenge, rather than those that use non-specific challenge agents, because the commenters view such studies as more relevant to real world exposures. These comments claim that the lack of effects in studies that used allergen challenge increases the uncertainty that NO_2 in ambient air causes effects of concern.

As an initial matter, we note that the ATS and the ERS recognize increased AR following exposure to non-specific challenge agents (*e.g.,* methacholine) as a primary feature in the clinical definition and characterization of asthma severity (U.S. EPA, 2016a, section 5.2.2.1; Reddel et al., 2009). Thus, we do not agree with the implication of these comments that non-specific challenge agents are inherently less relevant to the evaluation of NO_2-induced changes in AR.

We further disagree that people would not have real world exposures to all of the non-specific challenge agents used in controlled human exposure studies. Specifically, both cold dry air and SO_2, which have been evaluated in studies of non-specific AR following NO_2 exposures, are nonspecific stimuli that people may encounter in the environment.[110] Thus, when viewed from a public health perspective, a member of the public has the potential to be exposed to a non-specific challenge agent just as they have the potential to be exposed to an allergen to which they have been sensitized.

In addition, while we agree with the potential public health significance of increased AR to allergen challenges (*e.g.,* see U.S. EPA 2016a, pp. 5–24 and 5–25), relatively little individual-level data on changes in AR following NO_2 exposures was available from studies using specific allergen challenges (*i.e.,* about 30% of the AR data). With regard to the allergen challenge studies that were available, the 2016 NO_X ISA (U.S. EPA 2016a, p. 5–25) additionally notes that, ''. . . the response to an allergen is not only a function of the concentration of inhaled allergen, but also the degree of sensitization as measured by the level of allergen-specific IgE and responsiveness to nonspecific agents,'' making it difficult to predict the level of responsiveness to an allergen. The relatively small amount of individual-level data from allergen challenge studies, together with the greater difficulty in predicting allergen responsiveness, limits the degree to which these studies, by themselves, can inform conclusions on the potential public health implications of NO_2 exposures. Given this, in addition to considering results of individual studies, we consider the data from studies of allergen challenge, together with data from studies of non-specific challenge, as part of the meta-analysis by Brown (2015). When data from studies of non-specific challenge were combined with data from studies of allergen challenge, Brown (2015) reported that the majority of study participants experienced increased AR following resting exposures from 100 to 200 ppb, 200 to 300 ppb, and above 300 ppb (Table 5 in Brown, 2015). Thus, based on the larger body of information available, including information from studies that evaluated AR following allergen challenge, NO_2 exposures at and above 100 ppb have the potential to increase AR in people with asthma.

Some comments additionally point out the inconsistent results reported in controlled human exposure studies conducted in people who are exercising, claiming that such inconsistency calls into question the plausibility of a causal association between NO_2 and increased AR. With regard to these comments, the EPA agrees that individual studies conducted with exercise have not consistently reported NO_2-induced increases in AR. However, the EPA does not agree with commenters' conclusion that these inconsistencies call into question the causal association between NO_2 and increased AR.

As noted above, the 2016 NO_X ISA has extensively considered all available studies that have evaluated the potential for NO_2 to increase AR in people with asthma. This includes studies conducted with participants at rest as well as studies with participants engaged in exercise (U.S. EPA, 2016a, section 5.2). As discussed in the ISA (U.S. EPA, 2016a, p. 5–23), the presence of a response in study participants at rest, but not while engaged in exercise, is not enough, in itself, to dismiss the causal association between NO_2 and airway responsiveness. This issue is discussed in detail in the Brown (2015) meta-analysis, and in other publications on NO_2 by Folinsbee (1992) and Bylin (1993), which were considered in the ISA. As discussed in those publications, the act of exercising may create a refractory period which may lead to diminished airway responsiveness to a challenge. Therefore, observing a response in participants at rest, but not exercising, does not indicate that there is no causal relationship between NO_2 exposures and increased airway responsiveness. The CASAC was aware of this difference in results across study protocols, but still agreed with EPA's determination that there was a causal relationship between NO_2 exposures and increased airway responsiveness, concluding that the Brown (2015) meta-analysis ''provides confirmation of causality for short-term effects'' (Diez Roux and Frey, 2015a, p. 6).

Some comments supporting the consideration of less stringent standards additionally focus on the epidemiologic evidence. Specifically, some industry groups comment that the EPA overstates the consistency of the epidemiologic evidence, particularly given the potential for co-pollutant confounding and exposure measurement error in studies of long-term NO_2 exposures, and given the results of a U.S. multicity study that reported no association between short-term NO_2 exposures and ED visits (Stieb et al., 2009).

As discussed in greater detail above (Section II.B.3.a), we do not agree with comments criticizing the 2016 NO_X ISA's assessment of the epidemiologic evidence, including comments criticizing the ISA's characterization of the consistency of results across studies or comments criticizing the assessment

[110] Of the studies included in the meta-analysis by Brown (2015), SO_2 was used as a challenge agent in a study of resting exposures to 250 ppb NO_2 (Table 1 of Brown, 2015) and cold dry air was used in several studies of NO_2 exposures during exercise (Table 2 of Brown, 2015).

of uncertainties in those studies. Contrary to these comments, the ISA thoroughly considers uncertainties and limitations in the evidence, including the potential for co-pollutant confounding and exposure measurement error in epidemiologic studies (see *e.g.,* U.S. EPA, 2016a, sections 5.2.9.4 and 6.2.2.1). The PA additionally considers such uncertainties, and their implications for conclusions on the degree of public health protection provided by the current primary NO_2 standards (U.S. EPA, 2017a, sections 3.2.2.2, 3.3.2.1, 5.4).

With regard to comments on the study by Stieb et al. (2009) in particular, commenters correctly point out that this study reported no association between short-term NO_2 and ED visits. This lack of a positive association was discussed in the 2016 NO_X ISA (U.S. EPA, 2016a, p. 5–84). However, the ISA's conclusion regarding the overall consistency of the broader body of available epidemiologic studies is based on the generally positive health effect associations reported in studies conducted across the U.S., Canada, Europe, and Asia (*e.g.,* U.S. EPA, 2016a, Figure 5–7). The relatively small number of studies in this group that did not report such positive associations, including the study by Stieb et al. (2009), were appropriately considered in reaching this broader ISA conclusion and do not call it into question. The lack of a positive association in the study by Stieb et al. (2009) was also specifically discussed in the PA (U.S. EPA, 2017a, p. 5–8), which noted that ''the only recent multicity study evaluated (Stieb et al., 2009) . . . did not report a positive association between NO_2 and ED visits'' (U.S. EPA, 2017a, p. 5–8). This observation, together with information from other key epidemiologic studies conducted in the U.S. or Canada,[111] informed the PA's conclusion that ''available U.S. and Canadian epidemiologic studies of hospital admissions and ED visits do not indicate the occurrence of 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'' (U.S. EPA, 2017a, p. 5–9). Thus, the lack of a positive association with ED visits in the study by Stieb et al. (2009) was discussed in the ISA and informed the PA's conclusions on the adequacy of the public health protection provided by the current primary NO_2 NAAQS. Accordingly, we disagree with the comments arguing, based on Stieb et al. (2009) or on uncertainties and limitations in the epidemiologic evidence, as described more fully above (II.B.3.a), that EPA has overstated the consistency of the epidemiologic evidence.

Some comments additionally note that current ambient NO_2 concentrations are low, particularly compared to concentrations that would be of concern based on the health evidence, and are showing a downward trend. These comments contend that current monitoring, including available near-road monitoring, shows that NO_2 concentrations remain well below the levels of current standards, calling into question the EPA's analysis comparing NO_2 air quality with health-based benchmarks and its resulting impact on the Administrator's determinations in the proposed decision. They further assert that the lack of real-world exposures above benchmarks, together with the downward trend in NO_2 concentrations, contradicts EPA's rationale that the level of the current NAAQS must be maintained to protect against exposures at 100 ppb or 250 ppb. Based on current ambient NO_2 concentrations, these commenters argue that the EPA should consider how the monitoring data, including from near-road monitors, impacts its assessment of exposures and should also examine whether alternative, less stringent standards are appropriate.

Insofar as these comments are premised on the notion that exposure- and risk-related considerations in the NAAQS reviews should rely only on actual air quality, we disagree. We recognize that available monitoring data indicates that recent ambient NO_2 concentrations are below the NO_2 exposure concentrations shown in controlled human exposure studies to increase AR. For example, the PA notes that analyses based on recent NO_2 air quality ''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)'' (U.S. EPA, 2017a, p. 4–19). However, the observation that recent NO_2 air quality concentrations, including from the near-road monitors, are lower than the exposure concentrations shown to cause effects does not, in and of itself, answer the question whether the current standards are more protective than necessary or whether the EPA should consider less stringent standards. Rather, it is important to consider the potential NO_2 exposures that would be permissible under the current standards to inform these questions.

In order to accomplish this, the PA further considers the potential for exposures to NO_2 concentrations at or above health-based benchmarks based on analyses where air quality has been adjusted upwards to simulate areas that would ''just meet'' the current primary NO_2 NAAQS. These analyses provide information on the public health protection associated with allowable NO_2 air quality under the current standards and, therefore, are clearly useful for informing a decision on the issue before the EPA. *See American Petroleum Institute* v. *EPA,* 684 F.3d at 1353 (upholding EPA's approach ''comparing the benefits of the one-hour standard against not only a scenario based upon existing air quality but also upon an alternate scenario in which areas just meet the [existing standard].''); *American Trucking Associations* v. *EPA,* 283 F.3d 355, 370–71 (D.C. Cir. 2002) (existence of evidence showing adverse effects occurring at levels allowed by the current standards justifies finding that it is appropriate to revise the existing NAAQS). This is a reasonable approach to informing judgments regarding the current standards, and it is consistent with section 109 of the CAA, which requires the EPA to review whether the current primary standards—not current air quality—are requisite to protect public health with an adequate margin of safety. CAA section 109(b)(1) and 109(d)(1); *see also NEDA/CAP* v. *EPA,* 686 F.3d 803, 813 (D.C. Cir. 2012) (rejecting the notion that it would be inappropriate for EPA to revise a NAAQS if current air quality does not warrant revision, stating ''[n]othing in the CAA requires EPA to give the current air quality such a controlling role in setting NAAQS''). Furthermore, although NO_2 air quality has been improving and is expected to continue improving, there are inherent uncertainties in predicting future air quality. Accordingly, it is reasonable to consider the NO_2 exposures that could occur under a pattern of air quality that just meets the current standards. *API* v. *EPA,* 684 F.3d at 1352.

In addition, the CASAC agreed with considering analyses based on adjusted air quality, stating that ''[t]he EPA has made a reasonable choice in looking both at the number of [benchmark] exceedances of the unadjusted data as well as the level of exceedance of the

[111] In considering the public health protection provided by the current standards, the PA focused on key studies assessed in the ISA that were conducted in the U.S. or Canada. Such studies are likely to reflect air quality and exposure patterns that are generally more 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 (U.S. EPA, 2017a, p. 3–20).

adjusted data'' (Diez Roux and Sheppard, 2017, p. 5). Therefore, for all of the reasons described above, relatively low recent ambient NO_2 concentrations, including those at near-road monitors, do not call into question analyses comparing NO_2 air quality to health-based benchmarks or the role those analyses play in the Administrator's decision to retain the existing standards.

c. Comments Supporting More Stringent Standards

One commenter argues that the current NAAQS do not protect public health with an adequate margin of safety, and that the standards should be revised to be more stringent. Specifically, these comments recommend that the level of the 1-hour NO_2 standard be set at 50 ppb, with a 99th percentile form, and that the level of the annual standard should be set at 30 ppb. These comments, and the EPA's responses, are discussed below. [112]

Comments asserting that the current 1-hour standard does not protect public health or provide any margin of safety cite the meta-analysis by Brown (2015) to support this position, arguing that this meta-analysis clearly shows that the majority of individuals with asthma were adversely affected by a concentration of NO_2 that would meet the current 1-hour standard. To support this point, these comments state that Brown (2015) reported increased AR following 1-hour exposures to 100 ppb NO_2, and they point to several uncertainties in the individual studies (*i.e.,* that no studies examined 1-hour concentrations below 100 ppb, that study subjects generally had mild asthma rather than more severe cases of disease, and that the studies do not provide information about potential effects of such exposures on children and seniors, two groups EPA recognizes as being particularly at risk). These comments disagree with the weight that EPA placed on the lack of consistency in the individual controlled human exposures studies at lower concentrations, contending that the Brown meta-analysis has greater statistical power than the individual studies. These comments further disagree with EPA's citation of uncertainties related to lack of exposures below 100 ppb as a rationale for retaining the current level of the 1-hour standard, contending that the CAA's requirement for an adequate margin of safety is intended to protect the population when information is limited.

As discussed above (Sections II.A.2, II.B.1), while the Brown meta-analysis shows that most study participants (*i.e.,* generally adults with mild asthma) experienced increased AR following resting NO_2 exposures from 100 to 530 ppb,[113] there are important limitations in the underlying studies, particularly in studies that evaluated NO_2 exposure concentrations at or near 100 ppb. Of the five studies included in the meta-analysis that evaluated resting exposures to 100 ppb NO_2, a statistically significant increase in AR following exposure to NO_2 was only observed in one (U.S. EPA, 2017a, section 3.2.2.1). Of the four studies that did not report statistically significant increases in AR following exposures to 100 ppb NO_2, three reported trends towards decreased AR (U.S. EPA, 2017a, section 3.2.2.1). Thus, individual controlled human exposure studies have generally not reported statistically significant increases in AR following resting exposures to NO_2 concentrations at 100 ppb (U.S. EPA, 2017a, section 3.2.2.1), indicating a greater uncertainty in the risk of such effects at 100 ppb.[114] When considering this general lack of consistent, statistically significant results across these five individual studies, limitations in the broader body of evidence from controlled human exposure studies (*i.e.,* uncertainty in adversity of reported responses and the lack of an apparent dose-response relationship), which are discussed above and have been considered throughout this review (*e.g.,* U.S. EPA, 2017a, section 3.2.2.1), take on increased importance when considering the risk of adverse effects and the potential public health implications of exposures to 100 ppb NO_2.

In light of the above information from the Brown (2015) meta-analysis and from the individual studies included in that meta-analysis, the Administrator's judgment in the proposal was that while it is appropriate to consider the degree of protection provided by the current 1-hour standard against exposures to NO_2 concentrations as low as 100 ppb,[115] emphasis should be placed on protecting against the potential for exposures to higher NO_2 concentrations, where individual studies generally report statistically significant increases in AR (*i.e.,* at or above 250 ppb, as discussed in U.S. EPA, 2017a, section 3.2.2.1). The more consistent results across studies at such higher exposure concentrations indicate greater concern for the risk of an NO_2-induced effect.

To this end, based on the results of the NO_2-air quality benchmark comparisons reported in the PA (U.S. EPA, 2017a, section 4.2.1), the current 1-hour standard is estimated to allow virtually no potential for 1-hour exposures to NO_2 concentrations at or above 200 ppb, even under worst-case conditions across a variety of study areas with among the highest NO_X emissions in the United States. 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 1-hour standard limits, but does not eliminate, 1-hour exposures to NO_2 concentrations at or above 100 ppb (U.S. EPA, 2017a, section 4.2.1), an exposure concentration where uncertainties in the evidence take on increased importance. Despite the importance of uncertainties in the evidence for increased AR following exposures to NO_2 concentrations at or near 100 ppb, as summarized above, a focus on limiting such exposures gives weight to the results of Brown (2015) at 100 ppb and to the possibility that other at-risk groups (*e.g.,* people with more severe asthma, children, older adults) could experience more serious effects than reported in available studies. As such, the current 1-hour standard provides a margin of safety by virtually eliminating the potential for 1-hour exposures to NO_2 concentrations that have been consistently shown to increase AR in people with asthma and by limiting exposures to NO_2 concentrations that have the potential to exacerbate asthma

[112] These comments also refer, for the full discussion, to an attached comment letter submitted during the 2010 review of the primary NO_2 NAAQS. This reference suggests that the commenter believed the comments submitted as part of the 2010 review are still relevant in the current review, given that the 2016 NO_X ISA focused much of its assessment on studies that were also included in the 2008 NO_X ISA. We note that, to the extent a separate response to those comments is required, we have already responded to the prior comments in the 2010 final decision on the primary NO_2 NAAQS (75 FR 6474, February 9, 2010; U.S. EPA, 2010).

[113] As discussed above, the most consistent evidence for NO_2-induced increases in AR comes from studies of resting exposures.

[114] In addition, studies that evaluated resting exposures to 140 ppb and 200 ppb NO_2 did not generally report statistically significant increases in AR. 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, though this evidence suggests a trend toward increased AR following NO_2 exposures from 140 to 200 ppb (U.S. EPA, 2017a, section 3.2.2.1).

[115] Uncertainties in this evidence are of even greater concern for NO_2 exposure concentrations below 100 ppb, for which there are no data available in these studies. On this point, the CASAC noted that ''the lack of a clear dose-response model based on available data is another source of uncertainty that makes it difficult to extrapolate a dose-response relationship at levels lower than those measured in the controlled human studies.'' (Diez Roux and Sheppard, 2017, pp. 7–8).

symptoms, but for which the evidence indicates greater uncertainty in the risk of such effects.

While the EPA recognizes, as discussed in section I.A. above, that CAA section 109's requirement for a primary NAAQS to provide an adequate margin of safety is intended to address uncertainties associated with inconclusive scientific and technical information, it also notes that the CAA does not require a primary NAAQS to be established at a zero-risk level, or to protect the most sensitive individual, but rather at a level that avoids unacceptable risks to public health. *See Lead Industries Association* v. *EPA,* 647 F.2d at 1154, 1156 n.51. This approach to considering the degree of protection provided by the current NAAQS is consistent with the governing case law. The EPA further notes that under CAA section 109, a primary standard must be ''requisite''—*i.e.,* neither more nor less stringent than necessary—to protect public health with an adequate margin of safety. *See Whitman* v. *American Trucking Associations,* 531 U.S. at 465–472, 475–76. Additionally, the selection of any particular approach to providing an adequate margin of safety is a policy choice left to the Administrator's judgment. *See Lead Industries Association* v. *EPA,* 647 F.2d at 1161–62. As discussed above, the EPA's approach to the margin of safety in this review reasonably considers both the potential for adverse public health effects following exposures to 100 ppb NO_2 and the uncertainties in the public health implications of such exposures. Thus, the EPA's approach here comports with CAA section 109 and the case law described in section I.A above.

The EPA's approach to considering the degree of protection provided by the current NO_2 NAAQS is also consistent with advice from the CASAC, which recognized that ''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). The CASAC additionally concluded that ''there is not a scientific basis for a standard lower than the current 1-hour standard'' (Diez Roux and Sheppard, 2017 p. 9). Thus, for the reasons discussed above, the EPA disagrees with comments claiming that the Brown (2015) meta-analysis indicates adverse effects at NO_2 concentrations meeting the current 1-hour standard and with comments claiming that the Brown (2015) meta-analysis shows that the 1-hour standard provides no margin of safety.

Comments advocating for a more stringent 1-hour standard further state that the current 98th percentile form allows too many days with NO_2 concentrations above 100 ppb, undermining protection for people with asthma, including children. These comments contend that the EPA's rationale that the 98th percentile provides more stability than the 99th percentile has no substantive evidence behind it.

In reviewing the NAAQS, the Administrator's foremost consideration is the adequacy of the public health protection provided by the combination of all of the elements of the standard, including the form. In particular, the EPA notes that the benchmark analysis presented in the PA, which informed the Administrator's proposed decision, evaluates the potential for NO_2 exposures with air quality just meeting the current 1-hour standard, including the 98th percentile form, and that analysis found that there were no exceedances of 200 ppb, and very few exceedances of 100 ppb (1 to 10 annually, on average). Thus, as described in more detail above, even under worst-case conditions across a variety of study areas with among the highest NO_X emissions in the U.S., the current 1-hour standard, with its 98th percentile form, virtually eliminates the potential for exposures to the NO_2 concentrations that have been shown most consistently to increase AR in people with asthma and to which the Administrator gives most weight, and greatly limits the potential for exposures to lower NO_2 concentrations with the potential to exacerbate symptoms in some people with asthma, but for which uncertainties in the evidence take on increased importance.

In addition, the CASAC advice provides further support for the 98th percentile form. The CASAC accepted the protection provided by the current 98th percentile form, together with the other elements of the 1-hour standard, in recommending retention of the current standard without revision. In doing so, it provided the following advice (Diez Roux and Sheppard, 2017, p. 9):

> For the 1-hour current standard, the form is based on the 98th percentile of daily maximum 1-hour concentrations, which corresponds to the 7th or 8th highest daily maximum 1-hour concentration in a year. This form limits but does not eliminate exposures at or above 100 ppb NO_2. A 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.

Thus, in providing its advice to retain the existing 1-hour standard, without revision, the CASAC clearly considered the implications of the 98th percentile form of that standard.

With regard to stability, the proposal explained that greater regulatory stability was one consideration supporting the selection of a 98th percentile form in the last review. In that review, the EPA established the 98th percentile form, noting ''the limited available information on the variability in peak NO_2 concentrations near important sources of NO_2 such as major roadways'' and ''the recommendation from the CASAC that the potential for instability in the 99th percentile concentration is cause for supporting a 98th percentile form'' (75 FR 6493, February 9, 2010).[116] However, in the proposal and in this final action, the Administrator's judgments focus primarily on his consideration of the public health protection provided by the current standards: A 1-hour standard with a level of 100 ppb and a 98th percentile form, and an annual average standard with a level of 53 ppb. The degree of public health protection provided by the current standards is a function of the combination of all elements of these standards (*i.e.,* indicator, averaging times, forms, levels). Thus, while judgments on stability can be a legitimate consideration, his decision to retain the current primary NO_2 NAAQS in this review (see below) reflects his judgments regarding public health protection provided by these standards. Given this, the EPA disagrees with comments contending that the form of the 1-hour standard should be revised to the 99th percentile.[117]

Comments advocating for more stringent standards also assert that the EPA should adopt an annual standard

[116] 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).

[117] These comments also note that EPA established a 99th percentile form when it revised the SO_2 primary NAAQS in 2010. The fact that EPA concluded that the 99th percentile was appropriate for one NAAQS, based on the combined elements of that revised standard and the evidence and information in the supporting record, does not mean that such a form should be used for a different NAAQS for a different pollutant. Rather, in reviewing each NAAQS, EPA makes a determination specific to the pollutant and standard in question, in the course of which it evaluates the public health protection it provides based on the combination of all the elements of the standard and based on the evidence and information in the record for that review.

level of 30 ppb. These comments note the strengthened evidence linking long-term NO_2 exposures with various health effects, particularly asthma development, arguing that it expands the range of potential effects and at-risk populations. They further note the recognition by the EPA and the CASAC, based on its review of analyses in the PA, that the current 1-hour standard and annual standard together are estimated to maintain annual NO_2 concentrations well below 53 ppb. These comments assert that both the EPA and the CASAC recognized that the annual standard was not sufficiently protective and, based on the degree of control associated with the 1-hour standard, in effect used 30 ppb as the effective standard for annual exposure. These comments thus conclude that EPA should lower the level of the annual standard level to 30 ppb.

We agree with comments that the evidence supporting associations between long-term NO_2 exposures and a variety of effects, particularly the development of asthma in children, has become stronger in this review.[118] While this evidence supports associations with a clearly adverse health outcome, given uncertainties in key studies and the protection provided by the 1-hour standard against long-term NO_2 exposures, we disagree with comments that this strengthened evidence supports a revised annual standard with a level of 30 ppb. Our consideration of these factors is described below.

As discussed in the proposal (82 FR 34792, July 26, 2017, section II.F.4), and in the Administrator's final decision below, uncertainties in studies of long-term NO_2 exposures, and in the NO_2 air quality present in the locations of those studies, limit their utility in identifying a specific revised annual standard that would provide the requisite protection. Important uncertainties in key U.S. and Canadian epidemiologic studies of long-term NO_2 exposures include the potential for confounding by highly correlated co-occurring pollutants and for exposure measurement error (see, *e.g.,* sections II.A.2, II.B.1, II.B.4 of this document).

With regard to potential confounding by co-occurring pollutants, the 2016 NO_X ISA concludes 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 2016 NO_X 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 copollutant models to address copollutant confounding, making it difficult to evaluate the independent effect of NO_2'' (U.S. EPA, 2016a, p. 6–64).

With regard to exposure measurement error, while some studies used well-validated estimates of NO_2 exposure (U.S. EPA, 2016a, section 6.2.2.1), most of the key epidemiologic studies conducted in the U.S. or Canada, which are the studies relevant for informing decisions on the standard, employed exposure models ''with unknown validation'' or used ''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'' (U.S. EPA, 2017a, p. 3–35). Thus, it is unclear the extent to which most of the key studies conducted in the U.S. or Canada provide reliable estimates of asthma incidence for particular NO_2 concentrations that could be used in identifying a specific revised annual standard that would provide the requisite protection.

In addition, as discussed in detail in the PA, while epidemiologic studies conducted in the U.S. or Canada provide evidence for associations with asthma-related effects in locations likely to have violated the current standards, they do not indicate associations of asthma incidence with exposures to long-term NO_2 in locations that would have clearly met the current standards (U.S. EPA, 2017a, section 5.1). 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. Had such monitors been in place, NO_2 design values in these study areas may have been higher than indicated by the monitors that were in operation during study periods.

Thus, uncertainties in studies of long-term NO_2 exposures, together with uncertainties in the NO_2 air quality present in the study locations, limit the degree to which these studies can inform the identification of a specific revised annual standard that would provide the requisite protection. Taken together, these uncertainties limit what studies of long-term NO_2 and asthma development can tell us with regard to the adequacy of the public health protection provided by the current NO_2 standards.

Beyond the uncertainties discussed above, the EPA further recognizes that, as noted in comments, the current 1-hour standard is expected to provide substantial protection against long-term NO_2 exposures. Support for considering protection provided by the 1-hour standard against long-term NO_2 exposures comes from the ISA's integrated mode of action information describing the biological plausibility for development of asthma. 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, pp. 6–66 and 6–64).[119] Given this, we note that meeting the 1-hour standard with its level of 100 ppb is expected to maintain annual average NO_2 concentrations well below the 53 ppb level of the current annual standard. With regard to this protection, the CASAC notes that the PA's analyses of historical data indicate that ''attainment of the 1-hour standard corresponds with annual design value averages of 30 ppb NO_2'' (Diez Roux and Sheppard, 2017). While the CASAC did not endorse the degree of public health protection provided by the annual standard alone (Diez Roux and Sheppard, 2017, p. 9), based on these air quality relationships it concluded 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). Thus, to the degree the evidence supports additional protection against long-term NO_2

[118] The ISA additionally concludes that, compared to the last review, stronger evidence is available in this review linking various non-respiratory effects with long-term NO_2 exposures (see, *e.g.,* U.S. EPA, 2016a, section 1.5.2). These include cardiovascular effects and diabetes, mortality, birth outcomes, and cancer. However, compared to the evidence linking NO_2 exposures with the development of asthma, there is greater uncertainty in the evidence for these non-respiratory effects. Therefore, in considering the public health protection provided by the current standards, the focus in this review is on respiratory effects (*e.g.,* see U.S. EPA, 2017a, section 5.1). More specifically, as noted in the PA ''we consider the full body of health evidence, 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 [*i.e.,* respiratory effects]'' (U.S. EPA, 2017a, p. 3–2).

[119] The ISA additionally recognizes that because the experimental evidence is limited, there remains some uncertainty as to whether long-term NO_2 exposures have an independent effect on asthma development or whether these health effects are due to repeated short-term exposures, or a mixture of long-term and short-term exposures (see U.S. EPA, 2016a, p. 6–67).

exposures, beyond that provided by the current annual standard alone, the 1-hour standard is expected to result in substantial additional protection against such exposures.

Based on the above information, when taken together, the EPA disagrees with comments that the level of the annual standard should be revised to 30 ppb. In particular, based on the uncertainties in the available key studies of NO_2 and asthma incidence conducted in the U.S. or Canada, uncertainty in the NO_2 concentrations present in locations of these key studies, and the substantial protection against long-term NO_2 exposures that is provided by the current 1-hour standard, we conclude that the evidence does not support a revised annual standard with a level of 30 ppb.

d. Other Comments

In addition to the comments presented above, the EPA received several comments related to implementation of the NO_2 NAAQS, including various comments on AERMOD and its use in permitting, as well as on the historical difficulty of facilities demonstrating compliance with the 1-hour NO_2 standard in permitting. As described in section I.A above, this action is being taken pursuant to CAA section 109(d)(1) and relevant case law. Consistent with this case law, the EPA has not considered costs, including the costs or economic impacts related to permitting or other implementation concerns, in this action. Under CAA section 109(d)(1) the EPA has the obligation to periodically review the air quality criteria and the existing primary NAAQS and make such revisions as may be appropriate. Thus, the scope of this action is to evaluate whether the existing NO_2 primary standards are requisite to protect public health with an adequate margin of safety, not to address concerns related to implementation of the existing standards. State and federal NO_2 control programs such as those discussed in section I.B may provide an opportunity for permitting and other implementation concerns to be addressed.

4. Administrator's Conclusions

Having carefully considered the public comments, as discussed above, and 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 concludes that the current primary NO_2 standards are requisite to protect the public health, with an adequate margin of safety, and should be retained. The Administrator's conclusions are based on a careful consideration of the full body of information available in this review, giving weight to the assessment of the available policy-relevant scientific evidence and the conclusions contained in the 2016 NO_X ISA; the PA's consideration of this evidence and of analyses comparing NO_2 air quality with health-based benchmarks; the PA's conclusions regarding the public health protection provided by the current primary NO_2 NAAQS and the rationale supporting those conclusions; the advice and recommendations from the CASAC; the scientific and policy judgments and conclusions discussed in the proposal; and public comments on the proposed action. The basis for the Administrator's conclusions on the current primary NO_2 standards is discussed further 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 described in detail in the 2016 NO_X ISA (U.S. EPA, 2016a, chapter 5 and chapter 6) and summarized in the PA (U.S. EPA, 2017a, chapter 3). 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 (section II.A.2), the Administrator notes that most of the controlled human exposure studies assessed in the 2016 NO_X 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 between short-term NO_2 exposures and 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, the results of these newer studies are generally consistent with the epidemiologic studies that were available in the last review.

With regard to respiratory effects of 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 as surrogates for exposures to the broader mixture of traffic-related pollutants (U.S. EPA, 2016a, table 1–1 and section 6.2.2). 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, pp. 6–64 and 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 2016 NO_X 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) (U.S. EPA, 2016a, table 1–1). As detailed in the 2016 NO_X 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, table 1–1 and section 6.2.2). Thus, as described above (section II.B.1), and consistent with CASAC advice (Diez Roux and Sheppard, 2017), the Administrator places the greatest emphasis on the evidence for respiratory effects attributable to either short- or long-term NO_2 exposures, which the ISA has determined demonstrates a ''causal'' and a ''likely to be causal'' relationship with NO_2 exposures, respectively.

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 NO_X 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 places greatest weight on 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 2016 NO_X ISA, to directly inform his consideration of the adequacy of the public health protection provided by the current primary NO_2 standards. Adopting the approach taken in the PA, which has been reviewed by the CASAC (Diez Roux and Sheppard, 2017, pp. 6 to 9), 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 ED visits, and asthma development in children. He particularly emphasizes the results of controlled human exposure studies, which were identified in the 2016 NO_X 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 advised 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, p. 7).

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 (Brown, 2015) and on the consistency of findings across individual studies. As discussed in sections II.A.2 and II.B.1 above, and consistent with the evidence in the last review, the Brown (2015) meta-analysis indicates that statistically significant majorities 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. In some affected individuals, the magnitudes of these increases were large enough to have potential clinical relevance (sections II.A.2.a.i and II.B.3, above).[120] 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 (section II.A.2.a).[121]

Uncertainties in this evidence, discussed in sections II.A.2.a, II.A.3, and II.B.1 above, include the lack of an apparent dose-response relationship between NO_2 exposures and increased AR, which limits the degree to which the health risks of these exposures can be fully characterized, and uncertainty regarding the potential adversity of the reported responses. These uncertainties take on increased importance when considering the potential public health implications of exposures to lower NO_2 concentrations (*i.e.,* at and near 100 ppb), where individual studies generally do not report NO_2-induced increases in AR.

While the Administrator recognizes uncertainty in the extent to which NO_2-induced increases in AR may be adverse, he also notes the risk that such increases could be adverse for some people with asthma, particularly those with more severe asthma than have typically been evaluated in available studies. He further notes that this risk cannot be fully characterized based on existing studies. However, given that the majority of people with asthma experienced an NO_2-induced increase in AR in the controlled human exposure studies included in the Brown (2015) meta-analysis,[122] and given the large size of the asthmatic population in the United States, the Administrator recognizes the potential for effects that are adverse to public health following the types of NO_2 exposures evaluated in the studies analyzed by Brown (2015). Thus, while the Administrator is not able to definitively determine whether the increased AR reported in these studies would be adverse for a given individual, he concludes that, from a public health perspective, it is appropriate to provide protection from the risk of adversity associated with such increases. As noted above, this is especially true for people with more severe asthma and for other at-risk populations that have generally not been evaluated in available controlled human exposure studies of NO_2 and AR (*i.e.,* children and older adults).

Based on information from controlled human exposure studies, which is discussed in more detail in sections II.A.2, II.B.1, and II.B.3 of this final action, the Administrator is most concerned about the potential for people with asthma to experience adverse respiratory effects following exposures to NO_2 concentrations at or above 250 ppb. As noted above, 250 ppb is an exposure concentration where the potential for NO_2-induced respiratory effects is supported both by results of the meta-analysis and by consistent results reported across individual studies. Therefore, in reaching decisions on the primary NO_2 NAAQS, the Administrator emphasizes the importance of protecting against such exposures.

Because results are less consistent across individual studies that evaluated lower exposure concentrations, the Administrator places greater weight on the uncertainties in the evidence as he considers the potential public health implications of such exposures. However, the Administrator also recognizes the potential for adverse 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. Available studies have generally evaluated people with mild asthma, while people with moderate or severe asthma could be more susceptible to NO_2-induced increases in AR, and thus more likely to exhibit adverse responses following NO_2 exposures (Brown, 2015). As discussed above, such effects have the potential to be adverse to public health, in light of the large size of the asthmatic population in the United States. Further, as noted above, the Administrator also recognizes the

[120] As discussed in section II.A.2.a.i of this final action, the consideration of clinical relevance by Brown (2015) is based on the fraction of exposed individuals who experienced a halving of the PD of challenge agent following NO_2 exposures. This magnitude of change has been recognized by the ATS and the ERS 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.

[121] In addition, studies that evaluated resting exposures to 140 ppb and 200 ppb NO_2 did not report statistically significant increases in AR, though group mean responses in these studies suggest a trend towards such an increase.

[122] As described above (II.A.2, II.B.1, II.B.3), this is the case for individuals exposed while at rest.

potential for such effects in other at-risk populations that have generally not been evaluated in NO_2 controlled human exposure studies (*i.e.,* children and older adults). Thus, when the evidence and uncertainties are taken together, the Administrator judges that, from a public health perspective, while it is appropriate to emphasize the degree of protection against the potential for exposures at or above 250 ppb, it is also appropriate to consider the degree of protection provided against potential exposures to NO_2 concentrations as low as 100 ppb.

In further considering the potential public health implications of the 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 (U.S. EPA, 2017a, section 4.2 and section 5.2), 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. presently 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).

To inform his consideration of the public health protection associated with allowable NO_2 air quality under the current standards, the Administrator takes note of the analyses in the PA examining the potential for exposures to NO_2 concentrations at or above health-based benchmarks when air quality has been adjusted upwards to simulate areas that would ''just meet'' the current primary NO_2 NAAQS. Drawing on the discussion of these analyses in the PA (U.S. EPA, 2017a, section 5.2), the Administrator 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 [123]). 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 (*i.e.,* about one to 10 days per year, on average) (U.S. EPA, 2017a, section 4.2.1). As discussed above, 100 ppb represents an exposure concentration with the potential to exacerbate asthma-related respiratory effects in some people, but for which uncertainties in the evidence take on increased importance.

Based on his consideration of these results, the Administrator concludes that evidence from controlled human exposure studies, together with analyses comparing ambient NO_2 concentrations to health-based benchmarks, supports his overall judgment that the current primary NO_2 NAAQS are requisite to protect public health with an adequate margin of safety. In particular, as discussed above, he is most concerned about exposures to NO_2 concentrations at and above 250 ppb, where the potential for NO_2-induced respiratory effects is supported both by results of the meta-analysis and by consistent results reported across individual studies. With regard to this, the Administrator notes that NO_2 air quality that just meets the current standards is estimated to allow no potential for exposures to such 1-hour NO_2 concentrations. The Administrator also recognizes the potential for effects that are adverse to public health with exposures to lower NO_2 concentrations, including as low as 100 ppb, although he places greater weight on the uncertainties in the evidence at these lower exposure concentrations. In light of these uncertainties, the Administrator judges it appropriate to limit, but not to eliminate, the potential for 1-hour exposures to NO_2 concentrations as low as 100 ppb. With regard to this, he notes that the current standard is estimated to restrict the potential for exposures to 1-hour NO_2 concentrations at or above 100 ppb to a limited number of days per year.

Thus, given that the current standards are estimated to allow no exposures to 1-hour NO_2 concentrations at or above 250 ppb, and only limited potential for such exposures to concentrations as low as 100 ppb, the Administrator concludes that the scientific evidence, together with the information from analyses comparing NO_2 air quality with health-based benchmarks, supports his judgment that 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 reaching this conclusion, the Administrator finds that retaining the 1-hour NO_2 standard with the level of 100 ppb reflects a cautious approach, which is warranted given the CAA's requirement to for an adequate margin of safety. However, uncertainties in the evidence, especially those relating to the adversity of the effect and its likelihood to occur at exposures at or below 100 ppb, support the Administrator's conclusion that it is not necessary to eliminate the potential for exposures to 100 ppb NO_2.

The Administrator also considers what the available epidemiologic studies indicate with regard to the adequacy of the public health protection provided by the current NO_2 standards, noting that these studies often examine more serious health effects than the controlled human exposure studies. In particular, he considers analyses of NO_2 air quality in the locations, and during the time periods, of available U.S. or Canadian epidemiologic studies of asthma-related hospital admissions or ED visits. Although the NO_2 epidemiologic evidence is subject to greater uncertainty than the controlled human exposure studies of NO_2-induced changes in AR, as discussed in section II.B.1 above, 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, as discussed in greater detail in section II.B.1 above, the Administrator notes that epidemiologic studies provide evidence for asthma-related ED 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. In contrast, 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 the locations of these epidemiologic studies are based on an

[123] As discussed above, analyses in the PA estimate no occurrences of 1-hour NO_2 concentrations at or above 200 ppb.

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 evidence for associations with asthma-related effects in locations likely to have violated the current standards, supporting the decision to not set less stringent standards (see section II.B.3, above), they do not provide support for such associations in locations that would have clearly met those standards. As a result, these studies additionally support the decision to not set more stringent 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. While recognizing important uncertainties related to potential copollutant confounding and exposure measurement error (*e.g.,* see U.S. EPA, 2017a, section 3.3.2.1), the Administrator considers what these studies could indicate with regard to the public health protection provided by the current standards. As discussed in section II.A.2 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 (U.S. EPA, 2017a, figure 2–11), when considering these studies of asthma development, the Administrator considers the protection provided by the combination of both the annual and 1-hour standards.

In doing so, he notes that key epidemiologic studies conducted in the U.S. or 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, but that those studies do not indicate such associations in locations that would have clearly met the current annual and 1-hour standards (U.S. EPA, 2017a, section 5.1). As discussed above for epidemiologic studies of short-term NO_2 exposures, 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 the Administrator recognizes the public health significance of asthma development in children, he concludes that the available evidence supports his decision to not revise the current standards to be more stringent. In addition, while there are important uncertainties in these studies of long-term NO_2 exposures, the Administrator also concludes that, in light of the requirement for an adequate margin of safety, reported associations in locations likely to have violated the current standards support his decision to not revise the current standards to be less stringent.

Based on the above considerations, with their attendant uncertainties and limitations, and with consideration of advice from CASAC and public comment, the Administrator concludes that the current body of scientific evidence, in combination with the results of the quantitative analyses comparing NO_2 air quality with health-based benchmarks, supports his judgment that the current 1-hour and annual NO_2 primary standards, together, are requisite to protect public health with an adequate margin of safety, and does not call into question any of the four basic elements of those standards (*i.e.,* indicator, averaging time, level, and form). The Administrator considers these four elements collectively in evaluating the public health protection afforded by the current primary NO_2 standards, as discussed above (section II.B.1.a). Based on this consideration, and consistent with the CASAC advice (see, *e.g.,* Diez Roux and Sheppard, 2017, pp. 6–9), the Administrator judges that each of the elements of the current standards should be retained. In particular, taking note of the more detailed discussions elsewhere in this document and in the proposal, he judges the following:

- NO_2 continues to be the appropriate indicator for both the current annual and 1-hour standards, and no alternative to NO_2 has been advanced as a more appropriate surrogate for ambient oxides of nitrogen (section II.B.1.a.i above; 82 FR 34792, July 26, 2017, section II.F.1.a).
- The 1-hour and annual averaging times of the current standards, together, can provide protection against short- and long-term NO_2 exposures and should be retained (section II.B.1.a.ii above; 82 FR 34792, July 26, 2017, section II.F.1.b).
- The levels and the forms of the current short-term and long-term standards should be retained (sections II.B.1.a.iii and II.B.3 above; 82 FR 34792, July 26, 2017, section II.F.1.c).

In considering the requirement for an adequate margin of safety, the Administrator notes that the determination of what constitutes an adequate margin of safety is expressly left to the judgment of the EPA Administrator. *See Lead Industries Association* v. *EPA,* 647 F.2d at 1161–62; *Mississippi,* 744 F.3d at 1353. He further notes that in evaluating how particular standards address the requirement to provide an adequate margin of safety, it is appropriate to consider such factors as the nature and severity of the health effects, the size of sensitive population(s) at risk, and the kind and degree of the uncertainties present. Consistent with past practice and long-standing judicial precedent, and as described in this section, the Administrator takes the need for an adequate margin of safety into account as an integral part of his decision-making on a standard. *See, e.g., NRDC* v. *EPA,* 902 F. 2d 962, 973–74 (D.C. Cir. 1990).

In reaching the conclusion that the current primary NO_2 standards, together, are requisite to protect public health with an adequate margin of safety, the Administrator notes the following with regard to effects attributable to short-term NO_2 exposures:

- Meeting the current 1-hour NO_2 standard is expected to allow virtually no potential for exposures to NO_2 concentrations that have been shown most consistently to increase AR in people with asthma (*i.e.,* at or above 250 ppb), even under worst-case conditions across a variety of study areas with among the highest NO_X emissions in the U.S. Based on analyses of air quality adjusted upwards to just meet the current 1-hour standard, such NO_2 concentrations were not estimated to occur, even at monitoring sites adjacent to some of the most heavily trafficked roadways (U.S. EPA, 2017a, section 4.2.1).
- Meeting the current 1-hour standard limits the potential for exposures to 1-hour concentrations at or above 100 ppb. Thus, the current standard protects against NO_2 exposures with the potential to exacerbate symptoms in some people with asthma, but for which uncertainties in the evidence take on increased importance (U.S. EPA, 2017a, section 4.2.1).

• Meeting the current 1-hour standard is expected to maintain ambient NO_2 concentrations below those likely to have been present in locations where key epidemiologic studies conducted in the U.S. or Canada have reported relatively precise and statistically significant associations between short-term NO_2 and asthma-related hospitalizations (U.S. EPA, 2017a, section 3.2.2.2).

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 in section II.B.1 above, meeting the current annual and 1-hour standards is expected to maintain ambient NO_2 concentrations below those likely to have been present in locations where key U.S. and Canadian epidemiologic studies have reported associations between long-term NO_2 and asthma development (U.S. EPA, 2017a, section 3.3.2.1). 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 the 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 (U.S. EPA, 2017a, section 2.3.3).[124] In this regard, the Administrator takes note of the CASAC conclusion that ''attainment of the 1-hour standard also implies that the annual DV averages 30 ppb NO_2'' and its advice that ''[g]iven uncertainties in the epidemiologic evidence related to lack of near road monitoring and potential confounding of traffic-related co-pollutants, 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). The Administrator observes 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).

Based on the conclusions and considerations described above in this section, the Administrator concludes that his proposed decision, and the supporting rationale, analyses, and scientific assessments, remain valid. Accordingly, in this review, he judges that it is appropriate to retain the current 1-hour and annual primary NO_2 standards, without revision. As described in sections II.B.2 and II.B.3 above, the Administrator notes that his decision to retain the current primary NO_2 standards in this review, without revision, is consistent with the CASAC advice. In particular, the Administrator notes that in its letter on the draft PA, the CASAC stated that it ''recommends retaining, and not changing the existing suite of standards'' (Diez Roux and Sheppard, 2017, cover letter at p. 3). The Administrator further observes that in addressing the 1-hour standard the CASAC ''advise[d] that the current 1-hour standard is protective of adverse effects and that there is not a scientific basis'' for a more stringent standard (Diez Roux and Sheppard, 2017, p. 9). With respect to the annual standard, the Administrator notes that the CASAC specifically focused its conclusions on the degree of protection provided by the combination of the 1-hour and annual standards, advising that ''the suite of the 1-hour and annual standards is protective against adverse effects'' (Diez Roux and Sheppard, 2017, p. 9). In light of this advice from the CASAC, the Administrator finds it appropriate to focus on the degree of public health protection provided by the current 1-hour and annual NO_2 standards together in reaching his decision in this review to retain the current primary NO_2 NAAQS.

Inherent in the Administrator's conclusions are public health policy judgments based on his consideration of the available scientific evidence and analyses. 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 weigh their associated uncertainties. Based on these considerations and the judgments identified herein, the Administrator concludes 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, children, and older adults.

In reaching this 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 or to protect the most sensitive individual, but rather at a level that avoids unacceptable risks to public health. In this context, the Administrator's conclusion is that the current 1-hour and annual NO_2 standards together provide the requisite protection and that more or less stringent standards would not be requisite.

More specifically, given the increased risk of adverse effects 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 likely to have been present in locations where epidemiologic studies have reported associations with asthma-related hospitalizations and with asthma development in children. Consistent with these observations, the Administrator further notes the CASAC conclusion, based on its consideration of the evidence, that ''there are notable adverse effects at levels that exceed the current [1-hour] standard, but not at the level of the current [1-hour] standard'' (Diez Roux and Sheppard, 2017, p. 9) and its recommendation to retain, ''and not change, the existing suite of standards'' (*i.e.,* both 1-hour and annual) (Diez Roux and Sheppard, 2017, cover letter at p. 3). For these reasons, the Administrator concludes 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 requisite to

[124] This air quality relationship was discussed in the PA (U.S. EPA, 2017a, Figure 2–11), 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).

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, based on the scientific information discussed throughout this document (*e.g.,* sections II.A.2, II.A.3, II.B.1, II.B.3), including uncertainties inherent in that information, 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, the CASAC advised that ''there is not a scientific basis for a standard lower than the current 1-hour standard'' (Diez Roux and Sheppard, 2017, p. 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 well below the level of the annual standard, and observing that there is insufficient scientific evidence to make a scientific judgment that adverse effects occur at those lower concentrations (Diez Roux and Sheppard, 2017, cover letter p. 3).

Based on all of the above considerations, and consistent with the CASAC advice, the Administrator concludes that it is appropriate to retain the current standards, without revision, in this review.

C. Decision on the Primary Standards

For the reasons discussed above, and taking into account information and assessments presented in the ISA and PA, the advice and recommendations from CASAC, and consideration of public comments, the Administrator concludes that the current primary 1-hour and annual NO_2 standards together are requisite to protect public health with an adequate margin of safety, including the health of at-risk populations, and is retaining the standards without revision.

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.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. 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 revising or retaining NAAQS under section 109 of the CAA. This action retains, without any revisions, the current primary NAAQS for oxides of nitrogen.

D. 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 retains, 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,* 175 F.3d at 1044–45 (NAAQS do not have significant impacts upon small entities because NAAQS themselves impose no regulations upon small entities).

E. 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.

F. 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.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. It does not have a substantial direct effect on one or more Indian tribes. This action does not change existing regulations; it retains, without revision, the current primary NAAQS for oxides of nitrogen. The primary NAAQS protect public health, including the health of at-risk or sensitive groups, with an adequate margin of safety. Thus, Executive Order 13175 does not apply to this action.

H. 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. We note, however, that the standards retained with this action provide protection for children and other at-risk populations against adverse health effects. The health effects evidence and risk assessment information for this action, which focuses on children and other at-risk populations, is summarized in section II.A.2 and II.A.3 above and described in the ISA and PA, copies of which are in the public docket for this action.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards.

K. 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). This action is to retain without revision the existing primary NAAQS for oxides of nitrogen.

The NAAQS decisions are based on an explicit and comprehensive assessment of the current scientific evidence and associated exposure/risk

analyses. More specifically, the EPA expressly considers the available information regarding health effects among at-risk populations, including that available for low-income populations and minority populations, in decisions on the primary (health based) NAAQS. Where low-income populations or minority populations are among the at-risk populations, the decision on the standard is based on providing protection for these and other at-risk populations and lifestages. Where such populations are not identified as at-risk populations, NAAQS that are established to provide protection to the at-risk populations would also be expected to provide protection to all other populations, including low-income populations and minority populations.

As discussed in sections II.A.2 and II.B.1 above, and in sections II.F and II.C of the proposal, the EPA expressly considered the available information regarding health effects among at-risk populations in reaching the decision that the existing primary (health-based) standards for oxides of nitrogen are requisite. The ISA and PA for this review, which include identification of populations at risk from NO_2 health effects, are available in the docket, EPA–HQ–OAR–2013–0146. Based on consideration of this information and the full evidence base, quantitative exposure/risk analyses, advice from the CASAC and consideration of public comments, the Administrator concludes that the existing standards protect public health, including the health of at-risk or sensitive groups, with an adequate margin of safety (as discussed in section II.B.4 above).

L. 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).

M. Congressional Review Act (CRA)

The EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: April 6, 2018.

E. Scott Pruitt,

Administrator.

[FR Doc. 2018–07741 Filed 4–17–18; 8:45 am]

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FEDERAL REGISTER

Vol. 83 Wednesday,

No. 75 April 18, 2018

Part III

The President

Executive Order 13829—Task Force on the United States Postal System

Federal Register
Vol. 83, No. 75
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Presidential Documents

Title 3—

The President

Executive Order 13829 of April 12, 2018

Task Force on the United States Postal System

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order the following:

Section 1. *Policy.* (a) The United States Postal Service (USPS) accounts for almost half of global mail volume and is regularly cited as the Federal agency with the highest public approval rating. However, a number of factors, including the steep decline in First-Class Mail volume, coupled with legal mandates that compel the USPS to incur substantial and inflexible costs, have resulted in a structural deficit where revenues are no longer sufficient to fund the pension liabilities and retiree health obligations owed to current employees. The USPS is on an unsustainable financial path and must be restructured to prevent a taxpayer-funded bailout. This finding is supported by the following considerations, among others:

(i) the USPS has incurred $65 billion of cumulative losses since the 2007–2009 recession;

(ii) the USPS has been unable to make payments required by law for its retiree health benefit obligations, which totaled more than $38 billion at the end of fiscal year 2017; and

(iii) the Government Accountability Office has had the USPS on its high-risk list since 2009 because of a serious financial situation that puts the USPS mission of providing prompt, reliable, and efficient universal mail services at risk.

(b) It shall be the policy of my Administration that the United States postal system operate under a sustainable business model to provide necessary mail services to citizens and businesses, and to compete fairly in commercial markets.

Sec. 2. *Establishment.* (a) There is hereby established a Task Force on the United States Postal Service (Task Force), to be chaired by the Secretary of the Treasury, as Secretary and as Chairman of the Federal Financing Bank, or his designee, to evaluate the operations and finances of the USPS. In addition to the Chair of the Task Force (Chair), the Task Force shall be composed of the following department and agency heads, or their designees:

(i) the Director of the Office of Management and Budget;

(ii) the Director of the Office of Personnel Management; and

(iii) any other department and agency head the Chair may designate.

(b) The Task Force shall consult with the Postmaster General and the Chairman of the Postal Regulatory Commission.

(c) The Task Force shall also engage:

(i) the Attorney General, on issues relating to government monopolies operating in the commercial marketplace;

(ii) the Secretary of Labor, on issues related to workers compensation programs; and

(iii) State, local, and tribal officials as determined by the Chair of the Task Force with input from the Task Force members.

(d) The Task Force shall meet as required by the Chair and, unless extended by the Chair, shall be dissolved once it has accomplished the objectives

set forth in sections 3 and 4, as determined by the Chair, and completed the report described in section 5 of this order.

Sec. 3. *Evaluation.* The Task Force shall conduct a thorough evaluation of the operations and finances of the USPS, including:

(i) the expansion and pricing of the package delivery market and the USPS's role in competitive markets;

(ii) the decline in mail volume and its implications for USPS self-financing and the USPS monopoly over letter delivery and mailboxes;

(iii) the definition of the ''universal service obligation'' in light of changes in technology, e-commerce, marketing practices, and customer needs;

(iv) the USPS role in the U.S. economy and in rural areas, communities, and small towns; and

(v) the state of the USPS business model, workforce, operations, costs, and pricing.

Sec. 4. *Recommendations for Reform.* The Task Force shall develop recommendations for administrative and legislative reforms to the United States postal system.

(a) Such recommendations shall promote our Nation's commerce and communication without shifting additional costs to taxpayers. The recommendations shall be developed in a manner that is consistent with the proposed plan to reorganize the executive branch as required by Executive Order 13781 of March 13, 2017.

(b) Such recommendations shall also consider the views of the USPS workforce; commercial, non-profit, and residential users of the USPS services; and competitors in the marketplace.

Sec. 5. *Report.* The Task Force, acting through the Chair and the Director of the Office of Management and Budget, shall submit a report to the President, in coordination with the Directors of the Domestic Policy and National Economic Councils, not later than 120 days after the date of this order. In its report, the Task Force shall summarize its findings and recommendations under sections 3 and 4 of this order.

Sec. 6. *Administration.* The Federal Financing Bank shall provide administrative support and funding for the Task Force.

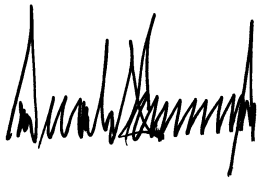
Sec. 7. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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



THE WHITE HOUSE,
April 12, 2018.

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