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Presidential Documents

Title 3—

The President

Proclamation 9408 of March 22, 2016

Honoring the Victims of the Attack in Brussels, Belgium

By the President of the United States of America

A Proclamation

The American people stand with the people of Brussels. We will do whatever it takes, working with nations and peoples around the world, to bring the perpetrators of these attacks to justice, and to go after terrorists who threaten our people.

As a mark of respect for the victims of the senseless acts of violence perpetrated on March 22, 2016, in Brussels, Belgium, by the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, I hereby order that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, March 26, 2016. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of March, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2016–07030
Filed 3–25–16; 8:45 am]
Billing code 3295–F6–P–P

Rules and Regulations

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–7485; Airspace Docket No. 15–AGL–25]

Amendment of Class D and Class E Airspace; Minot, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, correction.

SUMMARY: This action further corrects a final rule published in the **Federal Register** of February 4, 2016, and corrected in the **Federal Register** of March 3, 2016, amending the Class D and E airspace areas at Minot International Airport, Minot, ND. This correction adds part-time Notice to Airmen (NOTAM) language inadvertently removed to the Class E surface area description, and removes duplicative Class E extension airspace boundary information language from the Class E surface area description.

DATES: Effective 0901 UTC, March 31, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

History

On February 4, 2016, the FAA published a final rule in the **Federal Register** amending the Class E surface area and Class E extension airspace areas at Minot International Airport, Minot, ND (81 FR 5903) Docket No. FAA–2015–7485. A final rule correction was published in the **Federal Register** to include Class D and Class E airspace extending upward from the surface (81 FR 11103, March 3, 2016). Subsequent to publication, the FAA determined the part-time NOTAM language in the Class E surface area description was inadvertently removed in error, and the Class E extension airspace boundary information that is contained in the Class E surface area description should be removed. Potential safety concerns were identified due to the possibility for confusion in determining the operating rules and equipment requirements in the Minot International Airport terminal area. The concerns were based on the opportunity for part-time Class D surface area airspace and continuous Class E surface area airspace to be active at the same time, as well as having the same Class E extension airspace boundary information published in both the Class E surface area and the Class E extension airspace descriptions.

To resolve these concerns, the FAA is keeping the part-time NOTAM language in the Class E surface area description to retain it as part-time airspace supplementing the existing part-time Class D surface area airspace at Minot International Airport, and removing the Class E extension airspace boundary information from the Class E surface area description. The regulatory text is rewritten for clarity. These are administrative corrections and do not affect the controlled airspace boundaries or operating requirements supporting operations in the Minot International Airport terminal area.

Correction to Final Rule

■ Accordingly, pursuant to the authority delegated to me, in the **Federal Register** of February 4, 2016 (81 FR 5903) FR Doc. 2016–02036, and corrected in the **Federal Register** of March 3, 2016 (81 FR 11103) FR Doc. No. 2016–04482, Amendment of Class D and Class E Airspace, Minot, ND, is corrected as follows:

§ 71.1 [Amended]

AGL ND E2 Minot, ND [Corrected]

On page 5904, column 3, beginning on line 29, remove the following text: ''Within a 4.2-mile radius of Minot International Airport and within 3.5 miles each side of the Minot VORTAC 129° radial, extending from the 4.2-mile radius of the airport to 7 miles southeast of the VORTAC, and within 3.5 miles each side of the Minot VORTAC 260° radial, extending from the 4.2-mile radius of the airport to 7 miles west of the VORTAC, and within 3.5 miles each side of the Minot VORTAC 327° radial, extending from the 4.2-mile radius of the airport to 7 miles northwest of the VORTAC, and within 3.5 miles each side of the Minot VORTAC 097° radial, extending from the 4.2-mile radius to 7 miles east of the VORTAC, excluding the portion which overlies the Minot AFB, ND, Class D airspace area''; and add in its place the following text:

''Within a 4.2-mile radius of Minot International Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airman. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.''

Issued in Fort Worth, Texas, on March 16, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–06835 Filed 3–25–16; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1233

[Docket No. CPSC–2015–0016]

Safety Standard for Portable Hook-On Chairs

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Danny Keysar Child Product Safety Notification Act, section 104 of the Consumer Product Safety Improvement Act of 2008 (''CPSIA''), requires the United States Consumer Product Safety Commission (''Commission'' or ''CPSC'') to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be ''substantially the same as'' applicable voluntary standards, or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. The Commission is issuing a safety standard for portable hook-on chairs (''hook-on chairs'') in response to the direction of section 104(b) of the CPSIA. In addition, the Commission is amending its regulations regarding third party conformity assessment bodies to include the mandatory standard for hook-on chairs in the list of Notices of Requirements (''NOR'') issued by the Commission.

DATES: This rule will become effective September 28, 2016. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of September 28, 2016.

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301–504–6820; email: *kwalker@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

The CPSIA was enacted on August 14, 2008. Section 104(b) of the CPSIA, part of the Danny Keysar Child Product Safety Notification Act, requires the Commission to: (1) Examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts; and (2) promulgate consumer product safety standards for durable infant and toddler products. Standards issued under section 104 are to be ''substantially the same as'' the applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product.

The term ''durable infant or toddler product'' is defined in section 104(f)(1) of the CPSIA as ''a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years.'' Section 104(f)(2)(C) of the CPSIA specifically identifies ''hook-on chairs'' as a durable infant or toddler product.

On July 2, 2015, the Commission issued a notice of proposed rulemaking (''NPR'') for hook-on chairs. 80 FR 38041. The NPR proposed to incorporate by reference the voluntary standard, ASTM F1235–15, *Standard Consumer Safety Specification for Portable Hook-On Chairs,* without modification. In this document, the Commission is issuing a mandatory safety standard for hook-on chairs. As required by section 104(b)(1)(A), the Commission consulted with manufacturers, retailers, trade organizations, laboratories, consumer advocacy groups, consultants, and the public to develop this proposed standard, largely through the ASTM process. The rule incorporates by reference the most recent voluntary standard, developed by ASTM International, ASTM F1235–15.

In addition, the final rule amends the list of NORs issued by the Commission in 16 CFR part 1112 to include the standard for hook-on chairs. Under section 14 of the Consumer Product Safety Act (''CPSA''), the Commission promulgated 16 CFR part 1112 to establish requirements for accreditation of third party conformity assessment bodies (or testing laboratories) to test for conformity with a children's product safety rule. Amending part 1112 adds a NOR for the hook-on chair standard to the list of children's product safety rules.

II. Product Description

The scope section of ASTM F1235–15 defines a ''portable hook-on chair'' as ''[u]sually a legless seat constructed to locate the occupant at a table in such a position and elevation so that the surface of the table can be used as the feeding surface for the occupant . . . [s]upported solely by the table on which it is mounted.'' The ASTM standard specifies the appropriate ages and weights for children using portable hook-on chairs as ''between the ages of six months and three years and who weigh no more than 37 lb (16.8 kg) (95th percentile male at three years).'' Typical hook-on chairs consist of fabric over a lightweight frame, with a device to mount the seat to a support surface, such as a table or counter. Some hook-on chairs fold for easy storage or transport, and some include a removable tray that can be used in conjunction with a table.

III. Market Description

CPSC staff has identified 10 firms supplying hook-on chairs to the U.S. market, typically priced at $40 to $80 each. These 10 firms specialize in the manufacture and/or distribution of durable nursery products and represent only a small segment of the juvenile products industry. Nine of the 10 known firms are domestic (including 3 manufacturers and 6 importers). The remaining firm is a foreign manufacturer. Hook-on chairs represent only a small proportion of each firm's overall product line; on average, each firm supplies one hook-on chair model to the U.S. market annually.

Staff expects that the hook-on chairs of nine of the 10 firms are compliant with ASTM F1235 because they are either: (1) Certified by the Juvenile Products Manufacturers Association (''JPMA'') (three firms); or (2) the supplier claims compliance with the voluntary standard (six firms). It is unknown whether the hook-on chairs supplied by the remaining firm, a foreign manufacturer, comply with the ASTM voluntary standard.

IV. Incident Data

The preamble to the NPR summarized the hook-on chair incident data—covering the period between January 1, 2000 and October 31, 2014—reported to the Commission. 80 FR 38041. In the NPR, CPSC's Directorate for Epidemiology, Division of Hazard Analysis, identified 89 portable hook-on chair-related incidents reported to the CPSC that occurred during the covered time period, including 50 incidents involving injury, 38 non-injury incidents, and one fatality. Since the publication of the NPR, CPSC staff has received 11 new reports (seven nonfatal injuries and four incidents without injury) that were determined to involve portable hook-on chairs. The seven new injuries all involved children between the ages of 6 and 12 months. Among the 11 new incidents, no ages were reported outside the ASTM-recommended user range of 6 months to 3 years. The hazards identified in the new incidents are consistent with the hazard patterns

identified among the incidents present in the NPR briefing package.

V. Overview of ASTM F1235

The voluntary standard for hook-on chairs was first approved and published in 1989, as ASTM F1235–89, *Standard Consumer Safety Specification for Portable Hook-On Chairs*. ASTM has revised the voluntary standard seven times since initial publication of the standard. The current version, ASTM F1235–15, was approved on May 1, 2015. In the NPR, the Commission proposed to incorporate ASTM F1235–15, which addresses the hazard patterns identified for hook-on chairs, without modification.

VI. Response to Comments

The Commission received two comments in response to the NPR. A summary of each comment and a response is provided below.

A. General Support of Standard Adoption

Comment: A comment from representatives of Kids In Danger, Consumer Federation of America, and Consumers Union urged the Commission to adopt the proposed rule and agreed with staff's recommendations.

Response: The Commission is issuing a final rule that is identical to the NPR.

B. Hook-On Chair Injuries

Comment: The second commenter discussed infant fall data, head injuries, severed body parts, and installation considerations for hook-on chairs. In addition, the commenter questioned why ''so many injuries, and even on[e] fatality'' occurred before anyone took action to implement stringent standards. Additionally, the commenter opined that hook-on chairs never should have been released to the market, or that they should have been removed immediately after compromised attachment incidents surfaced. Lastly, the commenter opined that even if injuries and fatalities decrease after implementing this new rule, the chances are high that more infants will be killed.

Response: Section 104 of the CPSIA requires the Commission to promulgate consumer product safety standards for durable infant or toddler products, including hook-on chairs (specifically identified by section 104(f)(2)(C) of the CPSIA). Furthermore, section 104 of the CPSIA lays out a broad timeline for promulgation of such durable infant and toddler product safety standards. These standards must be ''substantially the same as'' or more stringent than the relevant voluntary standard. Accordingly, through section 104 of the CPSIA, Congress has directed the Commission to promulgate safety standards relating to hook-on chairs rather than ban their use.

The current ASTM standard, ASTM F1235–15, incorporates numerous changes implemented after hazard patterns emerged under the previous version of the standard, ASTM F1235–08. For example, the one fatal incident involved an older hook-on chair that did not have a passive crotch restraint. Passive crotch restraints are used to prevent ''submarining'' deaths and are specified in other similar juvenile standards, such as the juvenile standard for high chairs. Had the hook-on chair involved in the fatal incident contained a passive crotch restraint, the death would not have occurred. In 2014, ASTM added a performance requirement for passive-crotch restraints to ASTM F1235. During the ensuing 7 years between adoption of ASTM F1235–08 and ASTM F1235–15, the hazard patterns identified in the NPR were all addressed, and corresponding requirements were incorporated into the 2015 version of the standard. The Commission is confident that these changes in the standard (including changes addressing scissoring/shearing, openings, and labeling/markings) will reduce injuries associated with hook-on chairs.

VII. Final Rule

A. Final Rule for Part 1233 and Incorporation by Reference

Section 1233.2(a) of the final rule provides that hook-on chairs must comply with ASTM F1235–15.

The Office of the Federal Register (''OFR'') has regulations concerning incorporation by reference. 1 CFR part 51. These regulations require that, for a final rule, agencies must discuss in the preamble of the rule the way that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. In addition, the preamble of the rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR's requirements, the discussion in this section summarizes the provisions of ASTM F1235–15. Interested persons may purchase a copy of ASTM F1235–15 from ASTM, either through ASTM's Web site or by mail at the address provided in the rule. A copy of the standard may also be inspected at the CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, or at NARA, as discussed above. We note that the Commission and ASTM arranged for commenters to have ''read only'' access to ASTM F1235–15 during the NPR's comment period.

ASTM F1235–15 contains requirements covering:

- Sharp points;
- Small parts;
- Lead in paint;
- Wood parts;
- Latching and locking mechanisms;
- Scissoring, shearing, and pinching (including during detachment from table support surface);
- Exposed coil springs;
- Openings;
- Labeling; and
- Protective components.

The standard additionally contains test methods that must be used to assess conformity with these requirements.

B. Amendment to 16 CFR Part 1112 To Include NOR for Hook-On Chairs Standard

The final rule amends part 1112 to add a new § 1112.15(b)(40) that lists 16 CFR part 1233, *Safety Consumer Safety Specification for Portable Hook-On Chairs,* as a children's products safety rule for which the Commission has issued an NOR. Section XIII of the preamble provides additional background information regarding certification of hook-on chairs and issuance of an NOR.

VIII. Effective Date

The Administrative Procedure Act (''APA'') generally requires that the effective date of a rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). The safety standard for hook-on chairs and the corresponding changes to part 1112 regarding requirements for third party conformity assessment bodies will become effective 6 months after publication of the final rule in the **Federal Register**.

Without evidence to the contrary, CPSC generally considers 6 months to be sufficient time for suppliers to come into compliance with a new standard, and a 6-month effective date is typical for other CPSIA section 104 rules. Six months is also the period that JPMA typically allows for products in the JPMA certification program to transition to a new standard once that standard is published. The Commission proposed a 6-month effective date in the NPR and did not receive any comments regarding the effective date.

IX. Regulatory Flexibility Act

A. Introduction

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, requires that agencies review a proposed rule and a

final rule for the rule's potential economic impact on small entities, including small businesses. Section 604 of the RFA generally requires that agencies prepare a final regulatory flexibility analysis (''FRFA'') when promulgating final rules, unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

B. Impact on Small Businesses

Approximately 10 firms currently market portable hook-on chairs in the United States, nine of which are domestic firms. Under U.S. Small Business Administration (''SBA'') guidelines, a manufacturer of hook-on chairs is small if it has 500 or fewer employees, and importers and wholesalers are considered small if they have 100 or fewer employees.

In the NPR briefing package, the Commission certified that the proposed hook-on chair rule would not have a significant economic impact on a substantial number of small entities. That conclusion has not changed. All of the domestic hook-on chairs appear to conform to the current voluntary standard and are expected to continue to do so. Consequently, costs of compliance, if any, are expected to be negligible. Third party testing costs are expected to be small and economically insignificant (*i.e.,* less than 1 percent of gross revenues for the affected firms). Furthermore, we received no comments questioning or challenging the certification that the rule would not have a significant economic impact on a substantial number of small entities.

X. Environmental Considerations

The Commission's regulations address whether the agency is required to prepare an environmental assessment or an environmental impact statement. Under these regulations, a rule that has ''little or no potential for affecting the human environment,'' is categorically exempt from this requirement. 16 CFR 1021.5(c)(1). The final rule falls within the categorical exemption.

XI. Paperwork Reduction Act

This rule contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The preamble to the proposed rule discussed the information collection burden of the proposed rule. Sections 8 and 9 of ASTM F1235–15 contain requirements for marking, labeling, and instructional literature. These requirements fall within the definition of ''collection of information,'' as defined in 44 U.S.C. 3502(3).

OMB has assigned control number 3041–0170 to this information collection. The Commission did not receive any comments regarding the information collection burden of this proposal.

XII. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that when a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA refers to the rules to be issued under that section as ''consumer product safety rules.'' Therefore, the preemption provision of section 26(a) of the CPSA would apply to a rule issued under section 104.

XIII. Amendment to 16 CFR Part 1112 To Include Notice of Requirements (NOR) for Hook-On Chair Standard

Section 14(a) of the CPSA imposes the requirement that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other Act enforced by the Commission, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). Section 14(a)(2) of the CPSA requires that certification of children's products subject to a children's product safety rule be based on testing conducted by a CPSC-accepted, third party conformity assessment body. Section 14(a)(3) of the CPSA requires the Commission to publish a NOR for the accreditation of third party conformity assessment bodies (or laboratories) to assess conformity with a children's product safety rule to which a children's product is subject. The *Standard Consumer Safety Specification for Hook-On Chairs,* to be codified at 16 CFR part 1233, is a children's product safety rule that requires the issuance of an NOR.

The Commission published a final rule, *Requirements Pertaining to Third-Party Conformity Assessment Bodies,* 78 FR 15836 (March 12, 2013), which is codified at 16 CFR part 1112 (referred to here as part 1112). This rule became effective on June 10, 2013. Part 1112 establishes requirements for accreditation of third-party conformity assessment bodies (or laboratories) to test for conformance with a children's product safety rule in accordance with section 14(a)(2) of the CPSA. Part 1112 also codifies a list of all of the NORs that the CPSC had published at the time part 1112 was issued. All NORs issued after the Commission published part 1112, such as the standard for hook-on chairs, require the Commission to amend part 1112. Accordingly, the Commission is now amending part 1112 to include the standard for hook-on chairs in the list of other children's product safety rules for which the CPSC has issued NORs.

Laboratories applying for acceptance as a CPSC-accepted third-party conformity assessment body to test to the new standard for hook-on chairs would be required to meet the third-party conformity assessment body accreditation requirements in 16 CFR part 1112, *Requirements Pertaining to Third-Party Conformity Assessment Bodies*. When a laboratory meets the requirements as a CPSC-accepted third-party conformity assessment body, the laboratory can apply to the CPSC to have 16 CFR part 1233, *Standard Consumer Safety Specification for Hook-on Chairs,* included in its scope of accreditation of CPSC safety rules listed for the laboratory on the CPSC Web site at: *www.cpsc.gov/labsearch*.

As required by the RFA, staff conducted a FRFA when the Commission issued the part 1112 rule (78 FR 15836, 15855–58). Briefly, the FRFA concluded that the accreditation requirements would not have a significant adverse impact on a substantial number of small test laboratories because no requirements were imposed on test laboratories that did not intend to provide third-party testing services. The only test laboratories that were expected to provide such services were those that anticipated receiving sufficient revenue from the mandated testing to justify accepting the requirements as a business decision. Moreover, a test laboratory would only choose to provide such services if it anticipated receiving revenues sufficient to cover the costs of the requirements.

Based on similar reasoning, amending 16 CFR part 1112 to include the NOR for the hook-on chairs standard will not have a significant adverse impact on small test laboratories. Moreover, based upon the number of test laboratories in the United States that have applied for CPSC acceptance of accreditation to test for conformance to other mandatory juvenile product standards, we expect that only a few test laboratories will

seek CPSC acceptance of their accreditation to test for conformance with the hook-on chair standard. Most of these test laboratories will have already been accredited to test for conformity to other mandatory juvenile product standards, and the only costs to them would be the cost of adding the hook-on chairs standard to their scope of accreditation. For these reasons, the Commission certifies that the NOR amending 16 CFR part 1112 to include the hook-on chairs standard will not have a significant impact on a substantial number of small entities.

List of Subjects

16 CFR Part 1112

Administrative practice and procedure, Audit, Consumer protection, Reporting and recordkeeping requirements, Third-party conformity assessment body.

16 CFR Part 1233

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, Toys.

For the reasons discussed in the preamble, the Commission amends title 16 of the Code of Federal Regulations as follows:

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

■ 1. The authority citation for part 1112 continues to read as follows:

Authority: Pub. L. 110–314, section 3, 122 Stat. 3016, 3017 (2008); 15 U.S.C. 2063.

■ 2. Amend § 1112.15 by adding and reserving paragraph (b)(39) and adding paragraph (b)(40) to read as follows:

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule or test method?

* * * * *

(b) * * *

(40) 16 CFR part 1233, Safety Standard for Portable Hook-On Chairs.

* * * * *

■ 3. Add part 1233 to read as follows:

PART 1233–SAFETY STANDARD FOR PORTABLE HOOK-ON CHAIRS

Sec.

Authority: Sec. 104, Pub. L. 110–314, 122 Stat. 3016 (August 14, 2008); Pub. L. 112–28, 125 Stat. 273 (August 12, 2011).

§ 1233.1 Scope.

This part establishes a consumer product safety standard for portable hook-on chairs.

§ 1233.2 Requirements for portable hook-on chairs.

Each portable hook-on chair must comply with all applicable provisions of ASTM F1235–15, Standard Consumer Safety Specification for Portable Hook-On Chairs, approved on May 1, 2015. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; *http://www.astm.org/cpsc.htm*. You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federalregulations/ibr_locations.html*.

Dated: March 22, 2016.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2016–06769 Filed 3–25–16; 8:45 am]

BILLING CODE 6355–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 10

Rules of Practice

CFR Correction

In Title 17 of the Code of Federal Regulations, Parts 1 to 40, revised as of April 1, 2015, on page 386, in § 10.12, paragraph (a)(2)(v) is reinstated to read as follows:

§ 10.12 Service and filing of documents; form and execution.

(a) * * *

(2) * * *

(v) Service shall be complete at the time of personal service; upon deposit in the mail or with a similar commercial package delivery service of a properly addressed document for which all postage or delivery service fees have been paid; or upon transmission by fax or email. Where a party effects service by mail or similar package delivery service (but not by fax or email), the time within which the party being served may respond shall be extended by five (5) days. Service by fax or email shall be permitted at the discretion of the Presiding Officer, with the parties' consent. Signed documents that are served by email must be in PDF or other non-alterable form.

* * * * *

[FR Doc. 2016–07017 Filed 3–25–16; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 312 and 320

[Docket No. FDA–2016–N–0011]

Investigational New Drug Applications for Biological Products; Bioequivalence Regulations; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA or Agency) is amending its regulations to update the address for applicants to submit investigational new drug applications (INDs) for biological products regulated by the Center for Drug Evaluation and Research (CDER). FDA is also amending its regulations on the criteria and evidence to assess actual and potential bioequivalence problems (bioequivalence regulations) to correct a typographical error. FDA is taking this action to ensure accuracy and clarity in the Agency's regulations.

DATES: This rule is effective March 28, 2016.

FOR FURTHER INFORMATION CONTACT: Florine Purdie, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6248, Silver Spring, MD 20993–0002, 301–796–3601.

SUPPLEMENTARY INFORMATION: FDA is amending 21 CFR 312.140(a)(2) to update the address for applicants to submit INDs for biological products regulated by CDER. FDA is amending 21 CFR 320.33(f)(3) of its bioequivalence regulations to correct a typographical error by removing the phrase ''(first-class metabolism)'' and adding in its place ''(first-pass metabolism).''

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). FDA has determined that

notice and public comment are unnecessary because this amendment to the regulations provides only technical changes to update the address for the submission of INDs regulated by CDER and to correct a typographical error in the Agency's bioequivalence regulations.

List of Subjects

21 CFR Part 312

Drugs, Exports, Imports, Investigations, Labeling, Medical research, Reporting and recordkeeping requirements, Safety.

21 CFR Part 320

Drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 312 and 320 are amended as follows:

PART 312—INVESTIGATIONAL NEW DRUG APPLICATION

■ 1. The authority citation for 21 CFR part 312 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360bbb, 371; 42 U.S.C. 262.

§ 312.140 [Amended]

■ 2. Section 312.140 is amended in paragraph (a)(2) by removing ''CDER Therapeutic Biological Products'' and adding in its place ''Central'', and by removing ''12229 Wilkins Ave., Rockville, MD 20852'' and adding in its place ''5901–B Ammendale Rd., Beltsville, MD 20705–1266''.

PART 320—BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

■ 3. The authority citation for 21 CFR part 320 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 355, 371.

§ 320.33 [Amended]

■ 4. Section 320.33 is amended in paragraph (f)(3) by removing ''(first-class metabolism)'' and adding in its place ''(first-pass metabolism)''.

Dated: March 22, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–06886 Filed 3–25–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9759]

RINs 1545–BF43; 1545–BC88

Limitations on the Importation of Net Built-In Losses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under sections 334(b)(1)(B) and 362(e)(1) of the Internal Revenue Code of 1986 (Code). The regulations apply to certain nonrecognition transfers of loss property to corporations that are subject to certain taxes under the Code. The regulations affect the corporations receiving such loss property. This document also amends final regulations under sections 332 and 351 to reflect certain statutory changes. The regulations affect certain corporations that transfer assets to, or receive assets from, their shareholders in exchange for the corporation's stock.

DATES: *Effective Date:* These final regulations are effective on March 28, 2016.

FOR FURTHER INFORMATION CONTACT: John P. Stemwedel (202) 317–5363 or Theresa A. Abell (202) 317–7700 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations revises a collection of information that has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2019. The revised collection of information in these final regulations is in §§ 1.332–6, 1.351–3, and 1.368–3. By requiring that taxpayers separately report the fair market value and basis of property (including stock) described in section 362(e)(1)(B) and in 362(e)(2)(A) that is transferred in a tax-free transaction, this revised collection of information aids in identifying transactions within the scope of sections 334(b)(1)(B), 362(e)(1), and 362(e)(2) and thereby facilitates the ability of the IRS to verify that taxpayers are complying with sections 334(b)(1)(B), 362(e)(1), and 362(e)(2). The respondents will be corporations and their shareholders.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103.

Background

Sections 334(b)(1)(B) and 362(e)(1) (the anti-loss importation provisions) were added to the Code by the American Jobs Creation Act of 2004 (Pub. L. 108–357, 188 Stat. 1418) to prevent erosion of the corporate tax base when a person (Transferor) transfers property to a corporation (Acquiring) and the result would be an importation of loss into the federal tax system. Proposed regulations under sections 334(b)(1)(B) and 362(e)(1) were published in the **Federal Register** (78 FR 54971) on September 9, 2013 (the 2013 NPRM). Three written comments were submitted on the 2013 NPRM; no public hearing was requested or held. Additionally, on March 10, 2005, the Treasury Department and the IRS published in the **Federal Register** (70 FR 11903–01) a notice of proposed rulemaking (the 2005 NPRM) that, among other things, proposed amendments to the regulations under sections 332 and 351 to reflect statutory changes. No comments were received with respect to the amendments reflecting statutory changes to section 332 and 351, although several comments were received with respect to other aspects of the 2005 NPRM. The 2005 NPRM's proposed amendments that reflect statutory changes are included in this final rule.

The comments with respect to the 2013 NPRM, and the respective responses of the Treasury Department and the IRS, are described in the Summary of Comments and Explanation of Provisions that follows the Summary of the 2013 NPRM.

Summary of the 2013 NPRM

1. General Application of Sections and Interaction With Other Law

The 2013 NPRM provided specific rules to implement the statutory framework of the anti-loss importation provisions, such as rules for identifying ''importation property'' and for determining whether the transfer of that property occurs in a transaction subject to the anti-loss importation provisions (designated a ''loss importation

transaction'' under the 2013 NPRM and these final regulations).

a. Importation Property

The 2013 NPRM used a hypothetical sale analysis to identify importation property. Under this approach, the actual tax treatment of any gain or loss that would be recognized on a sale of an individual property, first by the Transferor immediately before the transfer and then by Acquiring immediately after the transfer, determined whether that individual property was importation property. If a Transferor's gain or loss on a sale of an individual property immediately before the transfer would not be subject to any tax imposed under subtitle A of the Code (federal income tax), the first condition for classification as importation property would be satisfied. If Acquiring's gain or loss on a sale of the transferred property immediately after the transfer would be subject to federal income tax, the second condition for classification as importation property would be satisfied. If both of these conditions would be satisfied, the property would be importation property.

In general, this determination was made by reference to the tax treatment of the Transferor(s) or Acquiring as hypothetical sellers of the transferred or acquired property, that is, whether the hypothetical seller would take the gain or loss into account in determining its federal income tax liability. This determination had to take into account all relevant facts and circumstances. The 2013 NPRM included a number of examples illustrating this approach. Thus, in one example, a tax-exempt entity transferred property to a taxable domestic corporation, and the determination took into account whether the transferor, though generally tax-exempt, would nevertheless be required to include the amount of the gain or loss in unrelated business taxable income (UBTI) under sections 511 through 514 of the Code. In other examples, a foreign corporation transferred property to a taxable domestic corporation and the determination took into account whether the foreign corporation would be required to include the amount of gain or loss under section 864 or 897 as income effectively connected with, or treated as effectively connected with, the conduct of a U.S. trade or business. Although the examples assumed that there was no applicable income tax treaty, in the case of an applicable income tax treaty, the determination of whether property is importation property would take into account whether the Transferor would be taxable under the business profits article or gains article of the income tax treaty.

i. Property Acquired From Grantor Trusts, Partnerships, and S Corporations

Although the general rule in the 2013 NPRM looked solely to the tax treatment of the Transferor(s) and Acquiring as hypothetical sellers, a look-through rule applied if a Transferor was a grantor trust, a partnership, or a small business corporation that elected under section 1362(a) to be an S corporation. In these cases, the determination of whether gain or loss from a hypothetical sale was subject to federal income tax was made by reference to the tax treatment of the gain or loss in the hands of the grantors, the partners, or the S corporation shareholders.

If an organizing instrument allocated gain or loss in different amounts, including by reason of a special allocation under a partnership agreement, the determination of whether gain or loss from a hypothetical sale by the entity was subject to federal income tax would be made by reference to the person to whom, under the terms of the instrument, the gain or loss on the entity's hypothetical sale would actually be allocated, taking into account the entity's net gain or loss actually recognized in the tax period in which the transaction occurred.

ii. Anti-Avoidance Rule for Certain Entities

In certain circumstances, the Code permits an entity that would otherwise be subject to federal income tax to shift the incidence of federal income taxation to the entity's owners. For example, under sections 651 and 652, and sections 661 and 662, distributions made by a trust are deducted from the trust's income for federal income tax purposes and included in the beneficiary's (or beneficiaries') gross income. Certain domestic corporations, including regulated investment companies (RICs, as defined in section 851(a)), real estate investment trusts (REITs, as defined in section 856(a)), and domestic corporations taxable as cooperatives (Cooperatives; see section 1381) are also able to shift the incidence of federal income taxation by distributing income or gain.

The Treasury Department and the IRS were concerned that disregarding the ability of these entities to shift the incidence of federal income taxation could undermine the anti-loss importation provisions. However, the Treasury Department and the IRS were also concerned that applying a look-through rule in all of these cases would impose a significant administrative burden.

Accordingly, the 2013 NPRM included an anti-avoidance rule that applied to domestic trusts, estates, RICs, REITs, and Cooperatives that directly or indirectly transferred property (including through other such entities) in a transaction described in section 362(a) or 362(b) (a Section 362 Transaction). The rule applied if the property had been directly or indirectly transferred to or acquired by the entity as part of a plan to avoid the application of the anti-loss importation provisions. When the look-through rule applied, the entity was presumed to distribute the proceeds of its hypothetical sale and the tax treatment of the gain or loss in the distributees' hands would determine whether the gain or loss was taken into account in determining a federal income tax liability. If the distributee were also such an entity, the principles of this rule applied to look to the ultimate owners of the interests in the entity.

iii. Gain or Loss Affecting Certain Income Inclusions

Prior to the publication of the 2013 NPRM, questions were raised regarding the treatment of property transferred by or to a controlled foreign corporation (CFC), as defined in section 957 (taking into account section 953(c)). The general rules of the 2013 NPRM would not treat gain or loss recognized on a hypothetical sale by a CFC as subject to federal income tax; however, because practitioners raised concerns prior to the publication of the 2013 NPRM, the 2013 NPRM expressly provided that gain or loss recognized on a hypothetical sale by a CFC is not considered subject to federal income tax solely by reason of an income inclusion under section 951(a). The 2013 NPRM similarly provided that gain or loss recognized by a passive foreign investment company, as defined in section 1297(a), was not subject to federal income tax solely by reason of an inclusion under section 1293(a).

iv. Gain or Loss Taxed to More Than One Person

If gain or loss realized on a hypothetical sale would be includible in income by more than one person, the 2013 NPRM treated such property, solely for purposes of the anti-loss importation provisions, as tentatively divided into separate portions in proportion to the allocation of gain or loss from a hypothetical sale to each person. Tentatively divided portions were treated and analyzed in the same manner as any other property for

purposes of applying the anti-loss importation provisions.

b. Loss Importation Transaction

Under the 2013 NPRM, once property had been identified as importation property, Acquiring would determine its basis in the importation property under generally applicable rules (disregarding sections 362(e)(1) and 362(e)(2)) and, if that aggregate basis exceeded the aggregate value of all importation property transferred in the Section 362 Transaction, the transaction was a loss importation transaction subject to the anti-loss importation provisions. If the aggregate basis of the importation property did not exceed such property's value, the anti-loss importation provisions had no further application.

i. Aggregate, Not Transferor-by-Transferor, Approach

By their terms, section 362(e)(1) and the provisions of the 2013 NPRM apply in the aggregate to all importation property acquired in a transaction, regardless of the number of transferors in the transaction. This rule differs from the transferor-by-transferor approach of section 362(e)(2), which is concerned with whether a transferor would otherwise duplicate loss by retaining loss in stock and transferring property with a net built-in loss.

ii. Valuing Partnership Interests

In response to concerns raised by practitioners prior to the publication of the 2013 NPRM, a special valuation rule for transfers of partnership interests was included in the 2013 NPRM. Under that rule, the value of a partnership interest would be determined in a manner that takes partnership liabilities into account. Specifically, the 2013 NPRM provided that the value of a partnership interest would be the sum of cash that Acquiring would receive for such interest, increased by any § 1.752–1 liabilities (as defined in § 1.752–1(a)(4)) of the partnership that were allocated to Acquiring with regard to such transferred interest under section 752. The 2013 NPRM included an example that illustrated the application and effect of this rule. The 2013 NPRM also clarified that any section 743(b) adjustment to be made as a result of the transaction was made after any section 362(e) basis adjustment.

c. Acquiring's Basis in Acquired Property

If a transaction was a loss importation transaction under the 2013 NPRM, Acquiring's basis in each importation property received (including the tentatively divided portions of property determined to be importation property) was an amount equal to the value of that property, notwithstanding the general rules in sections 334(b)(1)(B), 362(a), and 362(b). This rule applied to all importation property, regardless of whether the property's value was more or less than its basis prior to the loss importation transaction.

Immediately following the application of the anti-loss importation provisions (and prior to any application of section 362(e)(2)), any property that was treated as tentatively divided for purposes of applying the anti-loss importation provisions ceased to be treated as divided and was treated as one undivided property (re-constituted property) with a basis equal to the sum of the bases of the portions determined under the anti-loss importation provision, and the bases of all other portions determined under generally applicable provisions (other than section 362(e)(2)).

If the transaction was described in section 362(a), the transferred property was then aggregated on a transferor-by-transferor basis to determine whether further adjustment would be required to the bases of loss properties under section 362(e)(2). The 2013 NPRM included a cross-reference to section 362(e)(2) as well as examples illustrating the application of both section 362(e)(1) and (e)(2) to situations involving multiple transferors and multiple properties that were not all importation properties.

2. Filing Requirements

To facilitate the administration of both the anti-loss importation provisions and the anti-duplication provisions in section 362(e)(2), the 2013 NPRM modified the reporting requirements applicable in all affected transactions (section 332 liquidations and transactions described in section 362(a) or section 362(b)) to require taxpayers to identify the bases and values of properties subject to those sections.

3. Modifications to Liquidation Regulations

The 2013 NPRM also included several modifications to the regulations applicable to corporate liquidations. These modifications were not substantive changes to the law; they were solely to update the regulations to reflect certain statutory changes, including the repeal of the *General Utilities* doctrine (reflected in the modification of sections 334(a) and 337(a), and the repeal of sections 333 and 334(c)), the removal of former section 334(b)(2) (replaced by section 338), and the relocation of former section 332(c) (subsidiary indebtedness) to current section 337(b). In response to certain regulatory changes, the 2013 NPRM also added several cross-references to regulations under section 367 and 897 to highlight the treatment of certain transfers between foreign corporations.

Summary of Comments and Explanation of Provisions

In general, the commenters agreed with the general framework prescribed in the 2013 NPRM and the positions taken therein by the Treasury Department and the IRS. Accordingly, the final regulations generally adopt the provisions of the 2013 NPRM. However, the final regulations also adopt certain modifications and include certain clarifications in response to comments. These comments, and the respective responses of the Treasury Department and the IRS, are described in the following paragraphs.

1. Comments Related to Partnership Matters

The majority of comments received in response to the 2013 NPRM related to issues involving partnerships.

a. Items Taken Into Account To Determine Treatment of Hypothetical Sale

As described previously, under the 2013 NPRM, the determination of whether gain or loss on property transferred by a partnership is subject to federal income tax would be made by reference to the treatment of the partners, taking into account all partnership items for the year of the Section 362 Transaction. One commenter suggested a closing-of-the-books rule instead, asserting such an approach would be more administrable for transferor partnerships. The Treasury Department and the IRS are concerned that the allocation of partnership items as of the date of the transfer could differ from the allocation of such items at the end of the partnership tax year. In such a case, the partner to whom gain or loss on the hypothetical sale of the transferred property would be allocated as of the transfer date (using a hypothetical closing-of-the-books method) may not be the partner to whom the allocation would be made as of the end of the year, taking all items for the year into account. The Treasury Department and the IRS believe that the latter approach more accurately identifies the partner to whom the gain or loss on a sale of the property would be allocated, and thus more accurately determines whether

such amounts would be subject to federal income tax. Accordingly, these final regulations do not permit using a closing-of-the-books method.

In response to questions about how to determine to which partner an item would be allocated, and thus its federal income tax treatment, the final regulations clarify that the partnership agreement as well as any applicable rules of law are taken into account.

b. Widely-Held Partnerships and Publicly Traded Partnerships

Another commenter requested that widely held partnerships (WHPs) and publicly traded partnerships (PTPs) not be subject to the look-through rule applicable to all partnerships for determining whether gain or loss on a hypothetical sale is subject to federal income tax. Instead, the commenter requested these entities be afforded treatment similar to that of domestic estates, trusts, RICs, REITs, and Cooperatives (and therefore be subject to look-through treatment only in abusive situations). The commenter's reasons for this suggested modification included that look-through treatment would impose a substantial administrative burden on WHPs and PTPs and that these entities are not generally vehicles for abuse. However, the statute explicitly contemplates that partners, not partnerships, are the focus of the inquiry under section 362(e)(1). WHPs and PTPs are already required to apply a look-through approach to track and report information to their partners. For purposes of determining whether there is an importation of loss for PTPs, the Treasury Department and the IRS will respect determinations derived by applying generally accepted conventions in determining allocable income. *See,* for example, the conventions set forth in § 1.706–4(c)(3)(ii). Accordingly, the Treasury Department and the IRS do not believe it is necessary or appropriate to treat these partnerships as other than partnerships, and the final regulations retain the approach used in the 2013 NPRM.

c. Interactions of Sections 362(e) and 704(c)(1)(C)

Commenters also requested clarification of the interaction of the regulations proposed under section 362(e)(1), the regulations under section 362(e)(2), and regulations proposed under section 704(c)(1)(C) (79 FR 3041 (January 16, 2014)). The Treasury Department and the IRS agree that such clarification would be appropriate. However, the interaction of these provisions cannot be addressed independently of the promulgation of final regulations under section 704(c)(1)(C). Accordingly, these issues will be addressed as part of the finalization of regulations under that section.

d. Partnership Allocations in the Case of a Section 362(e)(2)(C) Election

The 2013 NPRM, like the final regulations under section 362(e)(2), included examples involving partnership transferors and allocation to partners of resulting adjustments under section 362(e)(1) and (2), including adjustments in the case of a section 362(e)(2)(C) election. The examples direct allocations to the partners that contributed the property transferred by the partnership in order to comply with the legislative purpose of section 362(e)(1) and (2) and to prevent distortions. Commenters agreed with the results provided in the examples but requested a clarification of the authority on which the analyses were based. The analysis reflected in the examples is based on general aggregate and entity principles of partnership tax law, taking into account the aggregate approach reflected in the statutory language of section 362(e)(1), and the purposes and principles of section 362(e)(1) and (2). The rule applying an aggregate approach to partnerships is set forth in § 1.362–3(d)(2) and is illustrated in Example 5 of § 1.362–3(f).

e. Rev. Rul. 84–111 and Rev. Rul. 99–6

One commenter requested that the final regulations clarify the effect of Rev. Rul. 84–111 (1984–30 IRB 6, 1984–2 CB 88) and Rev. Rul. 99–6 (1999–6 IRB 6, 1999–1 CB 432) on a transfer of all the interests in a partnership to a single transferee in a loss importation transaction. The Treasury Department and the IRS recognize that guidance would be helpful in this area but have concluded that resolution of the complex issues implicated by those rulings is beyond the scope of this project. Accordingly, these final regulations do not address this issue.

2. Comments Related to Other Special Entities

a. Anti-Avoidance Rule

As previously described, the 2013 NPRM would only subject domestic estates, trusts, RICs, REITs, and Cooperatives to look-through treatment in certain abusive situations. One comment suggested that the anti-avoidance rule would be strengthened if the final regulations provided certain operating presumptions or factors to be applied in determining whether the rule would apply. The Treasury Department and the IRS have considered this suggestion but determined that the approach of the 2013 NPRM, focusing on the existence of a plan to avoid the anti-loss importation provisions, is appropriate and administrable. Accordingly, the final regulations do not adopt this suggestion.

b. Foreign Non-Grantor Trusts

Another modification suggested by a commenter would allow a foreign non-grantor trust to prove that its beneficiaries were not foreign, in order to avoid treating gain or loss from its hypothetical sale as being treated as not subject to federal income tax. The Treasury Department and the IRS considered the suggestion and determined that such an approach is inconsistent with the anti-loss importation provisions and the general approach of the regulations because, subject to the anti-abuse rule, all non-grantor trusts, not their beneficiaries, are treated as transferors for purposes of the anti-loss importation provisions. In addition, adopting the commenter's suggestion would lead to inappropriate electivity with respect to the application of the anti-loss importation provisions because such an approach would depend on the identity of the foreign non-grantor trust's beneficiaries rather than a determination of whether the foreign non-grantor trust is subject to federal income tax. Accordingly, the final regulations do not adopt this suggestion.

c. Trusts With No Distributable Net Income

Another commenter suggested that a domestic trust should be excepted from look-through treatment under the anti-abuse rule if it has no distributable net income within the meaning of section 643(a) in the taxable year of the transaction. The Treasury Department and the IRS considered this suggestion and determined that it could lead to inappropriate electivity and abuse because the existence of distributable net income is not controlling in determining whether a transfer furthers a plan to avoid the anti-loss importation provisions. The existence of such a plan is controlling for determining that the transfer is subject to the anti-abuse rule. Accordingly, the final regulations do not adopt this suggestion.

d. Tax-Exempt Transferors of Debt-Financed Property

Under the 2013 NPRM, if a tax-exempt entity transferred debt-financed property (as defined in section 514), the

disposition of such property would be subject to federal income tax and thus the property could not be importation property. This rule applied even if there was only a de minimis amount of indebtedness and so only a small portion of any gain or loss would be subject to federal income tax. Commenters noted the cliff effect and resulting potential for avoidance of the anti-loss importation provisions. The Treasury Department and the IRS agree, and the final regulations adopt an approach that treats debt-financed property as subject to federal income tax in proportion to the amount of such gain or loss that would be includible in the transferor's UBTI on a sale under sections 511–514. The final regulations provide that portions of property determined under this rule are generally treated under the anti-loss importation provisions in the same manner as portions of property tentatively divided to reflect multiple owners of gain or loss on the property (for example, when a partnership transfers property to Acquiring).

3. Interaction With Regulations Under Section 367(b)

The proposed regulations requested comments on the appropriate treatment of transactions subject to section 367(b) and to either section 334(b)(1)(B) or 362(e)(1). Comments were also specifically requested on what effect a basis reduction required under section 334(b)(1)(B) or 362(e)(1) should have on earnings and profits and any inclusion required under § 1.367(b)–3. One comment suggested that if an inbound liquidation or inter-group asset reorganization gives rise to an inclusion of the all earnings and profits amount under § 1.367(b)–3, the basis reduction under section 334(b)(1)(B) or 362(e)(1), respectively, should be reduced to allow the transferee corporation to preserve an amount of built-in loss equal to the all earnings and profits amount. The comment suggested that this reduction is appropriate because the inclusion of the all earnings and profits amount is intended, in part, as a toll charge for importing basis into the U.S. tax system. However, the comment acknowledged that if such a rule was adopted, anti-abuse rules would be needed to address stuffing transactions and consideration should be given to adjusting the reduction for foreign tax credits associated with the inclusion of the all earnings and profits amount.

The Treasury Department and the IRS have determined that the basis reduction should not be affected by an inclusion of the all earnings and profits amount. First, there is no indication in section 334(b) or 362(e), or their legislative history, that the basis reduction should be reduced or otherwise affected by an inclusion of the all earnings and profits amount. Second, such a reduction may be contrary to the policies underlying these provisions. For example, the built-in loss may have arisen before a domestic corporation acquires all the stock of a foreign corporation such that the built-in loss bears no relation to the all earnings and profits amount. Finally, determining the extent to which the built-in loss relates to the all earnings and profits amount would involve undue complexity. Accordingly, the final regulations do not adopt this suggestion. Furthermore, the final regulations affirmatively state that the basis reduction does not affect the calculation of the all earnings and profits amount.

4. Transferred Basis Transaction

Commenters requested clarification of whether a transferee's basis in property continued to be considered determined by reference to its transferor's basis, notwithstanding the application of section 334(b)(1)(B) or section 362(e)(1). One comment specifically related to the application of regulations under section 755; other comments related to the treatment of the transaction more generally, including under sections 1223 (holding periods) and 7701(a)(4) (definition of transferred basis transaction). The Treasury Department and the IRS have concluded that the application of the anti-loss importation provisions to section 332 liquidations or Section 362 Transactions should not be viewed as altering the fundamental nature of the transactions to which section 334(b), or section 362(a) or (b), apply. Similarly, the Treasury Department and the IRS have concluded that the anti-duplication provisions in section 362(e)(2) and § 1.362–4 should not be viewed as altering the fundamental nature of the transactions to which they apply. Accordingly, the final regulations expressly provide that, notwithstanding the application of the anti-loss importation or anti-duplication provisions to a transaction, the transferee's basis is generally considered determined by reference to the transferor's basis for federal income tax purposes.

However, solely for purposes of determining the adjustment to the basis of partnership property under section 755 when a partnership interest is transferred in a loss importation transaction, the transferee's basis in the interest will be treated as not determined by reference to the transferor's basis. The reason for this exception under section 755 is that the treatment prescribed under § 1.755–1(b)(2) and (3) (generally applicable to non-substituted basis transactions and providing for basis increases to built-in gain property and basis decreases to built-in loss property) mirrors that prescribed under the anti-loss importation provisions. Accordingly, in order to align the adjustments to partnership property under § 1.755–1 with those made under the anti-loss importation provisions, the final regulations provide that, solely for purposes of applying section 755, a determination of basis under the anti-loss importation provisions is treated as not made by reference to the transferor's basis.

5. Applicability of Other Provisions for Determining Basis

A commenter noted that certain language in the 2013 NPRM could be read in a way that was not intended. The 2013 NPRM states the general rule that Acquiring's basis in importation property in a loss importation transaction is equal to the value of the property immediately after the transaction, ''[n]otwithstanding any other provision of law[.]'' The comment indicated that this language could be read to mean that, if the anti-loss importation provisions applied to a transaction, the transaction would not be subject to other provisions of law, such as section 482, that could further affect basis. Any such implication was wholly unintended and would be inappropriate. Accordingly, the final regulations clarify that other provisions of law do in fact continue to apply.

6. Miscellaneous

Immediately following the publication of the 2013 NPRM, a number of questions were raised regarding cross-references to the anti-loss importation and anti-duplication provisions that were proposed to be included in § 1.358–6 (basis in triangular reorganizations). Those cross-references were included solely to put taxpayers on notice that the anti-loss importation and anti-duplication provisions could modify the application of the triangular basis regulations to a transaction subject to those regulations. No substantive rule was intended or effected by the proposed cross-references. However, to clarify the purpose and scope of the cross-references, the final regulations do not include the individual cross-references included in the 2013 NPRM. Instead, the final regulations combine these multiple cross-references into one cross-

reference that is included in the general statement of scope in § 1.358–6(a).

Commenters also noted a number of nonsubstantive corrections and clarifications that have been adopted.

Finally, commenters suggested a number of issues that could be the subject of further study, such as the effect of tax treaties, nonfunctional currency, and the application of section 7701(g) (clarification of fair market value in the case of non-recourse indebtedness). These issues are beyond the scope of this project and are therefore not addressed in these final regulations. The Treasury Department and the IRS are considering whether further study of those issues should be undertaken.

In addition, nonsubstantive changes to conform nomenclature with that adopted in these final regulations, as well as to correct obvious errors and clarify cross-references, are made to final regulations under sections 362(e)(2), 705, and 1367 published under TD 9633.

Finally, these final regulations include modifications to §§ 1.332–2 and 1.351–1 that reflect certain statutory changes under sections 332 (relating to ownership of subsidiary stock) and 351 (relating to property permitted to be received by a transferor without recognition of gain or loss) proposed by the Treasury Department and the IRS in the 2005 NPRM (the statutory modifications). As no comments were received with respect to the statutory modifications, the statutory modifications are adopted as final regulations without change.

Effective/Applicability Date

The final regulations under sections 334(b)(1)(B) and 362(e)(1) generally adopt the proposed effective date and thus are applicable to transactions occurring on or after *March 28, 2016,* unless completed pursuant to a binding agreement that was in effect prior to *March 28, 2016,* and all times afterwards. The final regulations also apply to transactions occurring before *March 28, 2016* resulting from entity classification elections made under § 301.7701–3 that are filed on or after *March 28, 2016.* In addition, the final regulations provide that taxpayers may apply these rules to any transaction occurring after October 22, 2004.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Further, it is hereby certified that these final regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the collection of information requirement in these regulations modifies an existing collection of information by requiring that certain information be reported separately instead of in the aggregate. Although there should be an actual decrease in reporting burden, since taxpayers would no longer be required to aggregate the data they collect, any change is expected to be minimal. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business, and no comments were received.

Drafting Information

The principal author of these regulations is John P. Stemwedel of the Office of Associate Chief Counsel (Corporate), IRS. However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

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

Section 1.334–1 also issued under 26 U.S.C. 367(b).

* * * * *

Section 1.362–3 also issued under 26 U.S.C. 367(b).

* * * * *

■ **Par. 2.** Section 1.332–2 is amended by revising the first sentence of paragraph (a) and adding paragraph (f) to read as follows:

§ 1.332–2 Requirements for nonrecognition of gain or loss.

(a) The nonrecognition of gain or loss under section 332 is limited to the receipt of property by a corporation that is the actual owner of stock (in the liquidating corporation) meeting the requirements of section 1504(a)(2). * * *

* * * * *

(f) *Applicability date.* The first sentence of paragraph (a) of this section applies to plans of complete liquidation adopted after March 28, 1985, except as specified in section 1804(e)(6)(B)(ii) and (iii) of Pubic Law 99–514.

■ **Par. 3.** Section 1.332–6 is amended by revising paragraph (a)(3) and adding a sentence at the end of paragraph (e) to read as follows:

§ 1.332–6 Records to be kept and information to be filed with return.

(a) * * *

(3) The fair market value and basis of assets of the liquidating corporation that have been or will be transferred to any recipient corporation, aggregated as follows:

(i) Importation property distributed in a loss importation transaction, as defined in § 1.362–3(c)(2) and (3) (except that ''section 332 liquidation'' is substituted for ''section 362 transaction''), respectively;

(ii) Property with respect to which gain or loss was recognized on the distribution;

(iii) Property not described in paragraph (a)(3)(i) or (ii) of this section;

* * * * *

(e) *Effective/applicability date.* * * * Paragraph (a)(3) of this section applies with respect to liquidations under section 332 occurring on or after March 28, 2016, and also with respect to liquidations under section 332 occurring before such date as a result of an entity classification election under § 301.7701–3 of this chapter filed on or after March 28, 2016, unless such liquidation is pursuant to a binding agreement that was in effect prior to March 28, 2016 and at all times thereafter.

■ **Par. 4.** Section 1.332–7 is amended by adding a sentence after the first sentence of the paragraph to read as follows:

§ 1.332–7 Indebtedness of subsidiary to parent.

* * * See section 337(b)(1). * * *

■ **Par. 5.** Section 1.334–1 is revised to read as follows:

§ 1.334–1 Basis of property received in liquidations.

(a) *In general.* Section 334 sets forth rules for determining a distributee's

basis in property received in a distribution in complete liquidation of a corporation. The general rule is set forth in section 334(a) and provides that, if property is received in a distribution in complete liquidation of a corporation and if gain or loss is recognized on the receipt of the property, then the distributee's basis in the property is the fair market value of the property at the time of the distribution. However, if property is received in a complete liquidation to which section 332 applies, including property received in satisfaction of an indebtedness described in section 337(b)(1), see section 334(b)(1) and paragraph (b) of this section.

(b) *Liquidations under section 332*—(1) *General rule.* Except as otherwise provided in paragraph (b)(2) or (3) of this section, if a corporation (P) meeting the ownership requirements of section 332(b)(1) receives property from a subsidiary (S) in a complete liquidation to which section 332 applies (section 332 liquidation), including property received in a transfer in satisfaction of indebtedness that satisfies the requirements of section 337(b)(1), P's basis in the property received is the same as S's basis in the property immediately before the property was distributed. However, see § 1.460–4(k)(3)(iv)(B)(*2*) for rules relating to adjustments to the basis of certain contracts accounted for using a long-term contract method of accounting that are acquired in a section 332 liquidation.

(2) *Basis in property with respect to which gain or loss was recognized.* Except as otherwise provided in Subtitle A of the Internal Revenue Code (Code) and this subchapter of the Income Tax Regulations, if S recognizes gain or loss on the distribution of property to P in a section 332 liquidation, P's basis in that property is the fair market value of the property at the time of the distribution. Section 334(b)(1)(A) (certain tax-exempt distributions under section 337(b)(2)); see also, for example, § 1.367(e)–2(b)(3)(i).

(3) *Basis in importation property received in loss importation transaction*—(i) *Purpose.* The purpose of section 334(b)(1)(B) and this paragraph (b)(3) is to modify the application of this section to prevent P from importing a net built-in loss in a transaction described in section 332. See paragraph (b)(3)(iii)(A) of this section for definitions of terms used in this paragraph (b)(3).

(ii) *Determination of basis.* Notwithstanding paragraph (b)(1) of this section, if a section 332 liquidation is a loss importation transaction, P's basis in each importation property received from S in the liquidation is an amount that is equal to the value of the property. The basis of property received in a section 332 liquidation that is not importation property received in a loss importation transaction is determined under generally applicable basis rules without regard to whether the liquidation also involves the receipt of importation property in a loss importation transaction.

(iii) *Operating rules*—(A) *In general.* For purposes of section 334(b)(1)(B) and this paragraph (b)(3), the provisions of § 1.362–3 (basis of importation property received in a loss importation transaction) apply, adjusted as appropriate to apply to section 332 liquidations. Thus, when used in this paragraph (b)(3), the terms ''importation property,'' ''loss importation transaction,'' and ''value'' have the same meaning as in § 1.362–3(c)(2), (3), and (4), respectively, except that ''the section 332(b)(1) distributee corporation'' is substituted for ''Acquiring'' and ''section 332 liquidation'' is substituted for ''section 362 transaction.'' Similarly, when gain or loss on property would be owned or treated as owned by multiple persons, the provisions of § 1.362–3(d)(2) apply to tentatively divide the property in applying this section, substituting ''section 332 liquidation'' for ''section 362 transaction'' and making such other adjustments as necessary.

(B) *Time for making determinations.* For purposes of section 334(b)(1)(B) and this paragraph (b)(3)—

(*1*) *P's basis in distributed property.* P's basis in each property S distributes to P in the section 332 liquidation is determined immediately after S distributes each such property;

(*2*) *Value of distributed property.* The value of each property S distributes to P in the section 332 liquidation is determined immediately after S distributes the property;

(*3*) *Importation property.* The determination of whether each property distributed by S is importation property is made as of the time S distributes each such property;

(*4*) *Loss importation transaction.* The determination of whether a section 332 liquidation is a loss importation transaction is made immediately after S makes the final liquidating distribution to P.

(C) *Effect of basis determination under this paragraph (b)(3)*—(*1*) *Determination by reference to transferor's basis.* A determination of basis under section 334(b)(1)(B) and this paragraph (b)(3) is a determination by reference to the transferor's basis, including for purposes of sections 1223(2) and 7701(a)(43). However, solely for purposes of applying section 755, a determination of basis under this paragraph (b)(3) is treated as a determination not by reference to the transferor's basis.

(*2*) *Not tax-exempt income or noncapital, nondeductible expense.* The application of this paragraph (b)(3) does not give rise to an item treated as tax-exempt income under § 1.1502–32(b)(2)(ii) or as a noncapital, nondeductible expense under § 1.1502–32(b)(2)(iii).

(*3*) *No effect on earnings and profits.* Any determination of basis under this paragraph (b)(3) does not reduce or otherwise affect the calculation of the all earnings and profits amount provided in § 1.367(b)–2(d).

(iv) *Examples.* The examples in this paragraph (b)(3)(iv) illustrate the application of section 334(b)(1)(B) and the provisions of this paragraph (b)(3). Unless the facts indicate otherwise, the examples use the following nomenclature and assumptions: USP is a domestic corporation that has not elected to be an S corporation within the meaning of section 1361(a)(1); FC, CFC1, and CFC2 are controlled foreign corporations within the meaning of section 957(a), which are not engaged in a U.S. trade or business, have no U.S. real property interests, and have no other relationships, activities, or interests that would cause their property to be subject to any tax imposed under subtitle A of the Code (federal income tax); there is no applicable income tax treaty; and all persons and transactions are unrelated. All other relevant facts are set forth in the examples:

Example 1. Basic application of this paragraph (b)(3). (i) *Distribution of importation property in a loss importation transaction.* (A) *Facts.* USP owns the sole outstanding share of FC stock. FC owns three assets, A1 (basis $40, value $50), A2 (basis $120, value $30), and A3 (basis $140, value $20). On Date 1, FC distributes A1, A2, and A3 to USP in a complete liquidation that qualifies under section 332.

(B) *Importation property.* Under § 1.362–3(d)(2), the fact that any gain or loss recognized by a CFC may affect an income inclusion under section 951(a) does not alone cause gain or loss recognized by the CFC to be treated as taken into account in determining a federal income tax liability for purposes of this section. Thus, if FC had sold either A1, A2, or A3 immediately before the transaction, no gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability. Further, if USP had sold A1, A2, or A3 immediately after the transaction, USP would take into account any gain or loss recognized on the sale in determining its federal income tax liability. Therefore, A1, A2, and A3 are

all importation properties. See paragraph (b)(3)(iii)(A) of this section and § 1.362–3(c)(2).

(C) *Loss importation transaction.* Immediately after the distribution, USP's aggregate basis in the importation properties, A1, A2, and A3, would, but for section 334(b)(1)(B) and this section, be $300 ($40 + $120 + $140) and the properties' aggregate value would be $100 ($50 + $30 + $20). Therefore, the importation properties' aggregate basis would exceed their aggregate value and the distribution is a loss importation transaction. See paragraph (b)(3)(iii)(A) of this section and § 1.362–3(c)(3).

(D) *Basis of importation property distributed in loss importation transaction.* Because the importation properties, A1, A2, and A3, were transferred in a loss importation transaction, the basis in each of the importation properties received is equal to its value immediately after FC distributes the property. Accordingly, USP's basis in A1 is $50; USP's basis in A2 is $30; and USP's basis in A3 is $20.

(ii) *Distribution of both importation and non-importation property in a loss importation transaction.* (A) *Facts.* The facts are the same as in paragraph (i)(A) of this *Example 1* except that FC is engaged in a U.S. trade or business and A3 is used in that U.S. trade or business.

(B) *Importation property.* A1 and A2 are importation properties for the reasons set forth in paragraph (i)(B) of this *Example 1.* However, if FC had sold A3 immediately before the transaction, FC would take into account any gain or loss recognized on the sale in determining its federal income tax liability. Therefore, A3 is not importation property. See paragraph (b)(3)(iii)(A) of this section and § 1.362–3(c)(2).

(C) *Loss importation transaction.* Immediately after the distribution, USP's aggregate basis in the importation properties, A1 and A2, would, but for section 334(b)(1)(B) and this section, be $160 ($40 + $120). Further, the properties' aggregate value would be $80 ($50 + $30). Therefore, the importation properties' aggregate basis would exceed their aggregate value and the distribution is a loss importation transaction. See paragraph (b)(3)(iii)(A) of this section and § 1.362–3(c)(3).

(D) *Basis of importation property distributed in loss importation transaction.* Because the importation properties, A1 and A2, were transferred in a loss importation transaction, the basis in each of the importation properties received is equal to its value immediately after FC distributes the property. Accordingly, USP's basis in A1 is $50 and USP's basis in A2 is $30.

(E) *Basis of other property.* Because A3 is not importation property distributed in a loss importation transaction, USP's basis in A3 is determined under generally applicable basis rules. Accordingly, USP's basis in A3 is $140, the adjusted basis that FC had in the property immediately before the distribution. See section 334(b)(1).

(iii) *FC not wholly owned.* The facts are the same as in paragraph (i)(A) of this *Example 1* except that USP owns only 80% of the sole outstanding class of FC stock and the remaining 20% is owned by individual X. Further, on Date 1 and pursuant to the plan of liquidation, FC distributes A1 and A2 to USP and A3 to X. A1 and A2 are importation properties, the distribution to USP is a loss importation transaction, and USP's bases in A1 and A2 are equal to their value ($50 and $30, respectively) for the reasons set forth in paragraphs (ii)(C) and (D) of this *Example 1.* Under section 334(a), X's basis in A3 is $20.

(iv) *Importation property, no net built in loss.* (A) *Facts.* The facts are the same as in paragraph (i)(A) of this *Example 1* except that the value of A2 is $230.

(B) *Importation property.* A1, A2, and A3, are importation properties for the reasons set forth in paragraph (i)(B) of this *Example 1.*

(C) *Loss importation transaction.* Immediately after the distribution, USP's aggregate basis in the importation properties, A1, A2, and A3, would, but for section 334(b)(1)(B) and this section, be $300 ($40 + $120 + $140). However, the properties' aggregate value would also be $300 ($50 + $230 + $20). Therefore, the importation properties' aggregate basis would not exceed their aggregate value and the distribution is not a loss importation transaction. See paragraph (b)(3)(iii)(A) of this section and § 1.362–3(c)(3).

(D) *Basis of importation property not distributed in loss importation transaction.* Because the importation properties, A1, A2, and A3, were not distributed in a loss importation transaction, the basis of each of the importation properties is determined under the generally applicable basis rules. Accordingly, immediately after the distribution, USP's basis in A1 is $40, USP's basis in A2 is $120, and USP's basis in A3 is $140, the adjusted bases that FC had in the properties immediately before the distribution. See section 334(b)(1).

(v) *CFC stock as importation property distributed in loss importation transaction.* (A) *Facts.* USP owns the sole outstanding share of FC stock. FC owns the sole outstanding share of CFC1 stock (basis $80, value $100) and the sole outstanding share of CFC2 stock (basis $100, value $5). On Date 1, FC distributes its shares of CFC1 and CFC2 stock to USP in a complete liquidation that qualifies under section 332.

(B) *Importation property.* No special rule applies to the treatment of property that is the stock of a CFC. Thus, if FC had sold either the CFC1 share or the CFC2 share immediately before the transaction, no gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability. Further, if USP had sold either the CFC1 share or the CFC2 share immediately after the transaction, USP would take into account any gain or loss recognized on the sale in determining its federal income tax liability. Thus, the CFC1 share and the CFC2 share are importation property. See paragraph (b)(3)(iii)(A) of this section and § 1.362–3(c)(2).

(C) *Loss importation transaction.* Immediately after the distribution, USP's aggregate basis in importation property (the CFC1 share and the CFC2 share) would, but for section 334(b)(1)(B) and this section, be $180 ($80 + $100) and the shares' aggregate value is $105 ($100 + $5). Therefore, the importation property's aggregate basis would exceed their aggregate value and the distribution is a loss importation transaction. See paragraph (b)(3)(iii)(A) of this section and § 1.362–3(c)(3).

(D) *Basis of importation property distributed in loss importation transaction.* Because the importation property (the CFC1 share and the CFC2 share) was transferred in a loss importation transaction, USP's basis in each of the shares received is equal to its value immediately after FC distributes the shares. Accordingly, USP's basis in the CFC1 share is $100 and USP's basis in the CFC2 share is $5.

Example 2. Multiple step liquidation. (i) *Facts.* USP owns the sole outstanding share of FC stock. On January 1 of year 1, FC adopts a plan of liquidation. FC makes the following distributions to USP in a transaction that qualifies as a complete liquidation under section 332. In year 1, FC distributes A1 and, immediately before the distribution, FC's basis in A1 is $100 and A1's value is $120. In Year 2, FC distributes A2, and, immediately before the distribution, FC's basis in A2 is $100 and A2's value is $120. In year 3, in its final liquidating distribution, FC distributes A3 and, immediately before the distribution, FC's basis in A3 is $100 and A3's value is $120. As of the time of the final distribution, USP had depreciated the bases of A1 and A2 to $90 and $95, respectively; the value of A1 had appreciated to $160; and, the value of A2 has declined to $0.

(ii) *Importation property.* If FC had sold either A1, A2, or A3 immediately before it was distributed, no gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability. Further, if USP had sold either A1, A2, or A3 immediately after it was distributed, USP would take into account any gain or loss recognized on the sale in determining its federal income tax liability. Therefore, A1, A2, and A3 are all importation properties. See paragraph (b)(3)(iii)(A) of this section and § 1.362–3(c)(2).

(iii) *Loss importation transaction.* Immediately after it was distributed, USP's basis in each of the importation properties, A1, A2, and A3, would, but for section 334(b)(1)(B) and this section, have been $100. Further, immediately after each such property was distributed, its value was $120. Thus, the properties' aggregate basis, $300, would not have exceeded the properties' aggregate value, $360. Accordingly, the distribution is not a loss importation transaction irrespective of the fact that, when the liquidation was completed, the properties' aggregate basis was $285 and the properties' aggregate value was $280. See paragraph (b)(3)(iii)(B) of this section and § 1.362–3(c)(3).

(iv) *Basis of importation property not distributed in loss importation transaction.* Because the importation properties, A1, A2, and A3, were not distributed in a loss importation transaction, the basis of each of the importation properties is determined under the generally applicable basis rules. Accordingly, USP takes each of the properties with a basis of $100 and, immediately after the final distribution, has

an adjusted basis of $90 in A1 (USP's $100 basis less the $10 depreciation), $95 in A2 (USP's $100 basis less the $5 depreciation), and $100 in A3. See section 334(b).

(c) *Applicability date.* This section applies with respect to liquidations occurring on or after March 28, 2016, and also with respect to liquidations occurring before such date as a result of an entity classification election under § 301.7701–3 of this chapter filed on or after March 28, 2016, unless such liquidation is pursuant to a binding agreement that was in effect prior to March 28, 2016 and at all times thereafter. In addition, taxpayers may apply this section to any section 332 liquidation occurring after October 22, 2004.

■ **Par. 6.** Section 1.337–1 is added to read as follows:

§ 1.337–1 Nonrecognition for property distributed to parent in complete liquidation of subsidiary.

(a) *General rule.* If sections 332(a) and 337 are applicable with respect to the receipt of a subsidiary's property in complete liquidation, no gain or loss is recognized to the liquidating subsidiary with respect to such property (including property distributed with respect to indebtedness, see section 337(b)(1) and § 1.332–7), except as provided in section 337(b)(2) (distributions to certain tax-exempt distributees), section 367(e)(2) (distributions to foreign corporations), and section 897(d) (distributions of U.S. real property interests by foreign corporations).

(b) *Aplicability date.* This section applies to any taxable year beginning on or after March 28, 2016.

■ **Par. 7.** Section 1.351–1 is amended by:

■ 1. Adding headings for paragraphs (a) and (a)(1) and revising the first sentence of paragraph (a)(1) introductory text.

■ 2. Adding a sentence after the fifth sentence in paragraph (a)(1) introductory text and removing the phrase ''For purposes of this section'' at the end of paragraph (a)(1) introductory text and adding in its place the phrase ''In addition, for purposes of this section''.

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

■ 4. Removing the undesignated paragraph immediately following paragraph (a)(1)(ii).

■ 5. Adding a heading for paragraph (a)(2).

■ 6. Adding a heading for paragraph (b) and revising paragraph (b)(1).

■ 7. Adding a heading for paragraph (b)(2).

■ 8. Adding paragraph (d).

The additions and revisions read as follows:

§ 1.351–1 Transfer to corporation controlled by transferor.

(a) *In general*—(1) *Nonrecognition of gain or loss.* Section 351(a) provides, in general, for the nonrecognition of gain or loss upon the transfer by one or more persons of property to a corporation solely in exchange for stock of such corporation if, immediately after the exchange, such person or persons are in control of the corporation to which the property was transferred. * * * For purposes of this section, stock rights and stock warrants are not included in the term *stock.* * * *

(i) Stock will not be treated as issued for property if it is issued for services rendered or to be rendered to or for the benefit of the issuing corporation; and

(ii) Stock will not be treated as issued for property if it is issued for property which is of relatively small value in comparison to the value of the stock already owned (or to be received for services) by the person who transferred such property and the primary purpose of the transfer is to qualify under this section the exchanges of property by other persons transferring property.

(2) *Application.* * * *

* * * * *

(b) *Multiple transferors*—(1) *Disproportionate transfers.* When property is transferred to a corporation by two or more persons in exchange for stock, as described in paragraph (a) of this section, and the stock received is disproportionate to the transferor's prior interest in such property, the entire transaction will be given tax effect in accordance with its true nature, and the transaction may be treated as if the stock had first been received in proportion and then some of such stock had been used to make gifts (section 2501 and following), to pay compensation (sections 61(a)(1) and 83(a)), or to satisfy obligations of the transferor of any kind.

(2) *Application.* * * *

* * * * *

(d) *Applicability date.* Paragraphs (a)(1) and (b)(1) of this section apply to transfers after October 2, 1989, for tax years ending after such date, except as specified in section 7203(c)(2) and (3) of Public Law 101–239.

■ **Par. 8.** Section 1.351–3 is amended by revising paragraphs (a)(3) and (b)(3), and adding a sentence at the end of paragraph (f) to read as follows:

§ 1.351–3 Records to be kept and information to be filed.

(a) * * *

(3) The fair market value and basis of the property transferred by such transferor in the exchange, determined immediately before the transfer and aggregated as follows:

(i) Importation property transferred in a loss importation transaction, as defined in § 1.362–3(c)(2) and (3), respectively;

(ii) Loss duplication property as defined in § 1.362–4(g)(1);

(iii) Property with respect to which any gain or loss was recognized on the transfer (without regard to whether such property is also identified in paragraph (a)(3)(i) or (ii) of this section); and

(iv) Property not described in paragraph (a)(3)(i), (ii), or (iii) of this section.

* * * * *

(b) * * *

(3) The fair market value and basis of property received in the exchange, determined immediately before the transfer and aggregated as follows:

(i) Importation property transferred in a loss importation transaction, as defined in § 1.362–3(c)(2) and (3), respectively;

(ii) Loss duplication property as defined in § 1.362–4(g)(1);

(iii) Property with respect to which any gain or loss was recognized on the transfer (without regard to whether such property is also identified in paragraph (b)(3)(ii) of this section);

(iv) Property not described in paragraph (b)(3)(i), (ii), or (iii) of this section; and

* * * * *

(f) *Effective/applicability date.* * * * Paragraphs (a)(3) and (b)(3) of this section apply with respect to exchanges under section 351 occurring on or after March 28, 2016, and also with respect to exchanges under section 351 occurring before such date as a result of an entity classification election under § 301.7701–3 of this chapter filed on or after March 28, 2016, unless such exchange is pursuant to a binding agreement that was in effect prior to March 28, 2016 and at all times thereafter.

■ **Par. 9.** Section 1.358–6 is amended by adding a sentence at the end of paragraph (a), revising paragraphs (c)(4) introductory text, (e), and the first sentence of paragraph (f)(3), and adding paragraph (f)(4) to read as follows:

§ 1.358–6 Stock basis in certain triangular reorganizations.

(a) *Scope.* * * * See also sections 362(e)(1) and 362(e)(2) for further adjustments to basis that may be necessary under either or both of those sections.

* * * * *

(c) * * *

(4) *Examples.* The rules of this paragraph (c) are illustrated by the following examples. For purposes of these examples, P, S, and T are domestic corporations, the property transferred is not importation property within the meaning of § 1.362–3(c)(2) or loss duplication property within the meaning of § 1.362–4(g)(1), P and S do not file consolidated returns, P owns all of the shares of the only class of S stock, the P stock exchanged in the transaction satisfies the requirements of the applicable triangular reorganization provisions, and the facts set forth the only corporate activity.

* * * * *

(e) *Cross-references*—(1) *Triangular reorganizations involving members of a consolidated group.* For rules relating to stock basis adjustments made as a result of a triangular reorganization in which P and S, or P and T, as applicable, are, or become, members of a consolidated group, see § 1.1502–30. However, if a transaction is a group structure change, stock basis adjustments are determined under § 1.1502–31 and not under § 1.1502–30, even if the transaction also qualifies as a reorganization otherwise subject to § 1.1502–30.

(2) *Triangular reorganizations involving certain foreign corporations.* For rules relating to stock basis adjustments made as a result of triangular reorganizations involving certain foreign corporations, see §§ 1.367(b)–4(b), 1.367(b)–10, and 1.367(b)–13.

(f) * * *

(3) *Triangular G reorganization and special rule for triangular reorganizations involving members of a consolidated group.* Paragraph (e)(1) of this section shall apply to triangular reorganizations occurring on or after September 17, 2008. * * *

(4) *Triangular reorganizations involving importation property acquired in loss importation transaction or loss duplication transaction; triangular reorganizations involving certain foreign corporations.* Paragraphs (a) and (e)(2) of this section apply to triangular reorganizations occurring after October 22, 2004 unless effected to a binding agreement that was in effect prior to that date and at all times thereafter.

■ **Par. 10.** Section 1.362–3 is added to read as follows:

§ 1.362–3 Basis of importation property acquired in loss importation transaction.

(a) *Purpose.* The purpose of section 362(e)(1) and this section is to modify the application of section 362(a) (section 351 transfers, contributions to capital, or paid-in surplus) and section 362(b) (reorganizations) to prevent a corporation (Acquiring) from importing a net built-in loss in a transaction described in either section. See paragraph (c) of this section for definitions of terms used in this section.

(b) *Basis determinations under this section*—(1) *Basis of importation property received in loss importation transaction.* Notwithstanding the general rules of section 362(a) and (b), Acquiring's basis in importation property (as defined in paragraph (c)(2) of this section) acquired in a loss importation transaction (as defined in paragraph (c)(3) of this section) is equal to the value of the property immediately after the transaction.

(2) *Adjustment to basis of subsidiary stock in triangular reorganizations.* If a corporation (P) computes its basis in stock of a subsidiary (whether S or T) under § 1.358–6 (stock basis in certain triangular reorganizations), P's basis in property treated as acquired by P in § 1.358–6(c) is determined under section 362(e)(1) and this section to the extent such property, if actually acquired by P, would be importation property acquired in a loss importation transaction. See § 1.358–6(c)(1)(i)(A), (c)(2)(ii)(B), and (c)(3)(i). The subsidiary's basis in the property actually acquired in the transaction is determined under applicable law (including this section), without regard to the amount of any adjustment to P's basis in the subsidiary's stock. Thus, the basis of the property in S's or T's hands may differ from the amount of the adjustment to P's basis in its stock of S or T.

(3) *Acquiring's basis in other property transferred.* In general, Acquiring's basis in property received in a section 362 transaction (as defined in paragraph (c)(1) of this section) that is not determined under section 362(e)(1) and this section is determined under section 362(a) or section 362(b). However, if the transaction is described in section 362(a) (without regard to whether it is also described in any other section), further adjustment may be required under section 362(e)(2). See § 1.362–4.

(4) *Other effects of basis determination under this section*—(i) *Determination by reference to transferor's basis.* A determination of basis under this section is a determination by reference to the transferor's basis, including for purposes of sections 1223(2) and 7701(a)(43). However, solely for purposes of applying section 755, a determination of basis under this section is treated as a determination not by reference to the transferor's basis.

(ii) *Not tax-exempt income or noncapital, nondeductible expense.* The application of this section does not give rise to an item treated as tax-exempt income under § 1.1502–32(b)(2)(ii) or as a noncapital, nondeductible expense under § 1.1502–32(b)(2)(iii).

(iii) *No effect on earnings and profits.* Any determination of basis under this section does not reduce or otherwise affect the calculation of the all earnings and profits amount provided in § 1.367(b)–2(d).

(c) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Section 362 transaction.* The term *section 362 transaction* means any transaction described in section 362(a) or in section 362(b).

(2) *Importation property*—(i) *General rule.* The term *importation property* means any property (including separate portions determined under paragraph (d)(4) of this section and separate portions of property tentatively divided under paragraph (e)(2) of this section) with respect to which—

(A) Any gain or loss that would be recognized on its sale by the transferor immediately before the transaction (the transferor's hypothetical sale) would not be subject to tax imposed under any provision of subtitle A of the Internal Revenue Code (federal income tax) (taking into account the provisions of paragraph (d) of this section); and

(B) Any gain or loss that would be recognized on its sale by Acquiring immediately after the transaction (Acquiring's hypothetical sale) would be subject to federal income tax (taking into account the provisions of paragraph (d) of this section).

(ii) *Special rules for applying this paragraph (c)(2).* See paragraph (d) of this section for rules for determining whether gain or loss on a hypothetical sale would be taken into account in determining a federal income tax liability and paragraph (e) of this section for rules applicable when more than one person would take such gain or loss into account.

(3) *Loss importation transaction.* The term *loss importation transaction* means any section 362 transaction in which Acquiring's aggregate basis in all importation property received from all transferors in the transaction would exceed the aggregate value of such property immediately after the transaction. For this purpose, Acquiring's basis in property received is determined without regard to this section or section 362(e)(2).

(4) *Value*—(i) *General rule.* The term *value* means fair market value.

(ii) *Special rule for transfers of partnership interests.* Notwithstanding the general rule in paragraph (c)(4)(i) of this section, when referring to a partnership interest, for purposes of this

section, the term *value* means the sum of the cash that Acquiring would receive for the interest, assuming an exchange between a willing buyer and a willing seller (neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts), increased by any § 1.752–1 liabilities (as defined in § 1.752–1(a)(4)) of the partnership allocated to Acquiring with regard to such transferred interest under section 752 immediately after the transfer to Acquiring. If a partnership has elected under section 754, or if section 743(b) would require a downward basis adjustment to the partnership property, the partnership must apply the rules of § 1.743–1 to determine the amount of the basis adjustment to the partnership property.

(d) *Rules for determining whether gain or loss would be taken into account in determining a federal income tax liability*—(1) *General rule.* In general, any gain or loss that would be recognized on a hypothetical sale described in paragraph (c)(2) of this section is considered to be subject to federal income tax if, taking into account all relevant facts and circumstances, such gain or loss would affect or be taken into account in determining the federal income tax liability of the transferor or Acquiring, respectively. This determination is made without regard to whether such person has or would have any actual federal income tax liability for the taxable year of the transaction.

(2) *Look-through rule in the case of certain pass-through entities.* Notwithstanding the general rule in paragraph (d)(1) of this section, the determination of whether any gain or loss on a hypothetical sale would be treated as subject to federal income tax is made by reference to the person that would be required to include such gain or loss in its taxable income if the hypothetical seller is—

(i) A trust treated as owned by its grantors or others (see section 671);

(ii) A partnership (see section 701); or

(iii) An S corporation (see sections 1363 and 1366).

(3) *Controlled foreign corporation (CFC), passive foreign investment company (PFIC).* For purposes of this section, gain or loss that would be recognized by a CFC (as defined in section 957(a)) or a PFIC (as defined in section 1297(a)) is not deemed taken into account in determining a federal income tax liability solely because it could affect an inclusion under section 951(a) or section 1293(a).

(4) *Special rule for debt-financed property subject to section 512.* If property is debt-financed property (as defined in section 514(b)) owned by an organization subject to the unrelated business income tax described in section 511(a)(2) and, as a result, a portion of any gain or loss on a sale of the property would be included in unrelated taxable business income (UBTI) under section 512, such property is treated as divided into separate portions in proportion to the amount of such gain or loss that would be includible in UBTI. The rules of paragraph (e) of this section apply to determine the characterization of such portions (as includible in the determination of a federal income tax liability or not), and the tax treatment and consequences of the transaction in which such portions are transferred.

(5) *Look-through treatment in the case of certain avoidance transactions*—(i) *Application of this paragraph (d)(5).* This paragraph (d)(5) applies if—

(A) The transferor is a domestic entity that is a trust (other than a trust described in paragraph (d)(2)(i) of this section), estate, regulated investment company (as defined in section 851(a)), a real estate investment trust (as defined in section 856(a)), or a cooperative (as described in section 1381); and

(B) The transferor transfers, directly or indirectly, property that was transferred to or acquired by it as part of a plan (whether of transferor, Acquiring, or any other person) to avoid the application of section 362(e)(1) and this section to a section 362 transaction.

(ii) *Effect of application of this paragraph (d)(5).* Notwithstanding paragraph (d)(1) of this section, if a transferor is described in both paragraphs (d)(5)(i)(A) and (B) of this section—

(A) The transferor is treated as though it distributes the proceeds of the hypothetical sale (which, for this purpose, are presumed to be an amount greater than zero);

(B) To the fullest extent possible under the transferor's organizing instrument, the deemed distribution is treated as made to a distributee or distributees that would not take distributions from the transferor into account in determining a federal income tax liability; and

(C) The determination of whether the gain or loss on the hypothetical sale is treated as subject to federal income tax is made by reference to the deemed distributee or distributees.

(iii) *Tiered entities.* If a deemed distributee is an entity described in paragraph (d)(5)(i)(A) of this section, the determination of whether gain or loss on the hypothetical sale is taken into account in determining a federal income tax liability is made by treating the deemed distributee, and any successive such deemed distributees, as a transferor and applying the rules in paragraphs (d)(5)(i) and (ii) of this section to its deemed distribution (and to all successive deemed distributions), until no deemed distributee or successive deemed distributee is an entity described in paragraph (d)(5)(i)(A) of this section.

(e) *Special rules for gain or loss that would be taken into account by multiple persons*—(1) *In general.* If gain or loss from a disposition of property would be includible in income by more than one person, the property is treated as tentatively divided into separate portions in proportion to the amount of gain or loss recognized with respect to the property that would be allocated to each such person. If an entity's organizing instrument specially allocates gain and loss, the tentative division of property under this paragraph (e) must reflect the manner in which gain or loss on the disposition of such property would be allocated under the terms of the organizing instrument and any applicable rules of law, taking into account the net gain or loss actually recognized by the entity in that tax year.

(2) *Application of section.* The rules of this section apply independently to each tentatively divided portion to determine if the portion is importation property. Each tentatively divided portion that is determined to be importation property is included with all other importation property in the determination of whether the transaction is a loss importation transaction.

(3) *Acquiring's basis in property tentatively divided into separate portions.* Immediately after the application of section 362(e)(1) and this section and before the application of section 362(e)(2), each property treated as tentatively divided into separate portions for purposes of applying section 362(e)(1) and this section ceases to be treated as tentatively divided and Acquiring has a single, undivided basis in such property that is equal to the sum of—

(i) The value of each tentatively divided portion that is importation property, if the transaction is a loss importation transaction; and

(ii) Acquiring's basis in each tentatively divided portion that is not importation property received in a loss importation transaction, as determined under section 362(a) or section 362(b), as applicable, and without regard to any potential application of section 362(e)(2).

(f) *Examples.* The examples in this paragraph (f) illustrate the application of section 362(e)(1) and the provisions of this section. Unless otherwise indicated, the examples use the following nomenclature and assumptions: A and B are U.S. citizens. DC, DC1, and P are domestic corporations that have not elected to be S corporations within the meaning of section 1361(a)(1) and that are not members of a consolidated group. F is a foreign individual. FP is a foreign partnership. FC, FC1, and FC2 are foreign corporations. Unless the facts indicate otherwise, the foreign individuals, corporations, and partnerships are not engaged in a U.S. trade or business, have no U.S. real property interests, and have no other relationships, activities, or interests that would cause them, their shareholders, their partners, or their property to be subject to federal income tax. There is no applicable income tax treaty, all persons' tax years are calendar years, and all persons and transactions are unrelated unless the facts indicate otherwise.

Example 1. Basic application of section. (i) *Section 351 transfer of importation property in a loss importation transaction.* (A) *Facts.* FC owns three assets, A1 (basis $40, value $150), A2 (basis $120, value $30), and A3 (basis $140, value $20). On Date 1, FC transfers A1, A2, and A3 to DC in a transaction to which section 351 applies.

(B) *Importation property.* If FC had sold A1, A2, or A3 immediately before the transaction, no gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability. Further, if DC had sold A1, A2, or A3 immediately after the transaction, DC would take into account any gain or loss recognized on the sale in determining its federal income tax liability. Therefore, A1, A2, and A3 are all importation properties. See paragraph (c)(2) of this section.

(C) *Loss importation transaction.* FC's transfer of A1, A2, and A3 is a section 362 transaction. Furthermore, but for section 362(e)(1) and this section and section 362(e)(2), DC's aggregate basis in the importation properties, A1, A2, and A3, would be $300 ($40 + $120 + $140) under section 362(a) and the properties' aggregate value would be $200 ($150 + $30 + $20). Therefore, the importation properties' aggregate basis would exceed their aggregate value and the transaction is a loss importation transaction. See paragraph (c)(3) of this section.

(D) *Application of section 362(e)(1) and this section to importation property received in loss importation transaction.* Because the importation properties, A1, A2, and A3, were transferred in a loss importation transaction, paragraph (b)(1) of this section applies and DC's basis in A1, A2, and A3 will each be equal to the property's value ($150, $30, and $20, respectively) immediately after the transfer.

(E) *Basis of property received in transaction.* Following the application of section 362(e)(1) and this section, the provisions of section 362(e)(2) must be taken into account because the transfer is a section 362(a) transaction. Taking into account the application of section 362(e)(1) and this section, DC's aggregate basis in the transferred properties would not exceed their aggregate value immediately after the transfer. Therefore, FC does not have a net built-in loss, FC's transfer is not a loss duplication transaction, and section 362(e)(2) does not apply to this transaction. DC's bases in A1, A2, and A3, as determined under paragraph (i)(D) of this *Example 1,* are $150, $30, and $20, respectively. Under section 358(a), FC receives the DC stock with a basis of $300 (the sum of FC's bases in A1, A2, and A3 immediately before the exchange).

(ii) *Reorganization.* The facts are the same as in paragraph (i)(A) of this *Example 1* except that, instead of transferring property to DC in a section 351 exchange, FC merges with and into DC in a transaction described in section 368(a)(1)(A). The analysis and results are the same as set forth in paragraphs (i)(B), (C), and (D) of this *Example 1.* However, the analysis in paragraph (i)(E) of this *Example 1* does not apply to these facts because the transaction is not subject to 362(e)(2) and § 1.362–4. Under section 358(a), FC's shareholders will take the DC stock with a basis determined by reference to their FC stock basis.

(iii) *FC's property used in U.S. trade or business.* (A) *Facts.* The facts are the same as in paragraph (i)(A) of this *Example 1,* except that FC is engaged in a U.S. trade or business and uses all the properties in that U.S. trade or business. In this case, none of the properties would be importation property because FC would take any gain or loss on the disposition of the properties into account in determining its federal income tax liability. Accordingly, this section does not apply to the transaction.

(B) *Basis of property received in transaction.* Following the application of section 362(e)(1) and this section, the provisions of section 362(e)(2) must be taken into account because the transfer is a section 362(a) transaction. Taking into account the application of section 362(e)(1) and this section but without taking into account the provisions of section 362(e)(2), DC's aggregate basis in the transferred properties would be $300 ($40 + $120 + $140) under section 362(a) and the properties' aggregate value immediately after the transfer would be $200 ($150 + $30 + $20). Therefore, FC has a net built-in loss and FC's transfer of A1, A2, and A3 is a loss duplication transaction. Accordingly, under the general rule of section 362(e)(2), FC's $100 net built-in loss ($300 aggregate basis over $200 aggregate value) would be allocated proportionately (by the amount of built-in loss in each property) to reduce DC's basis in the loss properties, A2 and A3. See § 1.362–4. As a result, DC's basis in A2 would be $77.14 ($120 basis under section 362(a) reduced by $42.86, A2's proportionate share of FC's net built-in loss, computed as $90/$210 × $100) and DC's basis in A3 would be $82.86 ($140 basis under section 362(a) reduced by $57.14, A3's proportionate share of FC's net built-in loss, computed as $120/$210 x $100). However, if FC and DC were to elect under section 362(e)(2)(C) to apply the $100 basis reduction to FC's basis in the DC stock received in the transaction, DC's bases in A2 and A3 would remain their section 362(a) bases of $120 and $140, respectively. Under section 362(a), DC's basis in A1 is $40 (irrespective of whether the section 362(e)(2)(C) election is made). If FC and DC do not make a section 362(e)(2)(C) election, FC's basis in the DC stock received in the exchange will be $300; if FC and DC do make the election, FC's basis in the DC stock will be $200 ($300 − $100 net built-in loss). See § 1.362–4(b).

Example 2. Multiple transferors. (i) *Facts.* The facts are the same as in paragraph (i)(A) of *Example 1* of this paragraph (f), except that FC only owns A1 (basis $40, value $150) and A2 (basis $120, value $30) and F owns A3 (basis $140, value $20). On Date 1, FC transfers A1 and A2, and F transfers A3, to DC in a single transaction described in section 351.

(ii) *Importation property.* A1 and A2 are importation properties for the reasons set forth in paragraph (i)(B) of *Example 1* of this paragraph (f). A3 is also an importation property because, if F had sold A3 immediately before the transaction, no gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability, and, further, if DC had sold A3 immediately after the transaction, DC would take into account any gain or loss recognized on the sale in determining its federal income tax liability.

(iii) *Loss importation transaction.* The transfers by FC and F are a section 362 transaction. The transaction is a loss importation transaction for the reasons set forth in paragraph (i)(C) of *Example 1* of this paragraph (f) (notwithstanding that one of the transferors, FC, did not transfer a net built-in loss). See paragraph (c)(3) of this section.

(iv) *Application of section 362(e)(1) and this section to importation property received in loss importation transaction.* Because the importation properties, A1, A2, and A3, were transferred in a loss importation transaction, paragraph (b)(1) of this section applies and DC's basis in A1, A2, and A3 will each be equal to the property's value ($150, $30, and $20, respectively) immediately after the transfer.

(v) *Basis of property received in transaction.* Following the application of section 362(e)(1) and this section, the provisions of section 362(e)(2) must be taken into account because the transfer is a section 362(a) transaction. The application of section 362(e)(2) is determined separately for each transferor. See § 1.362–4(b). Taking into account the application of section 362(e)(1) and this section, neither DC's aggregate basis in FC's properties nor DC's basis in F's property would exceed the properties' respective values immediately after the transaction. Therefore neither FC nor F has a net built-in loss, neither transfer is a loss duplication transaction, and section 362(e)(2) does not apply to either transfer. DC's bases in A1, A2, and A3, as determined under paragraph (iv) of this *Example 2,* are $150, $30, and $20, respectively. Under section

358(a), FC's basis in the DC stock received is $160 ($40 + $120) and F's basis in the DC stock received in the exchange is $140.

Example 3. Transfer of importation and non-importation property. (i) *Facts.* As in paragraph (i) of *Example 2,* FC owns A1 (basis $40, value $150) and A2 (basis $120, value $30), and F owns A3 (basis $140, value $20). In addition, A2 is a U.S. real property interest as defined in section 897(c)(1). On Date 1, FC transfers A1 and A2, and F transfers A3, to DC in a single transaction described in section 351.

(ii) *Importation property.* A1 and A3 are importation properties for the reasons set forth in paragraph (i)(B) of *Example 1* and paragraph (ii) of *Example 2* of this paragraph (f), respectively. However, A2 is not importation property because, if FC had sold A2 immediately before the transaction, FC would take into account any gain or loss recognized on the sale in determining its federal income tax liability.

(iii) *Loss importation transaction.* FC's and F's transfer is a section 362 transaction. Furthermore, but for section 362(e)(1) and this section and section 362(e)(2), DC's aggregate basis in the importation properties, A1 and A3, would be $180 ($40 + $140) and the properties' aggregate value would be $170 ($150 + $20) immediately after the transaction. Therefore, the importation properties' aggregate basis would exceed their aggregate value immediately after the transaction, and the transfer is a loss importation transaction.

(iv) *Application of section 362(e)(1) and this section to importation property received in loss importation transaction.* Because the importation properties, A1 and A3, were transferred in a loss importation transaction, paragraph (b)(1) of this section applies and DC's basis in A1 and in A3 will each be equal to the property's value ($150 and $20, respectively) immediately after the transfer.

(v) *Basis of property received in transaction.* Following the application of section 362(e)(1) and this section, the provisions of section 362(e)(2) must be taken into account because the transfer is a section 362(a) transaction. The application of section 362(e)(2) is determined separately for each transferor. See § 1.362–4(b).

(A) *FC's transfer.* Taking into account the application of section 362(e)(1) and this section but without taking into account the provisions of section 362(e)(2), DC would have an aggregate basis of $270 in the transferred properties ($150 in A1, as determined under paragraph (iv) of this *Example 3,* plus $120 in A2, determined under section 362(a)), and the properties would have an aggregate value of $180 ($150 + $30) immediately after the transfer. Therefore, FC has a net built-in loss and FC's transfer of A1 and A2 is a loss duplication transaction. Accordingly, under the general rule of section 362(e)(2), FC's $90 net built-in loss ($270 aggregate basis to DC over $180 aggregate value) would be allocated proportionately to reduce DC's basis in the loss property transferred by FC. As a result, FC's entire net built-in loss would be allocated to A2, the only loss property transferred by FC, and DC's basis in A2 would be $30 ($120 basis under section 362(a) reduced by $90 net built-in loss). However, if FC and DC were to elect under section 362(e)(2)(C) to apply the $90 basis reduction to FC's basis in the DC stock received in the transaction, DC's basis in A2 would remain its section 362(a) basis of $120. DC's basis in A1 is $150 as determined under paragraph (iv) of this *Example 3* (irrespective of whether the section 362(e)(2)(C) election is made). If FC and DC do not make a section 362(e)(2)(C) election, FC's basis in the DC stock received in the exchange will be $160; if FC and DC do make the election, FC's basis in the DC stock will be $70 ($160 − $90 net built-in loss). See § 1.362–4.

(B) *F's transfer of A3.* Taking into account the application of section 362(e)(1) and this section, DC's basis in A3, the property transferred by F, would not exceed its value immediately after the transfer. Therefore, F does not have a built-in loss, F's transfer is not a loss duplication transaction, and section 362(e)(2) does not apply to F's transfer. DC's basis in A3, as determined under paragraph (iv) of this *Example 3,* is $20. Under section 358(a), F receives the DC stock with a basis of $140.

Example 4. Multiple transferors of non-importation properties. (i) *Facts.* DC1 owns A1 (basis $40, value $150). In addition, as in *Example 3* of this paragraph (f), FC owns A2 (basis $120, value $30), a U.S. real property interest as defined in section 897(c)(1), and F owns A3 (basis $140, value $20). On Date 1, DC1 transfers A1, FC transfers A2, and F transfers A3, to DC in a single transaction described in section 351.

(ii) *Importation property.* A2 is not importation property and A3 is importation property for the reasons set forth in paragraph (ii) of *Example 3* and paragraph (i)(B) of *Example 1* of this paragraph (f), respectively. A1 is not importation property because, if DC1 had sold A2 immediately before the transaction, DC1 would take into account any gain or loss recognized on the sale in determining its federal income tax liability.

(iii) *Loss importation transaction.* The transfer of A1, A2, and A3 is a section 362 transaction. Furthermore, but for section 362(e)(1) and this section and section 362(e)(2), DC's basis in importation property, A3, would be $140 and the value of the property would be $20 immediately after the transaction. Therefore, the importation property's basis would exceed value and the transfer is a loss importation transaction.

(iv) *Application of section 362(e)(1) and this section to importation property received in loss importation transaction.* Because the importation property, A3, was transferred in a loss importation transaction, section 362(e)(1) and paragraph (b)(1) of this section apply and DC's basis in A3 will be equal to A3's $20 value immediately after the transfer.

(v) *Basis of property received in transaction.* Following the application of section 362(e)(1) and this section, the provisions of section 362(e)(2) must be taken into account because the transfer is a section 362(a) transaction. The application of section 362(e)(2) is determined separately for each transferor. See § 1.362–4.

(A) *DC1's transfer.* Taking into account the application of section 362(e)(1) and this section, DC's basis in A1 ($40 under section 362(a)) would not exceed its value immediately after the transfer. Therefore, DC1 does not have a net built-in loss, DC1's transfer is not a loss duplication transaction, and section 362(e)(2) does not apply to DC1's transfer. DC's basis in A1, determined under section 362(a), is $40. Under section 358(a), DC1 receives the DC stock with a basis of $40.

(B) *FC's transfer.* Taking into account the application of section 362(e)(1) and this section, but without taking into account the provisions of section 362(e)(2), DC would have a section 362(a) basis of $120 in A2, which would exceed A2's $30 value immediately after the transfer. Therefore, FC has a net built-in loss and FC's transfer of A2 is a loss duplication transaction. Accordingly, under the general rule of section 362(e)(2), FC's $90 net built-in loss (DC's $120 basis in A2 over A2's $30 value) would be applied to reduce DC's basis in A2, the only loss property transferred by FC. As a result, DC's basis in A2 would be $30 ($120 basis under section 362(a), reduced by the $90 net built-in loss). However, if FC and DC were to elect under section 362(e)(2)(C) to apply the $90 basis reduction to FC's basis in the DC stock received in the transaction, DC's basis in A2 would be its $120 basis determined under section 362(a). If FC and DC do not make a section 362(e)(2)(C) election, FC's basis in the DC stock received in the exchange will be $120; if FC and DC do make the election, FC's basis in the DC stock will be $30 ($120 − $90). See § 1.362–4.

(C) *F's transfer.* F's transfer of A3 is a transaction described in section 362(a). However, taking into account the application of section 362(e)(1) and this section, DC's basis in A3 ($20) would not exceed its value immediately after the transfer. Therefore, F does not have a built-in loss, F's transfer is not a loss duplication transaction, and section 362(e)(2) does not apply to F's transfer. DC's basis in A3, as determined under paragraph (iv) of this *Example 4,* is $20. Under section 358(a), F receives the DC stock with a basis of $140.

Example 5. Partnership transactions. (i) *Transfer by foreign partnership, foreign and domestic partners.* (A) *Facts.* A and F are equal partners in FP. FP owns A1 (basis $100, value $70). Under the terms of the FP partnership agreement, FP's items of income, gain, deduction, and loss are allocated equally between A and F. Section 704(c) does not apply with respect to the partnership property. FP transfers A1 to DC in a transfer to which section 351 applies. No election is made under section 362(e)(2)(C).

(B) *Importation property.* If FP had sold A1 immediately before the transaction, any gain or loss recognized on the sale would be allocated to and includible by A and F equally under the partnership agreement. Thus, under paragraph (d)(2) of this section, A1 is treated as tentatively divided into two equal portions, one treated as owned by A and one treated as owned by F. If FP had sold A1 immediately before the transaction, any gain or loss recognized on the portion treated as owned by A would have been taken into account in determining a federal income tax

liability (A's); thus A's tentatively divided portion of A1 is not importation property. However, no gain or loss recognized on the tentatively divided portion treated as owned by F would have been taken into account in determining a federal income tax liability. Further, if DC had sold A1 immediately after the transaction, any gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability (DC's); thus, F's tentatively divided portion of A1 is importation property.

(C) *Loss importation transaction.* FP's transfer of A1 is a section 362 transaction. Furthermore, but for section 362(e)(1) and this section and section 362(e)(2), DC's basis in the importation property, F's portion of A1, would be $50 under section 362(a) and the property's value would be $35 immediately after the transaction. Therefore, the importation property's basis would exceed its value and the transfer is a loss importation transaction.

(D) *Application of section 362(e)(1) and this section to importation property received in loss importation transaction.* Because the importation property, F's tentatively divided portion of A1, was transferred in a loss importation transaction, section 362(e)(1) and paragraph (b)(1) of this section apply and DC's basis in F's portion of A1 will be equal to its $35 value.

(E) *Basis of property received in transaction.* Following the application of section 362(e)(1) and this section, the provisions of section 362(e)(2) must be taken into account because the transfer is a section 362(a) transaction. Taking into account the application of section 362(e)(1) and this section but without taking into account the provisions of section 362(e)(2), DC's aggregate basis in A1 would be $85 (the sum of the $35 basis in F's tentatively divided portion of A1, as determined under paragraph (i)(D) of this *Example 5,* and the $50 basis in A's tentatively divided portion of A1, determined under section 362(a), see paragraphs (d)(2) and (e)(3) of this section) and A1's value immediately after the transfer would be $70. Therefore, FP has a net built-in loss and FP's transfer of A1 is a loss duplication transaction. Accordingly, under the general rule of section 362(e)(2), FP's $15 net built-in loss ($85 basis over $70 value) would be allocated to reduce DC's basis in the loss asset, A1, the only loss property transferred by FP. As a result, DC's basis in A1 would be $70 ($85 basis under section 362(a) and this section, reduced by the $15 net built-in loss). Under section 358, FP's basis in the DC stock received in the exchange will be $100. See § 1.362–4.

(ii) *Transfer with election to apply section 362(e)(2)(C).* The facts are the same as in paragraph (i)(A) of this *Example 5,* except that FP and DC elect to apply section 362(e)(2)(C) to reduce FP's basis in the DC stock received in the exchange. The analysis and results are the same as in paragraphs (i)(B), (C), (D), and (E) of this *Example 5,* except that the $15 reduction to DC's basis in A1 is not made and, as a result, DC's basis in A1 remains $85, and FP's basis in the DC stock received in the exchange is reduced from $100 to $85. The $15 reduction to FP's basis in DC stock reduces A's basis in its FP interest under section 705(a)(2)(B). See § 1.362–4(e)(1).

(iii) *Transfer by domestic partnership.* The facts are the same as in paragraph (i)(A) of this *Example 5* except that FP is a domestic partnership. The analysis and results are the same as in paragraphs (i)(B), (C), (D), and (E) of this *Example 5.*

(iv) *Transfer of interest in partnership with liability.* (A) *Facts.* F and two other individuals are equal partners in FP. F's basis in its partnership interest is $247. F's share of FP's § 1.752–1 liabilities (as defined in § 1.752–1(a)(4)) is $150. F transfers his partnership interest to DC in a transaction to which section 351 applies. If DC were to sell the FP interest immediately after the transfer, DC would receive $100 in cash or other property. In addition, taking into account the rules under § 1.752–4, DC's share of FP's § 1.752–1 liabilities (as defined in § 1.752–1(a)(4)) is $145 immediately after the transfer.

(B) *Importation property.* If F had sold his partnership interest immediately before the transaction, no gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability. Further, if DC had sold the partnership interest immediately after the transaction, any gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability. Therefore, F's partnership interest is importation property.

(C) *Loss importation transaction.* F's transfer is a section 362 transaction. However, but for section 362(e)(1) and this section and section 362(e)(2), DC's basis in the importation property, the partnership interest, determined under section 362(a) and taking into account the rules under section 752, would be $242 (F's $247 basis reduced by F's $150 share of FP liabilities and increased by DC's $145 share of FP liabilities) and, under paragraph (c)(4)(ii) of this section, the value of the FP interest would be $245 (the sum of $100, the cash DC would receive if DC immediately sold the partnership interest, and $145, DC's share of the § 1.752–1 liabilities (as defined in § 1.752–1(a)(4)) under section 752 immediately after the transfer to DC). Therefore, the importation property's basis ($242) would not exceed its value ($245), and the transfer is not a loss importation transaction.

(D) *Basis in property received in transaction.* Following the application of section 362(e)(1) and this section, the provisions of section 362(e)(2) must be taken into account because the transfer is a section 362(a) transaction. As described in paragraph (iv)(C) of this *Example 5,* taking into account the application of section 362(e)(1) and this section, DC's basis in the partnership interest would not exceed its value. Therefore, under § 1.362–4, F does not have a net built-in loss, the transfer is not a loss duplication transaction, and section 362(e)(2) does not apply to the transfer. DC's basis in F's partnership interest is $242, determined under sections 362(a) and 752. Under section 358, taking into account the rules under section 752, F's basis in the DC stock received in the exchange is $97 ($247 reduced by F's $150 share of FP liabilities). If FP had elected under section 754, or if section 743(b) required a downward basis adjustment to the partnership property, FP would apply the rules of § 1.743–1 to determine the amount of the basis adjustment to the partnership property.

Example 6. Transactions involving tax-exempt entities. (i) *Exempt transferor.* (A) *Facts.* InsCo is a benevolent life insurance association of a purely local character exempt from federal income tax under section 501(a) because it is described in section 501(c)(12). InsCo owns shares of stock of DC1 (basis $100, value $70) for investment purposes, which are not debt-financed property (as defined in section 514). On December 31, Year 1, InsCo transfers the DC1 stock to DC in exchange for DC stock in a transaction to which section 351 applies. No election is made under section 362(e)(2)(C).

(B) *Importation property.* If InsCo had sold the DC1 stock immediately before the transaction, any gain or loss realized would be excluded from UBTI under section 512(b)(5), and thus no gain or loss recognized on the sale would have been taken into account in determining federal income tax liability. Further, if DC had sold the DC1 stock immediately after the transaction, any gain or loss recognized on the sale would have been taken into account in determining federal income tax liability. Therefore, the DC1 stock is importation property.

(C) *Loss importation transaction.* InsCo's transfer is a section 362 transaction. Furthermore, but for section 362(e)(1) and this section and section 362(e)(2), DC's basis in importation property, the DC1 stock, would be $100, and the stock's value would be $70 immediately after the transaction. Therefore, the importation property's basis would exceed its value and the transfer is a loss importation transaction.

(D) *Application of section 362(e)(1) and this section to importation property received in loss importation transaction.* Because the importation property, the DC1 stock, was transferred in a loss importation transaction, paragraph (b)(1) of this section applies and DC's basis in the stock will be equal to its $70 value.

(E) *Basis of property received in transaction.* Following the application of section 362(e)(1) and this section, the provisions of section 362(e)(2) must be taken into account because the transfer is a section 362(a) transaction. Taking into account the application of section 362(e)(1) and this section, DC's basis in the DC1 stock does not exceed its value immediately after the transaction. Therefore, InsCo does not have a net built-in loss, InsCo's transfer is not a loss duplication transaction, and section 362(e)(2) has no application to the transaction. DC's basis in the DC1 stock, as determined under paragraph (i)(D) of this *Example 6,* is $70. Under section 358, InsCo's basis in the DC stock received in the exchange will be $100.

(ii) *Transferor loses tax-exempt status.* (A) *Facts.* The facts are the same as in paragraph (i)(A) of this *Example 6* except that InsCo fails to be described in section 501(c)(12) in Year 1.

(B) *Importation property.* If InsCo had sold the DC1 stock immediately before the transaction, any gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability.

Therefore, the DC1 stock is not importation property and this section does not apply to the transaction.

(C) *Basis of property received in transaction.* Following the application of section 362(e)(1) and this section, the provisions of section 362(e)(2) must be taken into account because the transfer is a section 362(a) transaction. Taking into account the application of section 362(e)(1) and this section but without taking into account the provisions of section 362(e)(2), DC would have a section 362(a) basis of $100 in the stock, which would exceed its value of $70 immediately after the transfer. Therefore, InsCo has a net built-in loss and InsCo's transfer of the DC1 stock is a loss duplication transaction. Accordingly, under the general rule of section 362(e)(2), InsCo's $30 net built-in loss ($100 basis over $70 value) would be allocated to reduce DC's basis in the loss asset, the DC1 stock, the only loss property transferred by InsCo. As a result, DC's basis in the DC1 stock would be $70 ($100 basis under section 362(a), reduced by the $30 net built-in loss). Under section 358, InsCo's basis in the DC stock received in the exchange will be $100.

(iii) *Transfer of property that is subject to unrelated business tax.* (A) *Facts.* The facts are the same as in paragraph (i)(A) of this *Example 6* except that, on December 31, Year 1, instead of the DC1 stock, InsCo transfers A1 (basis $200, value $150) to DC. A1 is real property that InsCo owned from January 1 to December 31 of Year 1. During the entirety of this period, A1's basis was $200, and in the twelve months prior to December 31, Year 1, the highest amount of outstanding principal indebtedness on A1 was $40. For purposes of the UBTI rules under section 512, A1 is debt-financed property within the meaning of section 514(b).

(B) *Importation property.* If InsCo had sold A1 immediately before the transaction, 20 percent of any gain or loss recognized on that sale (that is, $40 of acquisition indebtedness on A1 divided by A1's $200 basis in Year 1) would, under sections 512 and 514, be includible in UBTI at the end of Year 1, and 80 percent would not. Thus, under paragraph (d)(4) of this section, A1 is treated as tentatively divided into two portions, one reflecting the gain or loss that would be taken into account in determining a federal income tax liability in InsCo's hands immediately before the transfer (the 20 percent portion) and one that would not (the 80 percent portion). Further, if DC sold A1 immediately after the transfer, any gain or loss on both portions would be taken into account in determining a federal income tax liability. Accordingly, the 20 percent portion is not importation property, but the 80 percent portion is.

(C) *Loss importation transaction.* InsCo's transfer of A1 is a section 362 transaction. Furthermore, but for section 362(e)(1) and this section and section 362(e)(2), DC's basis in the importation property, the 80 percent portion of A1, would be $160 (80 percent of InsCo's $200 basis) under section 362(a) and the property's value would be $120 (80% of A1's $120 value) immediately after the transaction. Therefore, the importation property's basis would exceed its value and the transfer is a loss importation transaction.

(D) *Application of section 362(e)(1) and this section to importation property received in loss importation transaction.* Because the importation property, the 80 percent portion of A1, was transferred in a loss importation transaction, section 362(e)(1) and paragraph (b)(1) of this section apply and DC's basis in that portion of A1 will be equal to its $120 value.

(E) *Basis of property received in transaction.* Following the application of section 362(e)(1) and this section, the provisions of section 362(e)(2) must be taken into account because the transfer is a section 362(a) transaction. Taking into account the application of section 362(e)(1) and this section but without taking into account the provisions of section 362(e)(2), DC's aggregate basis in A1 would be $160 (the sum of the $120 basis in the 80 percent importation portion of A1, as determined under paragraph (iii)(D) of this *Example 6,* and the $40 basis in the 20 percent portion of A1 that is not importation property, determined under section 362(a). See paragraph (e)(3) of this section). Further, A1's value immediately after the transfer would be $150. Therefore, InsCo has a net built-in loss in A1, and InsCo's transfer of A1 is a loss duplication transaction. Accordingly, under the general rule of section 362(e)(2), InsCo's $10 net built-in loss ($160 basis over $150 value) would be allocated to reduce DC's basis in the loss asset, A1, the only loss property transferred by InsCo. As a result, DC's basis in A1 would be $150 ($160 basis under section 362(a) and this section, reduced by the $10 net built-in loss). Under section 358, InsCo's basis in the DC stock received in the exchange will be $200. See § 1.362–4.

(iv) *Transfer with election to apply section 362(e)(2)(C).* The facts are the same as in paragraph (iii)(A) of this *Example 6,* except that InsCo and DC elect to apply section 362(e)(2)(C) to reduce InsCo's basis in the DC stock received in the exchange. The analysis and results are the same as in paragraphs (iii)(B), (C), (D), and (E) of this *Example 6,* except that the $10 reduction to DC's basis in A1 is not made and, as a result, DC's basis in A1 remains $160; however, InsCo's basis in the DC stock received in the exchange is reduced from $200 to $190.

Example 7. Transactions involving CFCs. (i) *Transfer by CFC.* (A) *Facts.* FC is a CFC with 100 shares of stock outstanding. A owns 60 of the shares and F owns the remaining 40 shares. FC owns two assets, A1 (basis $70, value $100), which is used in the conduct of a U.S. trade or business, and A2 (basis $100, value $75), which is not used in the conduct of a U.S. trade or business. FC transfers both assets to DC in a transaction to which section 351 applies.

(B) *Importation property.* If FC had sold A1 immediately before the transaction, any gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability (FC's). See section 882(a). Therefore, A1 is not importation property. If FC had sold A2 immediately before the transaction, FC would not take the gain or loss recognized into account in determining its federal income tax liability, but the gain or loss could be taken into account in determining a section 951 inclusion to FC's U.S. shareholders. However, under paragraph (d)(3) of this section, gain or loss is not deemed taken into account in determining a federal income tax liability solely because it could affect an inclusion under section 951(a). Further, if DC had sold A2 immediately after the transaction, any gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability. Therefore, A2 is importation property.

(C) *Loss importation transaction.* FC's transfer is a section 362 transaction. Furthermore, but for section 362(e)(1) and this section and section 362(e)(2), DC's basis in the importation property, A2, would be $100 and the property's value would be $75 immediately after the transaction. Therefore, the importation property's basis would exceed its value and the transfer is a loss importation transaction.

(D) *Application of section 362(e)(1) and this section to importation property received in loss importation transaction.* Because the importation property, A2, was transferred in a loss importation transaction, paragraph (b)(1) of this section applies and DC's basis in A2 will be equal to A2's $75 value immediately after the transfer.

(E) *Basis of property received in transaction.* Following the application of section 362(e)(1) and this section, the provisions of section 362(e)(2) must be taken into account because the transfer is a section 362(a) transaction. Taking into account the application of section 362(e)(1) and this section but without taking into account the provisions of section 362(e)(2), DC would have an aggregate basis of $145 in the transferred properties ($70 in A1, determined under section 362(a), plus $75 in A2, determined under this section) and the properties would have an aggregate value of $175 ($100 + $75) immediately after the transfer. Therefore, FC does not have a net built-in loss, FC's transfer is not a loss duplication transaction, and section 362(e)(2) does not apply to the transaction. DC's basis in A1 will be $70, determined under section 362(a), and DC's basis in A2 will be $75, as determined under paragraph (i)(D) of this *Example 7.* Under the general rule in section 358(a), FC receives the DC stock with a basis of $170 ($70 attributable to A1 plus $100 attributable to A2).

(ii) *Transfer of CFC stock.* (A) *Facts.* The facts are the same as in paragraph (i)(A) of this *Example 7,* except that A transfers its 60 shares of FC stock (basis $80, value $105) and F transfers its 40 shares of FC stock (basis $100, value $70) to DC in an exchange that qualifies under section 351.

(B) *Importation property.* If A had sold its FC shares immediately before the transaction, any gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability (A's). Therefore, A's FC shares are not importation property. However, if F had sold its FC shares immediately before the transaction, no gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability. Further, if DC had sold F's FC shares immediately after the

transaction, any gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability. Therefore, F's FC shares are importation property.

(C) *Loss importation transaction.* The transfer of the FC shares is a section 362 transaction. Furthermore, but for section 362(e)(1) and this section and section 362(e)(2), DC's aggregate basis in the importation property, F's shares of FC stock, would be $100 under section 362(a) and the shares' aggregate value would be $70. Therefore, the importation property's aggregate basis would exceed its aggregate value, and the transfer is a loss importation transaction.

(D) *Application of section 362(e)(1) and this section to importation property received in loss importation transaction.* Because the importation property, F's shares of FC stock, was transferred in a loss importation transaction, paragraph (b)(1) of this section applies and DC's aggregate basis in the shares will be equal to their $70 aggregate value immediately after the transfer.

(E) *Basis of property received in transaction.* Following the application of section 362(e)(1) and this section, the provisions of section 362(e)(2) must be taken into account because the transfer is a section 362(a) transaction. The application of section 362(e)(2) is determined separately for each transferor. See § 1.362–4(b).

(*1*) *A's transfer.* Taking into account the application of section 362(e)(1) and this section, DC's aggregate basis in the shares ($80 under section 362(a)) would not exceed the shares' value ($105) immediately after the transaction. Therefore A does not have a built-in loss, A's transfer is not a loss duplication transaction, and section 362(e)(2) does not apply to A's transfer. DC's aggregate basis in A's shares, determined under section 362(a), is $80. Under section 358(a), A receives the DC stock with a basis of $80.

(*2*) *F's transfer.* Taking into account the application of section 362(e)(1) and this section, DC's aggregate basis in the shares would not exceed their value immediately after the transaction. Therefore, F does not have a built-in loss, F's transfer is not a loss duplication transaction, and section 362(e)(2) does not apply to F's transfer. DC's aggregate basis in F's shares, as determined under paragraph (ii)(D) of this *Example 7,* is $70. Under section 358(a), F receives the DC stock with a basis of $100.

Example 8. Property subject to withholding tax. (i) *Facts.* FC owns a share of DC1 stock (basis $100, value $70) as an investment. FC receives dividends on the share that are subject to federal withholding tax of 30 percent of the amount received under section 881(a); under section 1442(a), DC1 must withhold tax on the dividends paid. FC transfers the DC1 share to DC in a transaction to which section 351 applies.

(ii) *Importation property.* Although any dividends received with respect to the DC1 stock were subject to withholding tax, if FC had sold the share of stock of DC1, no gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability. See section 865(a)(2). Further, if DC had sold the share of DC1 stock immediately after the transaction, any gain or loss recognized on the sale would be taken into account in determining federal income tax liability. Therefore, the share of DC1 stock is importation property.

(iii) *Loss importation transaction.* FC's transfer is a section 362 transaction. Furthermore, but for section 362(e)(1) and this section and section 362(e)(2), DC's basis in the importation property, the share of DC1 stock, would be $100 and the share's value would be $70 immediately after the transaction. Therefore, the share's basis would exceed its value and the transfer is a loss importation transaction.

(iv) *Application of section 362(e)(1) and this section to importation property received in loss importation transaction.* Because the importation property, the DC1 share, was transferred in a loss importation transaction, paragraph (b)(1) of this section applies and DC's basis in the share will be equal to the share's $70 value.

(v) *Basis of property received in transaction.* Following the application of section 362(e)(1) and this section, the provisions of section 362(e)(2) must be taken into account because the transfer is a section 362(a) transaction. Taking into account the application of section 362(e)(1) and this section, DC's basis in the DC1 share would not exceed the share's value immediately after the transaction. Therefore, FC does not have a net built-in loss, FC's transfer is not a loss duplication transaction, and section 362(e)(2) does not apply to the transaction. DC's basis in the DC1 share, as determined under paragraph (iv) of this *Example 8,* is $70. Under section 358, FC's basis in the DC stock received in the exchange will be $100.

Example 9. Property transferred in triangular reorganization. (i) *Foreign subsidiary.* (A) *Facts.* P owns the sole outstanding share of stock of FC (basis $1), FC1 owns the sole outstanding share of FC2 (basis $100), and FC2 owns one asset, A1 (basis $100, value $20). In a forward triangular merger described in § 1.358–6(b)(2)(i), FC2 merges with and into FC, and FC1 receives shares of P stock in exchange for its FC2 stock. The forward triangular merger is a transaction described in section 368(a)(2)(D) and, therefore, in section 362(b).

(B) *Determining P's basis in its FC share.* Pursuant to § 1.358–6, for purposes of determining the adjustment to P's basis in its FC shares, P is treated as though it first received A1 in a transaction in which its basis in A1 would be determined under section 362(b) and then it transferred A1 to FC in a transaction in which P's basis in its FC stock would be determined under section 358.

(*1*) *P's deemed acquisition and transfer of A1.* If FC2 had sold A1 for its value immediately before the deemed transaction, no gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability. If P had sold A1 immediately after the deemed transaction, any gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability (P's). Therefore, with respect to P's deemed acquisition, A1 is importation property. Furthermore, immediately after the deemed transaction, P's basis in A1, but for section 362(e)(1) and this section and section 362(e)(2), would be $100 and A1's value is $20. Therefore, the importation property's basis would exceed its value and the transfer is a loss importation transaction. Accordingly, P's deemed basis in A1 will be equal to A1's $20 value.

(*2*) *P's FC stock basis.* As a result of P's deemed transfer of A1 to FC (and applying the principles of § 1.367(b)–13), P's basis in its FC stock is increased by its $20 deemed basis in A1. Accordingly, following the transaction, P's basis in its share of FC stock will be $21 (the sum of its original $1 basis and the $20 adjustment for the deemed transfer of A1).

(C) *FC's basis in A1.* FC's basis in A1 is determined under the rules of this section without regard to the determination of P's adjustment to its basis in FC stock. If FC2 had sold A1 for its value immediately before the transaction, no gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability. However, if FC had sold A1 immediately after the transaction, no gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability, so A1 is not importation property. Accordingly, this section will not apply to the transaction. Although there is a net built-in loss in A1, the transaction is not described in section 362(a), and so section 362(e)(2) and § 1.362–4 will not apply to the transaction. Thus, under section 362(b), FC's basis in A1 will be $100.

(D) *FC1's basis in P stock.* Under section 358, FC1's basis in the P stock it receives in the exchange will be $100.

(ii) *Property transferred to U.S. subsidiary in triangular reorganization.* (A) *Facts.* The facts are the same as in paragraph (i)(A) of this *Example 9,* except that P also owns the sole outstanding share of DC (basis $1) and, instead of merging into FC, FC2 merged into DC.

(B) *Determining P's basis in its DC share.* As determined under paragraph (i)(B)(*2*) of this *Example 9,* P's basis in its DC share is $21, the sum of its original $1 basis plus the $20 adjustment for the deemed transfer of A1.

(C) *DC's basis in A1.* If FC2 had sold A1 for its value immediately before the transaction, no gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability. However, if DC had sold A1 immediately after the transaction, any gain or loss recognized on the sale would have been taken into account in determining a federal income tax liability, so A1 is importation property with respect to DC. Furthermore, immediately after the transaction, DC's basis in A1, but for section 362(e)(1) and this section and section 362(e)(2), would be $100 and A1's value is $20. Therefore, the importation property's basis would exceed its value and the transfer is a loss importation transaction. Accordingly, DC's basis in A1 will be $20, A1's value immediately after the transaction.

(D) *FC1's basis in P stock.* Under section 358, FC1's basis in the P stock it receives in the exchange is $100.

(g) *Applicability date.* This section applies with respect to any transaction occurring on or after *March 28, 2016,* and also with respect to any transaction occurring before such date as a result of an entity classification election under § 301.7701–3 of this chapter filed on or after *March 28, 2016,* unless such transaction is pursuant to a binding agreement that was in effect prior to *March 28, 2016* and at all times thereafter. In addition, taxpayers may apply this section to any transaction occurring after October 22, 2004.

■ **Par. 11.** Section 1.362–4 is amended by:

■ 1. Revising the heading to paragraph (c) and adding paragraph (c)(3).

■ 2. Revising the introductory text in paragraph (h).

■ 3. Revising the third sentence of paragraph (h) *Example 4* paragraph (iv)(B).

■ 4. Revising paragraph (h) *Example 11.*

■ 5. Adding a sentence to the end of paragraph (j).

The revisions and additions read as follows:

§ 1.362–4 Basis of loss duplication property.

* * * * *

(c) *Exceptions and special rules.* * * *

* * * * *

(3) *Other effects of basis determination under this section*—(i) *Determination by reference to transferor's basis.* A determination of basis under this section is a determination by reference to the transferor's basis, including for purposes of sections 755, 1223(2), and 7701(a)(43).

(ii) *Treatment as tax-exempt income or noncapital, nondeductible expense.* A determination of basis under paragraph (b) of this section does not give rise to an item treated as a noncapital, nondeductible expense under § 1.1502–32(b)(2)(iii). However, a determination of basis under paragraph (d) of this section does give rise to an item treated as a noncapital, nondeductible expense under § 1.1502–32(b)(2)(iii).

* * * * *

(h) *Examples.* The examples in this paragraph (h) illustrate the application of section 362(e)(2) and the provisions of this section. Unless the facts otherwise indicate, the examples use the following nomenclature and assumptions: X, Y, P, S, S1, and S2 are domestic corporations; A and B are U.S. individuals; FC1 and FC2 are foreign corporations and are not engaged in a U.S. trade or business, have no U.S. real property interests, and have no other relationships, activities, or interests that would cause them, their shareholders, or their property to be subject to tax imposed under any provision of subtitle A of the Internal Revenue Code (federal income tax); there is no applicable income tax treaty; PRS is a domestic partnership; no election is made under section 362(e)(2)(C); and the transferred property is not importation property (as defined in § 1.362–3(c)(2)) and the transfers are not loss importation transactions (as defined in § 1.362–3(c)(3)), so that the basis of no property is determined under section 362(e)(1). All persons and transactions are unrelated unless the facts indicate otherwise, all taxpayers are on a calendar tax year, and all other relevant facts are set forth in the examples. See § 1.362–3(f) for additional examples illustrating the application of section 362(e)(2) and this section, including to transactions that are subject to section 362(e)(2), and section 362(e)(1).

* * * * *

Example 4. * * *

(iv) * * *

(B) *Analysis.* * * * For the reasons set forth in paragraph (iii)(B) of this *Example 4,* Y would have been required to reduce its basis in the transferred assets by $1.60. * * *

* * * * *

Example 11. Transfers of importation property with non-importation property. (*i*) *Single transferor, loss importation transaction.* (A) *Facts.* FC1 transfers Asset 1 (basis $80, value $50), Asset 2 (basis $120, value $110), and Asset 3 (basis $32, value $40) to DC in a transaction to which section 351 applies. Asset 1 is not importation property within the meaning of § 1.362–3(c)(2). Asset 2 and Asset 3 are importation property within the meaning of § 1.362–3(c)(2).

(B) *Application of section 362(e)(1).* Immediately after the transfer, and without regard to section 362(e)(1) or section 362(e)(2) and this section, DC's aggregate basis in importation property (Asset 2 and Asset 3) would be $152. The aggregate value of the importation property immediately after the transfer is $150. Accordingly, the transaction is a loss importation transaction within the meaning of § 1.362–3(c)(3) and, under section 362(e)(1), DC's bases in Asset 2 and Asset 3 would equal the value of each, $110 and $40, respectively.

(C) *Application of section 362(e)(2) and this section.* (*1*) *Analysis.* (*i*) *Loss duplication transaction.* FC1's transfer of Asset 1, Asset 2, and Asset 3 is a transaction described in section 362(a). But for section 362(e)(2) and this section, DC's aggregate basis in those assets would be $230 ($80 under section 362(a) + $110 + $40 under section 362(e)(1)), which would exceed the aggregate value of the assets $200 ($50 + $110 + 40) immediately after the transaction. Accordingly, the transfer is a loss duplication transaction and FC1 has a net built-in loss of $30 ($230 − $200).

(*ii*) *Identifying loss duplication property.* But for section 362(e)(2) and this section, DC's basis in Asset 1 would be $80, which would exceed Asset 1's $50 value immediately after the transaction. Accordingly, Asset 1 is loss duplication property. But for section 362(e)(2) and this section, DC's basis in Asset 2 would be $110, which would not exceed Asset 2's $110 value immediately after the transaction. Accordingly, Asset 2 is not loss duplication property. But for section 362(e)(2) and this section, DC's basis in Asset 3 would be $40, which would not exceed Asset 3's $40 value immediately after the transaction. Accordingly, Asset 3 is not loss duplication property.

(D) *Basis in loss duplication property.* DC's basis in Asset 1 is $50, computed as its $80 basis under section 362(a) reduced by FC1's $30 net built-in loss.

(E) *Basis in other property.* Under section 362(e)(1), DC's basis in Asset 2 is $110 and DC's basis in Asset 3 is $40. Under section 358(a), FC1 has an exchanged basis of $232 in the DC stock it receives in the transaction.

(ii) *Multiple transferors, no importation of loss.* (A) *Facts.* The facts are the same as paragraph (i)(A) of this *Example 11,* except that, in addition, FC2 transfers Asset 4 (basis $100, value $150) to DC as part of the same transaction. Asset 4 is importation property within the meaning of § 1.362–3(c)(2).

(B) *Application of section 362(e)(1).* Immediately after the transfer, and without regard to section 362(e)(1) or section 362(e)(2) and this section, DC's aggregate basis in importation property (Asset 2, Asset 3, and Asset 4) would be $252 ($120 + $32 + $100). The aggregate value of the importation property immediately after the transfer is $300 ($110 + $40 + $150). Accordingly, the transaction is not a loss importation transaction within the meaning of § 1.362–3(c)(3) and DC's bases in the importation property is not determined under section 362(e)(1).

(C) *Application of section 362(e)(2) and this section.* Notwithstanding that the transfers by FC1 and FC2 are pursuant to a single plan forming one transaction, section 362(e)(2) and this section apply to each transferor separately.

(*1*) *Application of section to FC1.* (*i*) *Loss duplication transaction.* FC1's transfer of Asset 1, Asset 2, and Asset 3 is a transaction described in section 362(a). But for section 362(e)(2) and this section, DC's aggregate basis in those assets would be $232 ($80 + $120 + $32), which would exceed the aggregate value of the assets $200 ($50 + $110 + $40) immediately after the transaction. Accordingly, the transfer is a loss duplication transaction and FC1 has a net built-in loss of $32 ($232 − $200).

(*ii*) *Identifying loss duplication property.* But for section 362(e)(2) and this section, DC's basis in Asset 1 would be $80, which would exceed Asset 1's $50 value immediately after the transaction. Accordingly, Asset 1 is loss duplication property. But for section 362(e)(2) and this section, DC's basis in Asset 2 would be $120, which would exceed Asset 2's $110 value

immediately after the transaction. Accordingly, Asset 2 is also loss duplication property. But for section 362(e)(2) and this section, DC's basis in Asset 3 would be $32, which would not exceed Asset 3's $40 value immediately after the transaction. Accordingly, Asset 3 is not loss duplication property.

(*iii*) *Basis in loss duplication property.* DC's basis in Asset 1 is $56, computed as its $80 basis under section 362(a) reduced by $24, its allocable portion of FC1's $32 net built-in loss ($30/40 × $32). DC's basis in Asset 2 is $112, computed as its $120 basis under section 362(a) reduced by $8, its allocable portion of FC1's $40 net built-in loss ($10/$40 × $32).

(*iv*) *Basis in other property.* Under section 358(a), FC1 has an exchanged basis of $232 in the DC stock it receives in the transaction.

(*2*) *Application of section to FC2.* FC2's transfer of Asset 3 is not a loss duplication transaction because Asset 3's value exceeds its basis immediately after the transaction. Accordingly, under section 362(a), DC's basis in Asset 3 is $100.

* * * * *

(j) *Effective/applicability date.* * * * The introductory text and *Example 11* of paragraph (h) of this section apply with respect to transactions occurring on or after *March 28, 2016,* and also with respect to transactions occurring before such date as a result of an entity classification election under § 301.7701–3 of this chapter filed on or after *March 28, 2016,* unless such transaction is pursuant to a binding agreement that was in effect prior to *March 28, 2016* and at all times thereafter. In addition, taxpayers may apply such provisions to any transaction occurring after October 22, 2004.

■ **Par. 12.** Section 1.368–3 is amended by revising paragraphs (a)(3) and (b)(3) and adding a sentence to the end of paragraph (e) to read as follows:

§ 1.368–3 Records to be kept and information to be filed with returns.

(a) * * *

(3) The value and basis of the assets, stock or securities of the target corporation transferred in the transaction, determined immediately before the transfer and aggregated as follows—

(i) Importation property transferred in a loss importation transaction, as defined in § 1.362–3(c)(2) and (3), respectively;

(ii) Loss duplication property as defined in § 1.362–4(g)(1);

(iii) Property with respect to which any gain or loss was recognized on the transfer (without regard to whether such property is also identified in paragraph (a)(3)(i) or (ii) of this section);

(iv) Property not described in paragraph (a)(3)(i), (ii), or (iii) of this section; and

* * * * *

(b) * * *

(3) The value and basis of all the stock or securities of the target corporation held by the significant holder that is transferred in the transaction and such holder's basis in that stock or securities, determined immediately before the transfer and aggregated as follows—

(i) Stock and securities with respect to which an election is made under section 362(e)(2)(C); and

(ii) Stock and securities not described in paragraph (b)(3)(i) of this section.

* * * * *

(e) *Effective/applicability date.* * * * Paragraphs (a)(3) and (b)(3) of this section apply with respect to reorganizations occurring on or after March 28, 2016, and also with respect to reorganizations occurring before such date as a result of an entity classification election under § 301.7701–3 of this chapter filed on or after March 28, 2016, unless such reorganization is pursuant to a binding agreement that was in effect prior to March 28, 2016 and at all times thereafter.

■ **Par. 13.** Section 1.705–1 is amended by revising paragraph (a)(9) to read as follows:

§ 1.705–1 Determination of basis of partner's interest.

(a) * * *

(9) For basis adjustments necessary to coordinate sections 705 and 362(e)(2), see § 1.362–4(e)(1).

* * * * *

■ **Par. 14.** Section 1.755–1 is amended by adding a sentence after the second sentence of paragraph (b)(1)(i) to read as follows:

§ 1.755–1 Rules for allocation of basis.

* * * * *

(b) * * *

(1) * * *

(i) *Application.* * * * For transfers subject to section 334(b)(1)(B), see § 1.334–1(b)(3)(iii)(C)(*1*) (treating a determination of basis under § 1.334–1(b)(3) as a determination not by reference to the transferor's basis solely for purposes of applying section 755); for transfers subject to section 362(e)(1), see § 1.362–3(b)(4)(i) (treating a determination of basis under § 1.362–3 as a determination not by reference to the transferor's basis solely for purposes of applying section 755); for transfers subject to section 362(e)(2), see § 1.362–4(c)(3)(i) (treating a determination of basis under § 1.362–4 as a determination by reference to the transferor's basis for all purposes). * * *

* * * * *

■ **Par. 15.** Section 1.1367–1 is amended by revising the last sentence of paragraph (c)(2) to read as follows:

§ 1.1367–1 Adjustments to basis of shareholder's stock in an S corporation.

* * * * *

(c) * * *

(2) *Noncapital, nondeductible expenses.* * * For basis adjustments necessary to coordinate sections 1367 and 362(e)(2), see § 1.362–4(e)(2).

* * * * *

John M Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: February 16, 2016.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2016–06227 Filed 3–25–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Tax Treatment of Cafeteria Plans

CFR Correction

In Title 26 of the Code of Federal Regulations, Part 1 (§§ 1.61 to 1.139), revised as of April 1, 2015, on page 545, § 1.125–4T is removed.

[FR Doc. 2016–07018 Filed 3–25–16; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0530]

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—Michigan City Summerfest Fireworks, Lake Michigan

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Michigan City Summerfest Fireworks Safety Zone on a portion of Lake Michigan on July 4, 2016. This action is necessary and intended to ensure safety of life and property on navigable waters prior to, during, and immediately after the fireworks display. During the enforcement period listed below, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter, transit,

or anchor in the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan or a designated representative.

DATES: The regulation in 33 CFR 165.929 will be enforced for the safety zone listed as (e)(35) in Table 165.929 on July 4, 2016 from 8:45 p.m. until 9:45 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT Lindsay Cook, Waterways Management Division, Marine Safety Unit Chicago, at 630–986–2155, email address *Lindsay.N.Cook@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Michigan City Summerfest listed as item (e)(35) in Table 165.929 of 33 CFR 165.929 from 8:45 p.m. until 9:45 p.m. on July 4, 2016. This action is being taken to provide for the safety of life on a navigable waterway during the fireworks display. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan Zone. This safety zone encompasses all waters of Michigan City Harbor and Lake Michigan within the arc of a circle with a 1,000 foot radius from the launch site located in position 41°43.700′ N., 086°54.617′ W. During the enforcement period, no vessel may transit this regulated area without approval from the Captain of the Port Lake Michigan (COTP) or a COTP designated representative. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan, or his or her on-scene representative.

This notice of enforcement is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone and 5 U.S.C. 552 (a). In addition to this notification in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan, or a designated on-scene representative may be contacted via Channel 16, VHF–FM.

Dated: March 18, 2016.

A.B. Cocanour,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2016–06910 Filed 3–25–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0031; FRL–9943–00]

Mandipropamid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation increases existing tolerances for residues of mandipropamid in or on potato, wet peel, and the vegetable, tuberous and corm subgroup 1C. Syngenta Crop Protection requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 28, 2016. Objections and requests for hearings must be received on or before May 27, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0031, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2015–0031 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 27, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2015–0031, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of March 4, 2015 (80 FR 11611) (FRL–9922–68), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 4F8329) by Syngenta Crop Protection, LLC., 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419. The petition requested that 40 CFR 180.637 be amended by establishing a tolerance for residues of the fungicide mandipropamid in or on potato at 0.08 parts per million (ppm). The petition also requested to amend the tolerance in 40 CFR 180.637 for residues of mandipropamid in or on potato, wet peel at 0.12 ppm, and amend the current tolerance commodity terminology which contains potato from ''vegetable, tuberous and corm, subgroup 1C,'' to ''vegetable, tuberous and corm, subgroup 1C, except potato.'' That document referenced a summary of the petition prepared by Syngenta Crop Protection, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has modified the tolerances being established by this document. The reason for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for mandipropamid including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with mandipropamid follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Subchronic and chronic studies indicate that the liver is the primary target organ for mandipropamid. Liver effects were identified in subchronic studies with rats, mice, and dogs. Liver effects included: Periportal hypertrophy (rats), increased eosinophilia (rats and mice), increased plasma albumin, total protein, cholesterol, and gamma-glutamyl transferase (rats), increased liver weights (rats, mice and dogs), increased liver enzymes (dogs), increased pigment in hepatocytes and Kupffer cells (dogs), and centrilobular hepatocyte vacuolation (dogs). In the chronic dog study, increases in microscopic pigment in the liver and increased liver enzymes were observed. No liver effects were observed in chronic rat and mouse studies up to the highest doses tested. Instead, nephrotoxicity was observed in the chronic rat study and only decreased body weight and food utilization was observed in the chronic mouse study. The findings of liver toxicity and nephrotoxicity are consistent with the results from metabolism studies where the tissues with the highest levels of radioactivity were the liver followed by the kidney.

No evidence of neurotoxicity was observed in the acute or subchronic neurotoxicity screening battery. No systemic or dermal toxicity was observed following dermal exposure for 28 days up to the limit dose.

No evidence of increased quantitative or qualitative susceptibility was seen in developmental toxicity studies in rats and rabbits or in a reproduction study in rats. The only effects observed in fetuses or pups were in the two-generation reproduction study, where decreased pup body weight was observed in the presence of maternal toxicity (decreased body weight, body weight gain, and food utilization). In addition, there was a delay in preputial separation in F1 males which was considered to be the result of lower body weights.

There was no evidence of tumors in the carcinogenicity study in mice or in the chronic/carcinogenicity study in rats and there was no evidence that mandipropamid was mutagenic or clastogenic. Therefore, mandipropamid is classified as ''not likely to be carcinogenic to humans.''

Specific information on the studies received and the nature of the adverse effects caused by mandipropamid as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document titled ''*Mandipropamid: Human Health Risk Assessment For Amended Use of the Fungicide on Potato, to Replace the Established Tolerance in Tuberous and Corm Vegetable Subgroup 1C, and to Revise the Established Tolerance in Potato Wet Peel''* on page 30 in docket ID number EPA–HQ–OPP–2015–0031.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some

degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the toxicological endpoints for mandipropamid used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of December 20, 2013 (78 FR 76987) (FRL–9903–57).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to mandipropamid. EPA considered exposure under the petitioned-for tolerances as well as all existing mandipropamid tolerances in 40 CFR 180.637. EPA assessed dietary exposures from mandipropamid in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

No such effects were identified in the toxicological studies for mandipropamid; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the U.S. Department of Agriculture's National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA assumed 100 percent crop treated (PCT) and tolerance level residues, with the exception of vegetable, tuberous and corm, subgroup 1C, which was assessed at 0.115 ppm, assuming tolerance-level residues of parent mandipropamid (0.09 ppm) and including the SYN 500003 metabolite in parent-equivalents (at 0.025 ppm).

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that mandipropamid does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue or PCT information in the dietary assessment for mandipropamid. Tolerance-level residues and 100 PCT were assumed for all existing and proposed food commodities, except subgroup 1C, as described above.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for mandipropamid in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of mandipropamid. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the Food Quality Protection Act (FQPA) Index Reservoir Screening Tool (FIRST) model for surface water and both the Screening Concentration in Ground Water (SCI–GROW) and Pesticide Root Zone Model Ground Water (PRZM GW) models, the estimated drinking water concentrations (EDWCs) of mandipropamid for chronic exposures are estimated to be 9.0 parts per billion (ppb) for surface water and 79 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For the chronic dietary risk assessment, the water concentration value of 79 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Mandipropamid is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found mandipropamid to share a common mechanism of toxicity with any other substances, and mandipropamid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that mandipropamid does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There were no treatment-related effects observed in dams or fetuses in the developmental toxicity studies in rats or rabbits up to the limit dose of 1,000 mg/kg/day. In the rat reproductive study, decreased pup weight occurred only in the presence of comparable maternal toxicity (decreased body weight). Therefore, the Agency concludes that there is no increased quantitative or qualitative susceptibility to rat or rabbit offspring exposed *in utero* or post-natally to mandipropamid, and there are no residual uncertainties with respect to pre- or postnatal exposure.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for mandipropamid is complete.

ii. There is no indication that mandipropamid is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors (UFs) to account for neurotoxicity.

iii. There is no evidence that mandipropamid results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and

tolerance-level residues, except for subgroup 1C, as described in Section C.1.ii. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to mandipropamid in drinking water. These assessments will not underestimate the exposure and risks posed by mandipropamid.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, mandipropamid is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to mandipropamid from food and water will utilize 42% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. There are no residential uses for mandipropamid.

3. *Short-and Intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Both a short- and intermediate-term adverse effects were identified; however, mandipropamid is not registered for any use patterns that would result in either short- or intermediate-term residential exposure. Short- and intermediate-term risk is assessed based on short- and intermediate-term residential exposure plus chronic dietary exposure. Because there is no short- or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short-term risk), no further assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for mandipropamid.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, mandipropamid is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to mandipropamid residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high performance liquid chromatography with tandem mass spectrometric detection (LC/MS/MS)) is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There is a Codex MRL established on potato at 0.01 ppm. With the increased tolerance in subgroup 1C to 0.09 ppm, the U.S. tolerance will no longer be in harmonization with Codex's MRL in potato. Harmonization with the Codex value is not feasible, given that the Codex MRL is based on the foliar use pattern only, and the U.S. tolerance is based on the proposed combination of seed piece treatment and foliar uses.

C. Revisions to Petitioned-For Tolerances

Instead of the proposed tolerance in potato (0.08 ppm), EPA is revising the existing tolerance for residues in tuberous and corm vegetable subgroup 1C from 0.01 to 0.09 ppm. The proposed tolerance was based on a dataset that only included results from trials conducted in the U.S. The calculated tolerance in subgroup 1C, based on US and Canadian potato field trial data entered into the Organization for Economic Cooperation and Development's (OECD) tolerance calculation procedure, was 0.07 ppm. However, EPA is establishing a tolerance in subgroup 1C of 0.09 ppm, in order to harmonize with Canada's recommended MRL.

The proposed tolerance in potato wet peel (0.12 ppm) was based on the average processing factor (2.0X) multiplied by the highest average field trial (HAFT) (0.056 ppm). However, the tolerance being established (0.15 ppm) is based on the rounding protocol in the User Guide for the OECD tolerance calculation procedure.

It is not appropriate to establish the proposed tolerance in tuberous and corm vegetable subgroup 1C (except potato), because potato is the only representative commodity for subgroup 1C. For the same reason, the proposed separate tolerance in potato is unnecessary.

V. Conclusion

Therefore, the existing tolerance for residues of mandipropamid on ''potato, wet peel'' is modified from 0.03 ppm to 0.15 ppm and the existing tolerance on ''vegetable, tuberous and corm, subgroup 1C'' is modified from 0.01 to 0.09 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive

Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 16, 2016.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.637, revise the entries for ''Potato, wet peel'' and ''Vegetable, tuberous and corm, subgroup 1C'' to the table in paragraph (a) to read as follows:

§ 180.637 Mandipropamid; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Potato, wet peel	0.15
* * * * *	
Vegetable, tuberous and corm, subgroup 1C	0.09

* * * * *

[FR Doc. 2016–06948 Filed 3–25–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[GN Docket No. 12–268; FCC 14–50]

Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, certain information collection requirements associated with the Commission's Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions Report and Order (*Incentive Auction Report and Order*), FCC 14–50. This document is consistent with the *Incentive Auction Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the new

DATES: 47 CFR 73.3700(b)(1)(i) through (v), (b)(2)(i) and (ii), (b)(3), (b)(4)(i) and (ii), and (b)(5); 73.3700(c); 73.3700(d); 73.3700(f); 73.3700(g); 73.3700(h)(5), and FCC Form 2100, Schedules A, B, E and F, published at 79 FR 48442, August 15, 2014, are effective March 28, 2016. OMB approved the information collection requirements in 47 CFR 73.3700(b)(1)(vii) and (h)(2) on March 17, 2016.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, *Cathy.Williams@fcc.gov,* (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on March 17, 2016, OMB approved the information collection requirements contained in the Commission's *Incentive Auction Report and Order,* FCC 14–50, published at 79 FR 48442, August 15, 2014. The OMB Control Numbers are 3060–0016, 3060–0027, 3060–0386, 3060–0837, 3060–0928, 3060–0932 and 3060–1216. The Commission publishes this document as an announcement of the effective date of the requirements. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–1194, in your correspondence. The Commission will also accept your comments via the Internet if you send them to *PRA@fcc.gov.*

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 and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on March 17, 2016, for some of the information

collection requirements contained in FCC 14–50, 47 CFR 73.3700(b)(1)(i) through (v), (vii), (b)(2)(i) and (ii), (b)(3), (b)(4)(i) and (ii), and (b)(5); 73.3700(c); 73.3700(d); 73.3700(f); 73.3700(g); 73.3700(h)(2), 73.3700(h)(5), and FCC Form 2100, Schedules A, B, E and F.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers are 3060–0016, 3060–0027, 3060–0386, 3060–0837, 3060–0928, 3060–0932 and 3060–1216. The foregoing document is required by the Paperwork Reduction Act of 1995, Pub. L. 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control No.: 3060–0016.

OMB Approval Date: March 17, 2016.

OMB Expiration Date: March 31, 2019.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule C (Former FCC Form 346); Sections 74.793(d) and 74.787; LPTV Out-of-Core Digital Displacement Application; Section 73.3700(g)(1)–(3), Post-Incentive Auction Licensing and Operations.

Form No.: FCC Form 2100, Schedule C.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 4,250 respondents and 4,250 responses.

Estimated Time per Response: 2.5–7 hours (total of 9.5 hours).

Frequency of Response: One-time reporting requirement; on occasion reporting requirement; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i), 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

Total Annual Burden: 40,375 hours.

Annual Cost Burden: $23,579,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The collection was submitted to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Incentive Auction Order, FCC 14–50, which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The information gathered in this collection will be used to allow full-power television broadcast stations that are relocated to a new channel following the Federal Communications Commission's Incentive Auction to submit a construction application to build new facilities to operate on their post-auction channel. Form 2100, Schedule A is also used to apply for authority to construct a new commercial AM, FM, or TV broadcast station and to make changes to existing facilities of such a station. OMB approved the requirements.

OMB Control No.: 3060–1216.

OMB Approval Date: March 17, 2016.

OMB Expiration Date: March 31, 2019.

Title: Media Bureau Incentive Auction Implementation, Sections 73.3700(b)(4)(i)–(ii), (c), (d), (h)(5)–(6) and (g)(4).

Form No.: N/A.

Respondents: Business or other for-profit entities; Not for profit institutions.

Number of Respondents and Responses: 1,950 respondents and 174,219 responses.

Estimated Time per Response: .004–15 hours.

Frequency of Response: One-time reporting requirement; on occasion reporting requirement; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 154, 301, 303, 307, 308, 309, 310, 316, 319, 325(b), 332, 336(f), 338, 339, 340, 399b, 403, 534, 535, 1404, 1452, and 1454.

Total Annual Burden: 24,932 hours.

Annual Cost Burden: $1,214,400.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection.

Needs and Uses: The collection was submitted to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Incentive Auction Order, FCC 14–50, which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The information gathered in this collection will be used to require broadcasters transitioning to a new station following the Incentive Auction, or going off the air as a result of a winning bid in the Incentive Auction, to notify their viewers of the date the station will terminate operations on its pre-Auction channel by running public service announcements, and allow these broadcasters to inform MVPDs of their relinquishment or change in channel. It

OMB Control No.: 3060–0027.

OMB Approval Date: March 17, 2016.

OMB Expiration Date: March 31, 2019.

Title: Application for Construction Permit for Commercial Broadcast *71795 Station, FCC Form 301; FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule A; 47 CFR 73.3700(b)(1) and (2), Post Auction Licensing.

Form No.: FCC Form 2100, Schedule A.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 3,080 respondents and 6,516 responses.

Estimated Time per Response: 1–6.25 hours.

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 15,287 hours.

Annual Cost Burden: $62,775,788.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The collection was submitted to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Incentive Auction Order, FCC 14–50, which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The information gathered in this collection will be used to allow Low Power television stations and TV Translator stations that are displaced as a result of the Federal Communications Commission's Incentive Auction to submit an application for displacement relief during a restricted filing window. Form 2100, Schedule C is also used to apply for authority to construct or make changes to a Low Power Television, TV Translator or TV Booster broadcast station. OMB approved the requirements.

requires channel sharing agreements enter into by television broadcast licensees to contain certain provisions regarding access to facilities, financial obligations and to define each party's rights and responsibilities; the Commission will review each channel sharing agreement to ensure it comports with general rules and policies regarding license agreements. The provisions contained in this collection also require wireless licensees to notify low-power television and TV translator stations commence wireless operations and the likelihood of receiving harmful interference from the low power TV or TV translator station to such operations within the wireless licensee's licensed geographic service area. Finally, it requires license relinquishment stations and channel sharing stations to comply with notification and cancellation procedures as they terminate operations on their pre-Auction channel. OMB approved the requirements.

OMB Control No.: 3060–0386.

OMB Approval Date: March 17, 2016.

OMB Expiration Date: March 31, 2019.

Title: Special Temporary Authorization (STA) Requests; Notifications; and Informal Filings; Sections 1.5, 73.1615, 73.1635, 73.1740 and 73.3598; CDBS Informal Forms; Section 74.788; Low Power Television, TV Translator and Class A Television Digital Transition Notifications; Section 73.3700(b)(5), Post Auction Licensing; Section 73.3700(f), Service Rule Waiver; FCC Form 337.

Form No.: FCC Form 337.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 6,609 respondents and 6,609 responses.

Estimated Time per Response: .50–4.0 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 157 and 309(j) as amended; Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, § 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act); and Sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337 of the Communications Act of 1934, as amended.

Total Annual Burden: 5,475 hours.

Annual Cost Burden: $2,156,510.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The collection was submitted to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Incentive Auction Order, FCC 14–50, which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The information gathered in this collection will be used to allow television broadcast stations to request special temporary authority (STA) to operate, seek an extension of time to complete construction, request a waiver of the Commission's service rules following the Incentive Auction, and make other informal requests and submissions. OMB approved the requirements.

OMB Control No.: 3060–0837.

OMB Approval Date: March 17, 2016.

OMB Expiration Date: March 31, 2019.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule B (Former FCC Form 302–DTV).

Form No.: FCC Form 2100, Schedule B.

Respondents: Business or other for-profit entities; Not for profit institutions.

Number of Respondents and Responses: 955 respondents and 955 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in sections 154(i), 307, 308, 309, and 319 of the Communications Act of 1934, as amended; the Community Broadcasters Protection Act of 1999, Public Law 106–113, 113 Stat. Appendix I at pp. 1501A–594–1501A–598 (1999) (codified at 47 U.S.C. 336(f)); and the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, sections 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act).

Total Annual Burden: 1,910 hours.

Annual Cost Burden: $460,070.00.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The collection was submitted to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Incentive Auction Order, FCC 14–50, which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The information gathered in this collection will be used to allow full-power television broadcast stations to file a license to cover an authorized construction permit once facilities have been constructed. In addition, full-power television broadcast stations that enter into channel sharing agreements following the Commission's Incentive Auction will use FCC Form 2100, Schedule B to file an application for a license for the shared channel sharing, and will allow a full-power station, upon termination of its channel sharing agreement, to file an application to change its license to non-shared status using FCC Form 2100, Schedule B. The requirements were approved by OMB.

OMB Control No.: 3060–0928.

OMB Approval Date: March 17, 2016.

OMB Expiration Date: March 31, 2019.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule F (Formerly FCC 302–CA); 47 CFR 73.3572(h) and 47 CFR 73.3700(b)).

Form No.: FCC Form 2100, Schedule F.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 955 respondents and 955 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Total Annual Burden: 1,910 hours.

Annual Cost Burden: $300,825.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The collection was submitted to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Incentive Auction Order, FCC 14–50, which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The information gathered in this collection will be used by Class A stations seeking a license to cover their authorized construction permit facilities and Class A stations entering into a

channel sharing agreement. These requirements were approved by OMB.

OMB Control No.: 3060–0932.

OMB Approval Date: March 17, 2016.

OMB Expiration Date: March 31, 2019.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule E (Former FCC Form 301–CA); 47 CFR 73.3700(b)(1)(i)–(v) and (vii), (b)(2)(i) and (ii); 47 CFR 74.793(d).

Form No.: FCC Form 2100, Schedule E (Application for Media Bureau Audio and Video Service Authorization) (Former FCC Form 301–CA).

Respondents: Business or other for-profit entities; Not for profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 725 respondents and 725 responses.

Estimated Time per Response: 2.25 hours–6 hours (for a total of 8.25 hours).

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement; Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 157 and 309(j) as amended; Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, sections 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act) and the Community Broadcasters Protection Act of 1999.

Total Annual Burden: 5,981 hours.

Annual Cost Burden: $3,949,550.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The collection was submitted to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Incentive Auction Order, FCC 14–50, which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The information gathered in this collection will be used allow Class A television stations to make changes in their authorized facilities. Specifically, Class A stations assigned to a new channel following the Incentive Auction must file a minor change application on FCC Form 2100, Schedule E following release of the Channel Reassignment Public Notice. Under certain circumstances, licensees of stations reassigned to a new channel within their existing band to propose transmission facilities in their construction permit applications that will extend their coverage contours. In addition, there will be a priority processing window for licensees of reassigned stations, UHF-to-VHF stations, or High-VHF-to-Low-VHF stations that, for reasons beyond their control, are unable to construct facilities that meet the technical parameters specified in the Channel Reassignment Public Notice, or the permissible contour coverage variance from those technical parameters specified in section 73.3700(b)(1)(ii) or (iii). Channel sharee stations file a minor change application for a construction permit for the channel on which the channel sharer operates at least sixty (60) days prior to the date by which it must terminate operations on its pre-auction channel and must include a copy of the channel sharing agreement. In addition, subject to limitations set out in the rules, a Class A licensee of a reassigned station, a UHF-to-VHF station, or a High-VHF-to-Low-VHF station may file a minor change application for a construction permit on FCC Form 2100 Schedule E during a filing window to be announced by the Media Bureau by public notice, in order to request a change in the technical parameters specified in the Channel Reassignment Public Notice with respect to height above average terrain (HAAT), effective radiated power (ERP), or transmitter location that would be considered a minor change under sections 73.3572(a)(1), (2) or 74.787(b). FCC Form 2100, Schedule E was modified to accommodate new channel sharing provisions. OMB approved the requirements.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2016–06814 Filed 3–25–16; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

Threatened and Endangered Marine and Anadromous Species

CFR Correction

In Title 50 of the Code of Federal Regulations, Parts 200 to 227, revised as of October 1, 2015, on page 305, in § 223.102(e), revise the table entries for ''Sea turtle, loggerhead (Northwest Atlantic Ocean DPS)'', ''Sea turtle, loggerhead (South Atlantic Ocean DPS)'', ''Sea turtle, loggerhead (Southeast Indo-Pacific Ocean DPS)'', and ''Sea turtle, loggerhead (Southwest Indian Ocean DPS)'' to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(e) * * *

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	* *	*	*	*
Sea Turtles [2]					
*	*	* *	*	*	*
Sea turtle, loggerhead (Northwest Atlantic Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the Northwest Atlantic Ocean north of the equator, south of 60° N. Lat., and west of 40° W. Long.	76 FR 58868, Sep 22, 2011.	17.95(c), 226.223.	223.205, 223.206, 223.207.
Sea turtle, loggerhead (South Atlantic Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the South Atlantic Ocean south of the equator, north of 60° S. Lat., west of 20° E. Long., and east of 67° W. Long.	76 FR 58868, Sep 22, 2011.	NA	223.205, 223.206, 223.207.

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Sea turtle, loggerhead (Southeast Indo-Pacific Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the Southeast Indian Ocean south of the equator, north of 60° S. Lat., and east of 80° E. Long.; South Pacific Ocean south of the equator, north of 60° S. Lat., and west of 141° E. Long.	76 FR 58868, Sep 22, 2011.	NA	223.205, 223.206, 223.207.
Sea turtle, loggerhead (Southwest Indian Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the Southwest Indian Ocean south of the equator, north of 60° S. Lat., east of 20° E. Long., and west of 80° E. Long.	76 FR 58868, Sep 22, 2011.	NA	223.205, 223.206, 223.207.
*	*	*	*	*	*	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).
[2] Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

* * * * *

On page 374, in § 224.101(h), revise the table entries for ''Sea turtle, loggerhead (Mediterranean Sea DPS)'', ''Sea turtle loggerhead (North Indian Ocean DPS)'', ''Sea turtle, loggerhead (North Pacific Ocean DPS)'', ''Sea turtle, loggerhead (Northeast Atlantic Ocean DPS)'', and ''Sea turtle, loggerhead (South Pacific Ocean DPS)'' to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(h) * * *

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA Rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*	*
Sea Turtles [2]					
Sea turtle, loggerhead (Mediterranean Sea DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the Mediterranean Sea east of 5°36′ W. Long.	76 FR 58868, Sep 22, 2011.	NA	224.104
Sea turtle, loggerhead (North Indian Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the North Indian Ocean north of the equator and south of 30° N. Lat.	76 FR 58868, Sep 22, 2011.	NA	224.104
Sea turtle, loggerhead (North Pacific Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the North Pacific north of the equator and south of 60° N. Lat.	76 FR 58868, Sep 22, 2011.	NA	224.104
Sea turtle, loggerhead (Northeast Atlantic Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the Northeast Atlantic Ocean north of the equator, south of 60° N. Lat., and east of 40° W. Long., except in the vicinity of the Strait of Gibraltar where the eastern boundary is 5°36′ W. Long.	76 FR 58868, Sep 22, 2011.	NA	224.104
Sea turtle, loggerhead (South Pacific Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the South Pacific south of the equator, north of 60° S. Lat., west of 67° W. Long., and east of 141° E. Long.	76 FR 58868, Sep 22, 2011.	NA	224.104
*	*	*	*	*	*	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).
[2] Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

* * * * *

[FR Doc. 2016–07044 Filed 3–25–16; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281–0369–02]

RIN 0648–XE533

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2016 Commercial Accountability Measure and Closure for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) to close the hook-and-line component of the commercial sector for king mackerel in the Florida west coast southern subzone. This closure is necessary to protect the Gulf of Mexico (Gulf) king mackerel resource.

DATES: This rule is effective 12:01 a.m., local time, March 27, 2016, through June 30, 2016.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *susan.gerhart@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The Gulf migratory group king mackerel is divided into western and eastern zones. The Gulf's eastern zone for king mackerel is further divided into the Florida west coast northern and southern subzones that have separate commercial quotas. The 2015 to 2016 fishing year quota for the hook-and-line component of the commercial sector in the Florida west coast southern subzone is 551,448 lb (250,133 kg) (50 CFR 622.384(b)(1)(i)(B)(*1*)).

From November 1 through March 31, the southern subzone encompasses an area of the exclusive economic zone (EEZ) south of a line extending due west from the Lee and Collier County, Florida, boundary on the Florida west coast, and south of a line extending due east from the Monroe and Miami-Dade County, Florida, boundary on the Florida east coast, which includes the EEZ off Collier and Monroe Counties, Florida. From April 1 through October 31, the southern subzone is reduced to the EEZ off Collier County, and the EEZ off Monroe County becomes part of the Atlantic migratory group area.

Under 50 CFR 622.8(b) and 622.388(a)(1), NMFS is required to close any component of the king mackerel commercial sector when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the Federal Register. NMFS has determined the commercial quota for the hook-and-line component of the commercial sector for Gulf migratory group king mackerel in the southern Florida west coast subzone will be reached by March 27, 2016. Accordingly, the hook-and-line component of the commercial sector for Gulf migratory group king mackerel in the Florida west coast southern subzone is closed effective 12:01 a.m., local time, March 27, 2016, through the end of the fishing year on June 30, 2016.

On March 11, 2016, NMFS also closed the Florida west coast southern subzone to commercial harvest of king mackerel caught by run around gillnet gear, because the quota for that sector was reached (81 FR 12826, March 11, 2016). Therefore, during the closures no person aboard a vessel for which a valid commercial permit for king mackerel has been issued may harvest or possess Gulf migratory group king mackerel in or from Federal waters of the closed subzone, as specified in 50 CFR 622.384(e). However, there is one exception. A person aboard a vessel that has a valid Federal charter vessel/headboat permit and also has a commercial king mackerel permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed subzone under the 2-fish daily recreational bag limit, provided the vessel is operating as a charter vessel or headboat. Charter vessels or headboats that have a valid commercial king mackerel permit are considered to be operating as a charter vessel or headboat when they carry a passenger who pays a fee or when more than three persons are aboard, including operator and crew.

Classification

The Regional Administrator, NMFS Southeast Region, has determined this temporary rule is necessary for the conservation and management of Gulf migratory group king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(b) and 622.388(a)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA), finds that the need to immediately implement this action constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such prior notice and opportunity for public comment on this temporary rule are unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations at 50 CFR 622.8(b) and 622.388(a)(1) have already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest, because there is a need to immediately implement this action to protect the king mackerel resource since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment on this action would require time and would potentially result in a harvest well in excess of the established commercial quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness of the action under 5 U.S.C. 553(d)(3).

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

Dated: March 23, 2016.

Emily H. Menashes,

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

[FR Doc. 2016–06942 Filed 3–23–16; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 141107936–5399–02]

RIN 0648–XE526

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2016 Commercial Accountability Measure and Closure for South Atlantic Gray Triggerfish; January Through June Season

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures for commercial gray triggerfish in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects commercial landings for gray triggerfish will reach the commercial annual catch limit (ACL) for the January through June period by April 2, 2016. Therefore, NMFS is closing the commercial sector for gray triggerfish in the South Atlantic EEZ on April 2, 2016. This closure is necessary to protect the gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time, April 2, 2016, until July 1, 2016.

FOR FURTHER INFORMATION CONTACT: Britni LaVine, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *britni.lavine@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes gray triggerfish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The final rule implementing FMP Amendment 29 divided the commercial ACL (equal to the commercial quota) for gray triggerfish in the South Atlantic into two 6-month fishing seasons and allocated 50 percent, 156,162 lb (70,834 kg), round weight, of the total commercial ACL of 312,324 lb (141,668 kg), round weight, to each fishing season, January through June, and July through December (80 FR 30947, June 1, 2015), as specified in 50 CFR 622.190(a)(8)(i) and (ii).

Under 50 CFR 622.193(q)(1)(i), NMFS is required to close the commercial sector for gray triggerfish when either commercial quota specified in § 622.190(a)(8)(i) or (ii) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial quota for South Atlantic gray triggerfish for the January through June fishing season will be reached by April 2, 2016. Accordingly, the commercial sector for South Atlantic gray triggerfish is closed effective at 12:01 a.m., local time, April 2, 2016, until the start of the July through December fishing season on July 1, 2016.

The operator of a vessel with a valid Federal commercial vessel permit for South Atlantic snapper-grouper having gray triggerfish on board must have landed and bartered, traded, or sold such gray triggerfish prior to 12:01 a.m., local time, April 2, 2016. During the closure, the bag limit specified in 50 CFR 622.187(b)(8), and the possession limits specified in 50 CFR 622.187(c), apply to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. Also, during the closure, the sale or purchase of gray triggerfish taken from the South Atlantic EEZ is prohibited. The prohibition on the sale or purchase does not apply to gray triggerfish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, April 2, 2016, and were held in cold storage by a dealer or processor.

For a person on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the bag and possession limits and sale and purchase provisions of the commercial closure for gray triggerfish apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

The Regional Administrator, NMFS Southeast Region, has determined this temporary rule is necessary for the conservation and management of gray triggerfish and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(q)(1)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA), finds that the need to immediately implement this action to close the commercial sector for gray triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing FMP Amendment 29, which established the split commercial season for gray triggerfish, and the rule that established the closure provisions have already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect gray triggerfish since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: March 23, 2016.

Emily H. Menashes,

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

[FR Doc. 2016–06957 Filed 3–23–16; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 140904754–5188–02]

RIN 0648–BF92

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Biennial Specifications and Management Measures; Inseason Adjustments

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

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces an inseason change to management measures in the Pacific Coast groundfish fishery. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (PCFMP) and the Northern Pacific Halibut Act, implements changes to the incidental retention allowance for halibut in the limited entry fixed gear sablefish primary fishery.

DATES: Effective 1200 hours (local time) March 25, 2016.

FOR FURTHER INFORMATION CONTACT: Sarah Williams (West Coast Region, NMFS), phone: 206–526–4646, *sarah.williams@noaa.gov*

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the Internet at the Office of the Federal Register Web site at *http://www.gpo.gov/fdsys/search/home.action.* Background information and documents are available at the Pacific Fishery Management Council's Web site at *http://www.pcouncil.org/.*

Background

The PCGFMP and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. Groundfish specifications and management measures are developed by the Pacific Fishery Management Council (Council), and are implemented by NMFS.

The International Pacific Halibut Commission (IPHC) establishes total allowable catch (TAC) amounts for Pacific halibut each year in January. Under the authority of the Northern Pacific Halibut Act, and implementing regulations at 50 CFR 300.63, a Catch Sharing Plan for IPHC Area 2A (waters off the U.S. West Coast), developed by the Council and implemented by the Secretary, allocates portions of the annual TAC among fisheries off Washington, Oregon, and California.

Pacific halibut is generally a prohibited species for vessels fishing in Pacific coast groundfish fisheries, unless explicitly allowed in groundfish regulations and authorized by the Pacific halibut Catch Sharing Plan.

In years where the Pacific halibut TAC is above 900,000 lb (408.2 mt), the Catch Sharing Plan allows the limited entry fixed gear sablefish primary fishery an incidental total catch allowance for Pacific halibut north of Pt. Chehalis, WA (46°53.30′ N. lat.). The 2016 Pacific halibut Area 2A TAC is 1,140,000 lb (517.1 mt). Consistent with the provisions of the Catch Sharing Plan, the limited entry fixed gear sablefish primary fishery is allowed an incidental total catch limit of 49,686 lb (22.54 mt) for 2016.

At its March 2016 meeting, the Council considered the new 2016 total allowable catch (TAC) for Pacific halibut in Area 2A (waters off the U.S. West coast), and the total catch of Pacific halibut in the limited entry fixed gear sablefish primary fishery in recent years. Because the 2016 allocation of halibut to the sablefish primary fishery is similar to landings in 2007 and 2008, the Council recommended a landing restriction similar to the one approved in those years of 110 lbs of halibut for every 1,000 lbs of sablefish and up to two additional halibut in excess of the ratio. NMFS notes that, given the increased allocation in 2016, liberalizing the incidental catch restrictions is anticipated to allow total catch of Pacific halibut to approach, but not exceed, the 2016 allocation for the sablefish primary fishery.

In order to allow incidental halibut catch in the sablefish primary fishery to begin on April 1, the Council recommended and NMFS is implementing incidental halibut retention regulations at 50 CFR 660.231(b)(3)(iv) to allow the catch ratio of ''110 lb (50 kg) dressed weight of halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional halibut in excess of the 110-pounds-per-1,000-pound ratio per landing'' to be in effect ''From April 1 through October 31.''

The retention limits for halibut were not revised as part of the 2015–2016 harvest specifications and management measures because the Pacific halibut TAC is developed each year based on the most current scientific information, and the TAC for 2016 was not determined until the IPHC meeting in January, 2016.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best available information, consistent with the PCGFMP and its implementing regulations. The adjustment to the halibut incidental catch restrictions in the limited entry fixed gear sablefish primary fishery is taken under the authority of the Magnuson Stevens Act, based on actions taken under the Northern Pacific Halibut Act and implementing regulations, and is consistent with the approved Catch Sharing Plan.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, West Coast Region, NMFS, during business hours.

For the following reasons, NMFS finds good cause to waive prior public notice and comment on the revisions to groundfish management measures under 5 U.S.C. 553(b) because notice and comment would be impracticable and contrary to the public interest. Also, for the same reasons, NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective March 25, 2016.

As described above, this inseason action is based on information that became available very recently. The changes to the incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, WA (46°53.30′ N. lat.), and the subsequent proposed management measure changes are based in part on decisions made by the IPHC at its January 2016 meeting. At that meeting, the IPHC determined the 2016 halibut TAC based on the most current scientific information regarding the status of the halibut stock. Based on this action, the Council made its final recommendations at its March 9–14, 2016 meeting. The Council considered the public comments on this matter and recommended that these changes be implemented by April 1, 2016. There was not sufficient time after that meeting to complete notice and comment rulemaking before these changes need to be in effect. For the actions to be implemented in this final rule, affording the time necessary for prior notice and opportunity for public comment would prevent NMFS from managing fisheries using the best available science to approach, without exceeding, allocations in accordance with the PCGFMP, the Northern Pacific Halibut Act, and other applicable laws. The adjustments to management measures in this document affect commercial fisheries off Washington State. These adjustments to management measures must be implemented in a timely manner, by April 1, 2016 or as quickly as possible thereafter, to allow incidental catch of halibut in the sablefish primary fishery, reducing regulatory discards, while keeping total catch below the 2016 halibut Area 2A allocation.

No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established for 2015–2016.

Accordingly, for the reasons stated above, NMFS finds good cause to waive prior notice and comment and to waive the delay in effectiveness.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: March 23, 3016.

Emily H. Menashes,

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

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.231, revise paragraph (b)(3)(iv) to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(3) * * *

(iv) *Incidental halibut retention north of Pt. Chehalis, WA (46°53.30′ N. lat.*). From April 1 through October 31, vessels authorized to participate in the sablefish primary fishery, licensed by the International Pacific Halibut Commission for commercial fishing in Area 2A (waters off Washington, Oregon, California), and fishing with longline gear north of Pt. Chehalis, WA (46°53.30′ N. lat.) may possess and land up to the following cumulative limits: 110 lb (50 kg) dressed weight of halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional halibut in excess of the 110-pounds-per-1,000-pound ratio per landing. ''Dressed'' halibut in this area means halibut landed eviscerated with their heads on. Halibut taken and retained in the sablefish primary fishery north of Pt. Chehalis may only be landed north of Pt. Chehalis and may not be possessed or landed south of Pt. Chehalis

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[FR Doc. 2016–06908 Filed 3–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 150818742–6210–02]

RIN 0648–XE528

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2016 Gulf of Alaska Pollock Seasonal Apportionments

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS is adjusting the 2016 seasonal apportionments of the total allowable catch (TAC) for pollock in the Gulf of Alaska (GOA) by re-apportioning unharvested pollock TAC in Statistical Areas 610, 620, and 630 of the GOA. This action is necessary to provide opportunity for harvest of the 2016 pollock TAC, consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 23, 2016, until 2400 hours A.l.t., December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The annual pollock TACs in Statistical Areas 610, 620, and 630 of the GOA are apportioned among four seasons, in accordance with § 679.23(d)(2). Regulations at § 679.20(a)(5)(iv)(B) allow the underharvest of a seasonal apportionment to be added to subsequent seasonal apportionments, provided that any revised seasonal apportionment does not exceed 20 percent of the seasonal apportionment for a given statistical area. Therefore, NMFS is increasing the B season apportionment of pollock in Statistical Areas 610, 620, and 630 of the GOA to reflect the underharvest of pollock in those areas during the A season. In addition, any underharvest remaining beyond 20 percent of the originally specified seasonal apportionment in a particular area may be further apportioned to other statistical areas. Therefore, NMFS also is increasing the B season apportionment of pollock to Statistical Areas 610 and 630 based on the underharvest of pollock in Statistical Areas 620 of the GOA. These adjustments are described below.

The B seasonal apportionment of the 2016 pollock TAC in Statistical Area 610 of the GOA is 3,826 metric tons (mt) as established by the final 2016 and 2017 harvest specifications for groundfish of the GOA (81 FR 14740, March 18, 2016). In accordance with § 679.20(a)(5)(iv)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), hereby increases the B season apportionment for Statistical Area 610 by 765 mt to account for the underharvest of the TAC in Statistical Areas 610 and 620 in the A season. This increase is in proportion to the estimated pollock biomass and is not greater than 20 percent of the B seasonal apportionment of the TAC in Statistical Area 610. Therefore, the revised B seasonal apportionment of the pollock TAC in Statistical Area 610 is 4,591 mt (3,826 mt plus 765 mt).

The B seasonal apportionment of the pollock TAC in Statistical Area 620 of the GOA is 50,747 mt as established by the final 2016 and 2017 harvest specifications for groundfish of the GOA (81 FR 14740, March 18, 2016). In accordance with § 679.20(a)(5)(iv)(B), the Regional Administrator hereby increases the B seasonal apportionment for Statistical Area 620 by 10,149 mt to account for the underharvest of the TAC in Statistical Areas 620 in the A season. This increase is not greater than 20 percent of the B seasonal apportionment of the TAC in Statistical Area 620. Therefore, the revised B seasonal apportionment of the pollock TAC in Statistical Area 620 is 60,896 mt (50,747 mt plus 10,149 mt).

The B seasonal apportionment of pollock TAC in Statistical Area 630 of the GOA is 5,083 mt as established by the final 2016 and 2017 harvest specifications for groundfish of the GOA (81 FR 14740, March 18, 2016). In accordance with § 679.20(a)(5)(iv)(B), the Regional Administrator hereby increases the B seasonal apportionment for Statistical Area 630 by 1,016 mt to account for the underharvest of the TAC in Statistical Areas 620 and 630 in the A season. This increase is in proportion to the estimated pollock biomass and is not greater than 20 percent of the B

seasonal apportionment of the TAC in Statistical Area 630. Therefore, the revised B seasonal apportionment of pollock TAC in Statistical Area 630 is 6,099 mt (5,083 mt plus 1,016 mt).

Classification

This action responds to the best available information recently obtained from the fishery. 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 requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would provide opportunity to harvest increased pollock seasonal apportionments. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 18, 2016.

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.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 23, 2016.

Emily H. Menashes,

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

[FR Doc. 2016–06916 Filed 3–23–16; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1068; Directorate Identifier 2010–NM–189–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM proposed to require installing an automatic shutoff system for the center and auxiliary tank fuel boost pumps, as applicable; installing a placard in the airplane flight deck if necessary; replacing the P5–2 fuel system module assembly; installing the ''uncommanded ON'' (UCO) protection system for the fuel boost pumps; revising the airplane flight manual to advise the flightcrew of certain operating restrictions for airplanes equipped with an automatic shutoff system; and revising the maintenance program by incorporating new airworthiness limitations for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 requirements. The NPRM was prompted by fuel system reviews conducted by the manufacturer. This action revises the NPRM by proposing to require updated or additional actions that are necessary for certain airplane configurations. We are proposing this supplemental NPRM (SNPRM) to prevent operation of the center and auxiliary tank fuel boost pumps with continuous low pressure, which could lead to friction sparks or overheating in the fuel pump inlet that could create a potential ignition source inside the center and auxiliary fuel tanks. These conditions, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this SNPRM by May 12, 2016.

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

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

For Boeing service information identified in this SNPRM, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone: 206–544–5000, extension 1; fax: 206–766–5680; Internet *https://www.myboeingfleet.com.*

For BAE Systems service information identified in this SNPRM, contact BAE Systems, Attention: Commercial Product Support, 600 Main Street, Room S18C, Johnson City, NY 13790–1806; phone: 607–770–3084; fax: 607–770–3015; email: *CS-Customer.Service@baesystems.com;* Internet: *http://www.baesystems-ps.com/customersupport.*

You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. The referenced Boeing service bulletins are also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2011–1068.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2011–1068; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Christopher Baker, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6498; fax: 425–917–6590; email: *Christopher.R.Baker@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–1068; Directorate Identifier 2010–NM–189–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We issued an NPRM to amend 14 CFR part 39 by adding an AD that would apply to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on October 12, 2011 (76 FR 63229) (''the NPRM''). The NPRM proposed to require installing an automatic shutoff system for the center and auxiliary tank fuel boost pumps, as

applicable; installing a placard in the airplane flight deck if necessary; replacing the P5–2 fuel system module assembly; installing the UCO protection system for the center and auxiliary tank fuel boost pumps, as applicable; revising the airplane flight manual to advise the flightcrew of certain operating restrictions for airplanes equipped with an automatic shutoff system; and revising the maintenance program by incorporating new airworthiness limitations for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 requirements.

Actions Since the NPRM Was Issued

Since we issued the NPRM, we learned of certain inadequacies in the referenced service information. Boeing has since developed, and we have approved, revised service information. We have determined it is necessary to mandate the revised service information, which includes additional actions necessary for airplanes in certain configurations.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–28A1210, dated August 2, 2010; Revision 1, dated May 13, 2011; and Revision 2, dated October 25, 2012. The service information describes procedures for replacing the P5-2 fuel system module assembly for Model 737–100, –200, –200C, –300, –400, and –500 airplanes.

We reviewed Boeing Alert Service Bulletin 737–28A1216, dated July 29, 2010; Revision 1, dated March 26, 2012; Revision 2, dated November 12, 2012; and Revision 3, dated July 16, 2014. The service information describes procedures for installing an automatic shutoff system for the center and auxiliary fuel tank boost pumps for Model 737–300, –400, and –500 airplanes.

We reviewed Boeing Alert Service Bulletin 737–28A1227, dated August 2, 2010; Revision 1, dated July 18, 2011; and Revision 2, dated September 23, 2014. The service information describes procedures for installing a UCO protection system for the center and auxiliary fuel boost pumps for Model 737–100, –200, –200C, –300, –400, and –500 airplanes.

We reviewed Boeing Alert Service Bulletin 737–28A1228, dated August 2, 2010; and Revision 1, dated June 28, 2012. The service information describes procedures for installing an automatic shutoff system for the center and auxiliary fuel tank boost pumps for Model 737–100, –200, and –200C airplanes.

We also reviewed Section C, ''Fuel Systems Airworthiness Limitations,'' of Section 9 of the Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014, contains AWLs 28–AWL–21, 28–AWL–22, 28–AWL–24, and 28–AWL–25 for Model 737–100, –200, and –200C airplanes, and AWLs 28–AWL–20, 28–AWL–21, 28–AWL–23, and 28–AWL–24 for Model 737–300, –400, and –500 airplanes, which are airworthiness limitation instructions for an operational check of the installed automatic shutoff system.

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

Comments

We gave the public the opportunity to comment on the NPRM. The following presents the comments received on the NPRM and the FAA's response to each comment. The Air Line Pilots Association, International, submitted its support for the NPRM.

Request To Match Compliance Times

Japan Transocean Air requested that we revise paragraphs (g) and (h) of the proposed AD to extend the compliance time from 36 months to 60 months to match the compliance time specified in paragraph (m) of the proposed AD (in the NPRM). The commenter noted that the service information specified in paragraph (m) of the proposed AD (in the NPRM) recommends the concurrent accomplishment of the actions specified in paragraph (g)(3) of the proposed AD. The commenter asserted that requiring the same compliance time (60 months) for paragraphs (g), (h), and (m) of the proposed AD (in the NPRM) would prevent complications associated with different configurations.

We disagree that it is necessary to revise the compliance time as requested. We infer that the commenter has assumed that all of those actions must be done at the same maintenance visit. As the commenter stated, the ''concurrent'' actions (in paragraph (g)(3) of this proposed AD) are to be done ''before or at the same time as'' the actions required by paragraph (m) of this proposed AD. We have determined that the compliance time for the actions specified in paragraphs (g) and (h) of this proposed AD is necessary to ensure an adequate level of safety. We have further determined that doing the actions required by paragraph (m) of this proposed AD later than the actions specified in paragraphs (g)(3) of this proposed AD would not affect safety, and would not affect the airplane configuration in a way that would complicate accomplishment of the proposed AD requirements for the fleet. In light of the identified unsafe condition, the proposed requirements, and the manufacturer's recommendations, we have determined that no change to this proposed AD is warranted regarding this issue.

Request To Require Two Placards

Japan Transocean Air requested that we revise paragraph (i) of the proposed AD (in the NPRM) to require the installation of two placards, instead of one, adjacent to the primary flight displays. The commenter stated that both pilots operate the fuel pumps, and placards are therefore necessary for both pilots' primary flight displays.

We partially agree with the request. The intent of this SNPRM is to ensure that the placard is visible to both pilots. Although we have determined that two placards are not necessary to achieve that goal, operators may choose to install an additional placard or use a different location, if approved by an appropriate FAA principal operations inspector. We have revised paragraph (i) of this proposed AD to specify these options.

Request To Correct Service Information Specifications

Boeing requested certain corrections to the referenced service information. Since that comment was submitted, Boeing has included these corrections in the revised service information that is referenced in this SNPRM. Therefore, no additional change to this SNPRM is necessary.

FAA's Determination

We are proposing this SNPRM because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. Certain changes described above expand the scope of the NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Proposed Requirements of This SNPRM

This SNPRM would require accomplishing the actions specified in the service information described previously, except as discussed under

''Differences Between this AD and the Service Information.''

Differences Between This Proposed AD and the Service Information

Where service information referenced in this proposed AD specifies that certain operators may contact the manufacturer for modification instructions, this proposed AD would require those operators to do the modification in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Boeing Alert Service Bulletin 737–28A1216, Revision 3, dated July 16, 2014, specifies a 24-month compliance time to accomplish the actions specified in that service information. However, paragraph (g) of this proposed AD would require accomplishing the actions specified in that service information within 36 months. We have determined this compliance time will provide an acceptable level of safety. We have coordinated this difference with Boeing.

Costs of Compliance

We estimate that this proposed AD will affect 499 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Install auto shutoff protection for Model 737–100, –200, –200C airplanes (82 airplanes).	Between 92 and 155 work-hours × $85 per hours = Between $7,820 and $13,175 [1].	Between $10,792 and $15,548 [1].	Between $18,612 and $28,723 [1].	Between $1,526,184 and $2,355,286.[1]
Install auto shutoff protection for Model 737–300, –400, and –500 airplanes (417 airplanes).	Between 92 and 152 work-hours × $85 per hours = Between $7,820 and $12,920 [1].	Between $9,869 and $16,236 [1].	Between $17,689 and $29,156 [1].	Between $7,376,313 and $12,158,052.[1]
Install P5–2 module	1 work-hour × $85 per hour = $85.	$0	$85	$42,415.
Install UCO protection (499 airplanes).	Between 38 and 67 work-hours × $85 per hours = Between $3,230 and $5,695[1].	Between $3,742 and $4,861 [1].	Between $6,972 and $10,556 [1].	Between $3,479,028 and $5,267,444.[1]
Revise aircraft flight manual	1 work-hour × $85 per hour = $85.	$0	$85	$42,415.
Revise Maintenance Program	1 work-hour × $85 per hour = $85.	$0	$85	$42,415.

[1] Depending on group.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2011–1068; Directorate Identifier 2010–NM–189–AD.

(a) Comments Due Date

We must receive comments by May 12, 2016.

(b) Affected ADs

Certain requirements of this AD terminate certain requirements of AD 2001–08–24, Amendment 39–12201 (66 FR 20733, April 25, 2001).

(c) Applicability

This AD affects all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes; certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent operation of the center and auxiliary tank fuel boost pumps with continuous low pressure, which could lead to friction sparks or overheating in the fuel pump inlet that could create a potential ignition source inside the center and auxiliary fuel tanks. These conditions, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Installation of Automatic Shutoff System for the Center and Auxiliary Tank Fuel Boost Pumps

Within 36 months after the effective date of this AD, do the applicable actions specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD. If a placard has been previously installed on an airplane, in accordance with the requirements of paragraph (i) of this AD, the placard may be removed from the flight deck of only that airplane after the automatic shutoff system has been installed, as specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD, as applicable.

(1) For Model 737–100, –200, and –200C series airplanes, in Groups 2 through 19, as identified in Boeing Alert Service Bulletin 737–28A1228, Revision 1, dated June 28, 2012: Install the automatic shutoff system for the center and auxiliary fuel tank boost pumps, as applicable, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1228, Revision 1, dated June 28, 2012. For airplanes that do not have airstairs, accomplishment of the actions specified in Boeing Alert Service Bulletin 737–28A1228, dated August 2, 2010, is acceptable for compliance with the requirements of this paragraph, provided markers are installed on the J2802 Box for ''POS 1'' and ''POS 2'' within 90 days after the effective date of this AD, in accordance with Boeing Alert Service Bulletin 737–28A1228, Revision 1, dated June 28, 2012.

(2) For Model 737–100, –200, and –200C series airplanes in Group 1, as identified in Boeing Alert Service Bulletin 737–28A1228, Revision 1, dated June 28, 2012: Install the automatic shutoff system for the center and auxiliary fuel tank boost pumps, as applicable, using a method approved in accordance with the procedures specified in paragraph (r) of this AD.

(3) For Model 737–300, –400, and –500 series airplanes in Groups 1 through 31, as identified in Boeing Alert Service Bulletin 737–28A1216, Revision 3, dated July 16, 2014: Install the automatic shutoff system for the center and auxiliary fuel tank boost pumps, as applicable, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1216, Revision 3, dated July 16, 2014. For airplanes that do not have airstairs: Accomplishment of the actions specified in Boeing Service Bulletin 737–28A1216, dated July 29, 2010, is acceptable for compliance with the requirements of this paragraph, provided markers are installed on the J2802 Box for ''POS 1'' and ''POS 2'' within 90 days after the effective date of this AD, in accordance with Boeing Alert Service Bulletin 737–28A1216, Revision 1, dated March 26, 2012; or Boeing Alert Service Bulletin 737–28A1216, Revision 2, dated November 12, 2012.

(h) Concurrent Installation of P5–2 Fuel System Module Assembly

Before or concurrently with accomplishment of the actions required by paragraph (g) of this AD, do the actions specified in paragraph (h)(1) or (h)(2) of this AD, as applicable. Accomplishment of the actions specified in Boeing Alert Service Bulletin 737–28A1210, dated August 2, 2010, or Boeing Service Bulletin 737–28A1210, Revision 1, dated May 13, 2011, is acceptable for compliance with the requirements of paragraph (h)(1) of this AD, provided that for any original P5–2 Fuel System Module P/N 69–37335–129 installed that has been reworked as specified in BAE Systems Service Bulletin 69–37335–28–04, Revision 2, dated February 10, 2010, the P/N marking is etched/scribed or labeled as P/N 69–37335–2129, within 90 days after the effective date of this AD.

(1) For airplanes in Group 2, as identified in Boeing Service Bulletin 737–28A1210, Revision 2, dated October 25, 2012: Replace the P5–2 fuel system module assembly with a modified or new P5–2 fuel system module assembly having a new part number, in accordance with Boeing Service Bulletin 737–28A1210, Revision 2, dated October 25, 2012.

Note 1 to paragraph (h)(1) of this AD: Boeing Service Bulletin 737–28A1210, Revision 2, dated October 25, 2012, refers to BAE Systems Service Bulletin 69–37335–28–04 as an additional source of guidance for modifying and updating the existing P5–2 fuel system module assembly part numbers.

(2) For airplanes in Group 1, as identified in Boeing Service Bulletin 737–28A1210, Revision 2, dated October 25, 2012, replace the P5–2 fuel system module assembly, as applicable, using a method approved in accordance with the procedures specified in paragraph (r) of this AD.

(i) Concurrent Installation of a Placard for Mixed Fleet Operation

Concurrently with accomplishment of the actions required by paragraph (g) of this AD, install a placard adjacent to the pilot's primary flight display on all airplanes in the operator's fleet not equipped with an automatic shutoff system for the center and auxiliary tank fuel boost pumps, as applicable. The placard must include the statement in figure 1 to paragraph (i) of this AD. Optionally, the placard may include alternative text or be installed in a different location, or an additional placard may be installed, if approved by an appropriate FAA principal operations inspector. Installing an automatic shutoff system on an airplane, in accordance with the requirements of paragraph (g) of this AD, terminates the placard installation required by this paragraph for only that airplane.

Figure 1 to paragraph (i) of this AD

AD 2001-08-24 fuel usage restrictions required.

(j) Airplane Flight Manual (AFM) Revisions for Airplanes Without Boeing Auxiliary Fuel Tanks

For airplanes without Boeing auxiliary fuel tanks: Concurrently with accomplishment of the actions required by paragraph (g) of this AD, do the actions specified in paragraphs (j)(1) and (j)(2) of this AD.

(1) Revise Section 1 of the Limitations section of the applicable Boeing 737 AFM to include the statement in figure 2 to paragraph (j)(1) of this AD. This may be done by inserting a copy of this AD into the AFM. When a statement identical to that in figure 2 to paragraph (j)(1) of this AD has been included in the general revisions of the applicable Boeing 737 AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Figure 2 to paragraph (j)(1) of this AD

CENTER TANK FUEL PUMPS

Intentional dry running of a center tank fuel pump (low pressure light illuminated) is prohibited.

(2) Revise Section 3 of the Normal Procedures section of the applicable Boeing 737 AFM to include to include the text specified in figure 3 to paragraph (j)(2) of this AD. This may be done by inserting a copy of this AD into the AFM. Alternative statements that meet the intent of the following requirements may be used if approved by an appropriate FAA principal operations inspector.

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Figure 3 to paragraph (j)(2) of this AD

NORMAL FUEL USAGE

Center tank fuel pumps must not be "ON" unless personnel are available in the flight deck to monitor low pressure lights.

For ground operation, center tank fuel pump switches must not be positioned "ON" unless the center tank fuel quantity exceeds 1,000 pounds (453 kilograms), except when defueling or transferring fuel. Upon positioning the center tank fuel pump switches "ON," verify momentary illumination of each center tank fuel pump low pressure light.

For ground and flight operations, the corresponding center tank fuel pump switch must be positioned "OFF" when a center tank fuel pump low pressure light illuminates [1]. Both center tank fuel pump switches must be positioned "OFF" when the first center tank fuel pump low pressure light illuminates if the center tank is empty.

[1] When established in a level flight attitude, both center tank pump switches should be positioned "ON" again if the center tank contains usable fuel.

DEFUELING AND FUEL TRANSFER

When transferring fuel or defueling center or main tanks, the fuel pump low pressure lights must be monitored and the fuel pumps positioned to "OFF" at the first indication of the fuel pump low pressure [1].

Defueling the main tanks with passengers on board is prohibited if the main tank fuel pumps are powered [2].

Defueling the center tank with passengers on board is prohibited if the center tank fuel pumps are powered and the auto-shutoff system is inhibited [2].

[1] Prior to transferring fuel or defueling, conduct a lamp test of the respective fuel pump low pressure lights.

[2] Fuel may be transferred from tank to tank or the aircraft may be defueled with passengers on board, provided fuel quantity in the tank from which fuel is being taken is maintained at or above 2,000 pounds (907 kilograms).

(k) AFM Revisions for Airplanes With Boeing Auxiliary Fuel Tanks

For airplanes with Boeing auxiliary fuel tanks: Concurrently with accomplishment of the actions required by paragraph (g) of this AD, do the actions specified in paragraphs (k)(1) and (k)(2) of this AD.

(1) Revise Section 1 of the Limitations section of the applicable Boeing 737 AFM to include the text specified in figure 4 to paragraph (k)(1) of this AD. This may be done by inserting a copy of this AD into the AFM. When a statement identical to that in figure 4 to paragraph (k)(1) of this AD has been included in the general revisions of the applicable Boeing 737 AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Figure 4 to paragraph (k)(1) of this AD

CENTER WING (AND BOEING AUXILIARY) TANK FUEL PUMPS
Intentional dry running of a center wing or auxiliary tank fuel pump (low pressure light illuminated) is prohibited.

(2) Revise Section 3 of the Normal Procedures section of the applicable Boeing 737 AFM to include the text specified in figure 5 to paragraph (k)(2) of this AD. This may be done by inserting a copy of this AD into the AFM. Alternative statements that meet the intent of the following requirements may be used if approved by an appropriate FAA principal operations inspector.

Figure 5 to paragraph (k)(2) of this AD

CENTER WING (AND BOEING AUXILIARY) TANK FUEL PUMPS

Center wing or auxiliary tank fuel pumps must not be "ON" unless personnel are available in the flight deck to monitor low pressure lights.

For ground operation, center wing (or auxiliary) tank fuel pump switches must not be positioned "ON" unless the center wing (or auxiliary) tank fuel quantity exceeds 1,000 pounds (453 kilograms), except when defueling or transferring fuel. Upon positioning the center wing (or auxiliary) tank fuel pump switches "ON," verify momentary illumination of each center wing (or auxiliary) tank fuel pump low pressure light.

For ground and flight operations, the corresponding center wing (or auxiliary) tank fuel pump switch must be positioned "OFF" when a center wing (or auxiliary) tank fuel pump low pressure light illuminates [1]. Both center wing (or auxiliary) tank fuel pump switches must be positioned "OFF" when the first center wing (or auxiliary) tank fuel pump low pressure light illuminates if the center wing (or auxiliary) tank is empty.

[1] When established in a level flight attitude, both center wing (or auxiliary) tank pump switches should be positioned "ON" again if the center wing (or auxiliary) tank contains usable fuel.

DEFUELING AND FUEL TRANSFER

When transferring fuel or defueling center wing, auxiliary or main tanks, the fuel pump low pressure lights must be monitored and the fuel pumps positioned to "OFF" at the first indication of the fuel pump low pressure [1].

Defueling the main tanks with passengers on board is prohibited if the main tank fuel pumps are powered [2].

Defueling the center wing (or auxiliary) tank with passengers on board is prohibited if the center wing (or auxiliary) tank fuel pumps are powered and the auto-shutoff system is inhibited [2].

[1] Prior to transferring fuel or defueling, conduct a lamp test of the respective fuel pump low pressure lights.

[2] Fuel may be transferred from tank to tank or the aircraft may be defueled with passengers on board, provided fuel quantity in the tank from which fuel is being taken is maintained at or above 2,000 pounds (907 kilograms).

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(l) Airworthiness Limitations (AWLs) Revision for Automatic Shutoff System

Concurrently with accomplishment of the actions required by paragraph (g) of this AD, or within 30 days after the effective date of this AD, whichever occurs later: Revise the maintenance program by incorporating the AWLs specified in paragraphs (l)(1), (l)(2), (l)(3), and (l)(4) of this AD, as applicable. The initial compliance time for the actions specified in the applicable AWLs is within 1 year after accomplishment of the installation required by paragraph (g) of this AD, or within 1 year after the effective date of this AD, whichever occurs later.

(1) For Model 737–100, –200, and –200C series airplanes without Boeing auxiliary fuel tanks installed: Incorporate AWL No. 28–AWL–21 of Section C, ''Fuel Systems Airworthiness Limitations,'' of Section 9 of the Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(2) For Model 737–100, –200, and –200C series airplanes with Boeing auxiliary fuel tanks installed: Incorporate AWL No. 28–AWL–21 and AWL No. 28–AWL–22 of Section C, ''Fuel Systems Airworthiness Limitations,'' of Section 9 of the Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(3) For Model 737–300, –400, and –500 series airplanes without Boeing auxiliary fuel tanks installed: Incorporate AWL No. 28–

AWL–20 of Section C, ''Fuel Systems Airworthiness Limitations,'' of Section 9 of the Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(4) For Model 737–300, –400, and –500 series airplanes with Boeing auxiliary fuel tanks installed: Incorporate AWL No. 28–AWL–20 and AWL No. 28–AWL–21 of Section C, ''Fuel Systems Airworthiness Limitations,'' of Section 9 of the Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(m) Installation of Un-Commanded ON (UCO) Protection System

Within 60 months after the effective date of this AD, do the actions required by paragraph (m)(1) or (m)(2) of this AD, as applicable.

(1) For airplanes in Groups 2 through 13, as identified in Boeing Alert Service Bulletin 737–28A1227, Revision 2, dated September 23, 2014: Install the UCO protection system for the center and auxiliary tank fuel boost pumps, as applicable, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1227, Revision 2, dated September 23, 2014. For airplanes with enlarged J2802 box assembly relay cutouts to fit the body of relays R3334, R3336, R3338, or R3340, with BACS12HN08–10 screws for the installation of the relays as specified in Information Notice 737–28A1227 IN 05: Accomplishment of the actions specified in Boeing Alert Service Bulletin 737–28A1227, dated August 2, 2010, or Revision 1, dated July 18, 2011, is acceptable for compliance with the requirements of this paragraph, provided markers are installed that identify the function of the switches installed on the J2802 box within 90 days after the effective date of this AD, in accordance with figure 1 or figure 5, as applicable, of Boeing Alert Service Bulletin 737–28A1227, Revision 2, dated September 23, 2014.

(2) For airplanes in Group 1, as identified in Boeing Alert Service Bulletin 737–28A1227, Revision 2, dated September 23, 2014: Install the UCO protection system for the center and auxiliary tank fuel boost pumps, as applicable, using a method approved in accordance with the procedures specified in paragraph (r) of this AD.

(n) AWLs Revision for UCO Protection System

Concurrently with accomplishment of the actions required by paragraph (m) of this AD, or within 30 days after the effective date of this AD, whichever occurs later: Revise the maintenance program by incorporating the AWLs specified in paragraphs (n)(1), (n)(2), (n)(3), and (n)(4) of this AD, as applicable. The initial compliance time for the actions specified in applicable AWLs is within 1 year after accomplishment of the installation required by paragraph (m) of this AD, or within 1 year after the effective date of this AD, whichever occurs later.

(1) For Model 737–100, –200, and –200C series airplanes without Boeing auxiliary fuel tanks: Incorporate AWL No. 28–AWL–24 of Section C, ''Fuel Systems Airworthiness Limitations,'' of Section 9 of the Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(2) For Model 737–100, –200, and –200C series airplanes with Boeing auxiliary fuel tanks: Incorporate AWL No. 28–AWL–24 and AWL No. 28–AWL–25 of Section C, ''Fuel Systems Airworthiness Limitations,'' of Section 9 of the Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(3) For Model 737–300, –400, and –500 series airplanes without Boeing auxiliary fuel tanks: Incorporate AWL No. 28–AWL–23 of Section C, ''Fuel Systems Airworthiness Limitations,'' of Section 9 of the Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(4) For Model 737–300, –400, and –500 series airplanes with Boeing auxiliary fuel tanks: Incorporate AWL No. 28–AWL–23 and AWL No. 28–AWL–24 of Section C, ''Fuel Systems Airworthiness Limitations,'' of Section 9 of the Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(o) No Alternative Inspections or Inspection Intervals

After accomplishment of the applicable actions specified in paragraphs (l) and (n) of this AD, no alternative inspections or inspection intervals may be used unless the inspections or inspection intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (r) of this AD.

(p) Method of Compliance for Paragraph (l) of This AD

Incorporating AWLs No. 28–AWL–21 and No. 28–AWL–22 for Model 737–100, –200, and –200C series airplanes; and AWLs No. 28–AWL–20 and No. 28–AWL–21 for Model 737–300, –400, and –500 series airplanes; in accordance with paragraphs (g)(1) and (g)(2) of AD 2008–10–09 R1, Amendment 39–16148 (74 FR 69264, December 31, 2009), is acceptable for compliance with the corresponding AWL incorporation required by paragraph (l) of this AD.

(q) Method of Compliance for Paragraph (a) of AD 2001–08–24, Amendment 39–12201 (66 FR 20733, April 25, 2001)

Accomplishment of the actions required by paragraphs (g), (h), (i), and (l) of this AD, and paragraph (j) or (k) of this AD as applicable, is an acceptable method of compliance with the requirements of paragraph (a) of AD 2001–08–24, Amendment 39–12201 (66 FR 20733, April 25, 2001).

(r) Alternative Methods of Compliance (AMOCs)

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

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

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

(s) Related Information

(1) For more information about this AD, contact Christopher Baker, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6498; fax: 425–917–6590; email: *Christopher.R.Baker@faa.gov.*

(2) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone: 206–544–5000, extension 1; fax: 206–766–5680; Internet *https://www.myboeingfleet.com.* For BAE Systems service information identified in this AD, contact BAE Systems, Attention: Commercial Product Support, 600 Main Street, Room S18C, Johnson City, NY 13790–1806; phone: 607–770–3084; fax: 607–770–3015; email: *CS-Customer.Service@baesystems.com*; Internet: *http://www.baesystems-ps.com/customersupport.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on February 25, 2016.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–04966 Filed 3–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–5284; Directorate Identifier 2016–CE–006–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Pilatus Aircraft Ltd. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as incorrect installation instructions of the torlon plates in the airplane maintenance manual resulting in the incorrect installation of the torlon plates in the forward wing-to-fuselage attachment. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by May 12, 2016.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this proposed AD, contact PILATUS AIRCRAFT LTD., Customer Support Manager, CH–6371 STANS, Switzerland; phone: +41 (0)41 619 33 33; fax: +41 (0)41 619 73 11; email: *SupportPC12@pilatus-aircraft.com;* internet: *http://www.pilatus-aircraft.com.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5284; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–5284; Directorate Identifier 2016–CE–006–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No.: 2016–0037, dated February 26, 2016 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Incorrect installations of torlon plates in the forward lower wing-to-fuselage attachment were reported on aeroplanes in service. Investigation determined that wrong torlon plate installation instructions were published in June 2007 in Revision (Rev.) 18 to 27 of the Aircraft Maintenance Manual (AMM) 02049, Data Module (DM) 12–A–57–00–00A–520A–A and DM 12–A–57–00–00A–720A–A, for the PC–12, PC–12/45 and PC–12/47 aeroplanes, and in the initial issue to Rev. 10 of AMM 02300, in DM 12–B–57–00–00A–520A–A and DM 12–B–57–00–00A–720A–A, for PC–12/47E aeroplanes.

This condition, if not corrected, could lead to additional loads at the wing-to-fuselage interface, which detrimentally affects the fatigue life of the structural joint.

To address this potential unsafe condition, Pilatus issued Service Bulletin (SB) No. 57–007 to provide inspection instructions to verify the correct installation of torlon plates in the wing-to-fuselage attachments, and the rectification instructions for incorrect installed torlon plates.

For the reason described above, this AD requires a one-time inspection of the forward lower wing-to-fuselage attachments, both left hand (LH) and right hand (RH) sides and, depending on findings, accomplishment of applicable corrective action(s).

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5284.

Related Service Information Under 1 CFR Part 51

Pilatus Aircraft Limited has issued PILATUS AIRCRAFT LTD. PILATUS PC–12 Service Bulletin No: 57–007, dated September 29, 2015. The service information describes procedures for inspecting the installation of the torlon plates in the wing-to-fuselage attachment fittings and, if necessary, instructions to install them in the correct sequence. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 268 products of U.S. registry.

We also estimate that it would take about 1 work-hour per wing per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $45,560, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours per wing and require parts costing $1,000 per wing, for a total cost of $2,510 per product. We have no way of determining the number of products that may need these actions.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pilatus Aircraft Ltd.: Docket No. FAA–2016–5284; Directorate Identifier 2016–CE–006–AD.

(a) Comments Due Date

We must receive comments by May 12, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes, all serial numbers delivered before January 1, 2015, certificated in any category.

Note 1 to paragraph (c) of this AD: The date of delivery may be found as the issue date of the EASA Form 52, which is part of the airplane records.

(d) Subject

Air Transport Association of America (ATA) Code 57: Wings.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as incorrect installation instructions of the torlon plates in the airplane maintenance manual resulting in the incorrect installation of the torlon plates in the forward wing-to-fuselage attachment. We are issuing this AD to identify and correct incorrectly installed torlon plates which could cause additional loads affecting the fatigue life at the wing-to-fuselage interface.

(f) Actions and Compliance

Do the actions in paragraphs (f)(1) through (f)(4) of this AD. If paragraphs (f)(1), (f)(2), and (f)(3) of this AD have already been done before the effective date of this AD, then only paragraph (f)(4) of this AD applies.

(1) *For any airplane that has had a wing removed and reinstalled or replaced between June 2007 and the effective date of this AD:* Within the next 12 months after the effective date of this AD, inspect the torlon plates in the forward lower wing-to-fuselage attachments (both left hand (LH) and right hand (RH) sides) for correct installation following the accomplishment instructions in PILATUS AIRCRAFT LTD. PILATUS PC–12 Service Bulletin No: 57–007, dated September 29, 2015.

(2) *For any airplane that has had a wing removed and reinstalled or replaced, between June 2007 and the effective date of this AD:* If an incorrect installation of the torlon plates is found during the inspection required in paragraph (f)(1) of this AD, remove the affected torlon plates, visually inspect the torlon plates and the affected lugs using a mirror and light source (if necessary) for any damage, and reinstall the torlon plates in the correct sequence, following the accomplishment instructions in paragraph 3.C. of PILATUS AIRCRAFT LTD. PILATUS PC–12 Service Bulletin No: 57–007, dated September 29, 2015.

(3) *For any airplane that has had a wing removed and reinstalled or replaced, between June 2007 and the effective date of this AD:* If any damage is found during the inspection of the torlon plates and lugs required in paragraph (f)(2) of this AD, before further flight, contact PILATUS AIRCRAFT, LTD. for FAA-approved repair instructions and accomplish those instructions accordingly. You may find contact information for PILATUS AIRCRAFT, LTD. in paragraph (h) of this AD.

(4) *For all airplanes:* As of the effective date of this AD, do not install or re-install a wing on any airplane, unless concurrent with the wing installation, the torlon plates of the forward lower wing-to-fuselage attachment (both LH and RH sides) of the airplane are inspected and found to be installed correctly in accordance with the accomplishment instructions in paragraph 3.B. of PILATUS AIRCRAFT LTD. PILATUS PC–12 Service Bulletin No: 57–007, dated September 29, 2015.

Note 2 to paragraph (f)(4) of this AD: Installation of a wing on an airplane in accordance with the instructions of PILATUS aircraft maintenance manual (AMM) 02049, Revision 28 or later, or AMM 02300, Revision 11 or later, is an acceptable alternative method to comply with this inspection requirement.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust,

Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(h) Related Information

Refer to MCAI EASA AD No.: 2016–0037, dated February 26, 2016, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5284. For service information related to this AD, contact PILATUS AIRCRAFT LTD., Customer Support Manager, CH–6371 STANS, Switzerland; phone: +41 (0)41 619 33 33; fax: +41 (0)41 619 73 11; email: *SupportPC12@pilatus-aircraft.com;* internet: *http://www.pilatus-aircraft.com.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on March 18, 2016.

Pat Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–06818 Filed 3–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–4878; Directorate Identifier 2016–CE–001–AD]

RIN 2120–AA64

Airworthiness Directives; Various Aircraft Equipped With BRP-Powertrain GmbH & Co KG 912 A Series Engine

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for various aircraft equipped with a BRP-Powertrain GmbH & Co KG (formerly Rotax Aircraft Engines) 912 A series engine. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a design change of the engine cylinder head temperature sensor without a concurrent revision of the engine model designation, the engine part number, or the cockpit indication to the pilot. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by May 12, 2016.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this proposed AD, contact BRP-Powertrain GmbH & Co. KG, Welser Strasse 32, A–4623 Gunskirchen, Austria; phone: +43 7246 601 0; fax: +43 7246 601 9130; Internet: *www.rotax-aircraft-engines.com.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4878; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–4878; Directorate Identifier 2016–CE–001–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2015–0240, dated December 18, 2015, to correct an unsafe condition for the specified products. The MCAI states:

A design change of the engine cylinder heads was introduced by BRP-Powertrain in March 2013 which modifies the engine/aircraft interfaces by substituting the

previous cylinder head temperature (CHT) measurement (limit temperature 135 °C/150 °C) with a coolant temperature (CT) measurement (limit temperature 120 °C). The design change was communicated on 15 May 2013 by BRP-Powertrain Service Instruction (SI) 912–020R7/914–022R7 (single document) but was not identified by a change of the engine model designation or of the engine P/N, but only through the cylinder head P/N and the position of the temperature sensor.

Consequently, engines with the new cylinder heads (installed during production or replaced in-service during maintenance) may be installed on an aircraft without concurrent modification of that aircraft, instructions for which should be provided by the Type Certificate (TC) holder or Supplemental Type Certificate (STC) holder, as applicable. In this case, the coolant temperature with a maximum engine operating limit of 120 °C (valid for engines operated with water diluted glycol coolant) is displayed on a CHT indicator with a typical limit marking (red radial/range) of more than 120 °C.

This condition, if not detected and corrected, will prevent the pilot to identify coolant limit exceedances, with subsequent loss of coolant (120 °C is the boiling temperature of the coolant), which could lead to engine in-flight shut-down, possibly resulting in a forced landing, with consequent damage to the aircraft and injury to occupants.

BRP-Powertrain published revised SI–912–020R8/914–022R8 to clarify that, on the new cylinder heads, the coolant temperature, instead of the cylinder head temperature in the aluminium, is measured. EASA issued SIB 2014–34 to raise awareness that installation of affected engines and spare parts, without concurrent incorporation of aircraft TC/STC holder approved modifications, and even if unintended and unnoticed by production or maintenance, constitutes an unapproved aircraft modification.

Since EASA published the SIB, further investigation has finally determined that sufficient reason exists to warrant AD action.

For the reason stated above, this AD requires a one-time inspection to determine the actual engine configuration and, depending on findings, engine reidentification and (depending on TC or STC holder installation) modification of the affected aircraft. This also affects engines that are operated with waterless coolant.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4878.

Related Service Information Under 1 CFR Part 51

BRP-Powertrain GmbH & CO KG has issued Rotax Aircraft Engines BRP Service Bulletin SB–912–068 and SB–914–049 (co-published as one document), dated April 16, 2015. The service information describes procedures for re-identifying the engine that has new cylinder heads, part numbers 413235 and 413236 installed. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD would affect 65 products of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the engine re-identification requirement of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this portion of this proposed AD on U.S. operators to be $5,525, or $85 per product.

We also estimate that it would take about 1 work-hour per product to comply with the engine installation modification to indicate a Maximum Coolant Temperature requirement of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this portion of this proposed AD on U.S. operators to be $5,525, or $85 per product.

We also estimate that it would take about 1.5 work-hours per product to comply with the cylinder head replacement option of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $2,500 to replace a single engine cylinder head.

Based on these figures, we estimate the cost of this portion of this proposed AD on U.S. operators to be $2,627.50 per engine cylinder head.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Various Aircraft: Docket No. FAA–2016–4878; Directorate Identifier 2016–CE–001–AD.

(a) Comments Due Date

We must receive comments by May 12, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all serial numbers of the airplanes listed in table 1 of paragraph (c) of this AD, that are:

(1) Equipped with a BRP-Powertrain GmbH & Co KG (formerly Rotax Aircraft Engines) 912 A series engine with a part number (P/N) 413235 or 413236 cylinder head installed in position 2 or 3; and

(2) certificated in any category.

TABLE 1 OF PARAGRAPH (c)—AFFECTED AIRPLANES

Type certificate holder	Aircraft model	Engine model
Aeromot-Indústria Mecânico-Metalúrgica Ltda	AMT–200	912 A2
Diamond Aircraft Industries	HK 36 R "SUPER DIMONA"	912 A
DIAMOND AIRCRAFT INDUSTRIES GmbH	HK 36 TS and HK 36 TC	912 A3
Diamond Aircraft Industries Inc	DA20–A1	912 A3
HOAC-Austria	DV 20 KATANA	912 A3
Iniziative Industriali Italiane S.p.A	Sky Arrow 650 TC	912 A2
SCHEIBE-Flugzeugbau GmbH	SF 25C	912 A2, 912 A3

(d) Subject

Air Transport Association of America (ATA) Code 72: Engine—Reciprocating.

(e) Reason

This AD was prompted by design change of the engine cylinder head temperature sensor without a concurrent revision of the engine model designation, the engine part number, or the cockpit indication to the pilot. The sensor now measures the coolant temperature rather than the cylinder head temperature. If the engine coolant temperature with a maximum engine operating limit of 120 °C is displayed on a Cylinder Head Temperature indicator with a typical limit marking greater than 120 °C, the pilot will be unable to identify coolant temperature limit exceedances. This could result in loss of coolant, which could cause an inflight engine shutdown and forced landing.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within 6 months after the effective date of this AD, for engines with cylinder heads listed in paragraph (c)(1) of this AD installed on both position 2 and position 3, change the engine model designation on the engine type data plate to include a ''–01'' suffix following paragraph 3.1.1) of the Accomplishment/Instructions in Rotax Aircraft Engines BRP Service Bulletin SB–912–068 and SB–914–049 (co-published as one document), dated April 16, 2015.

(2) Within 6 months after the effective date of this AD, for engines with only one cylinder head listed paragraph (c)(1) of this AD installed in a position 2 or 3, in order to keep such cylinder installed, you must replace the cylinder head installed on the unchanged position (2 or 3, as applicable) with a cylinder head having a P/N listed in paragraph (c)(1) of this AD, and change the engine model designation on the engine type data plate to include a ''–01'' suffix following paragraph 3.1.1) of the Accomplishment/Instructions in Rotax Aircraft Engines BRP Service Bulletin SB–912–068 and SB–914–049 (co-published as one document), dated April 16, 2015.

(3) Before further flight after doing the required actions in paragraphs (f)(1) or (f)(2) of this AD as applicable, modify the aircraft and related documentation to indicate a Maximum Coolant Temperature limit of 120 °C using FAA-approved procedures.

(i) Such procedures can be found by contacting your aircraft type certificate holder or the FAA contact specified in paragraph (g)(1) of this AD. The service documents referenced in paragraph (h) of this AD are examples of FAA-approved procedures for the applicable aircraft.

(ii) These re-identified engines remain eligible for installation on approved aircraft-engine combinations.

(4) As of the effective date of this AD, do not install any other P/N cylinder head unless that installation is done following approved instructions provided by BRP-Powertrain at the address provided in paragraph (h) of this AD.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2015–0240, dated December 18, 2015; Rotax Aircraft Engines BRP Service Bulletin SB–912–066 R1/SB–914–047 R1 (published as one document), Revision 1, dated April 23, 2015; Diamond Aircraft Industries GmbH Optional Service Bulletin OSB 36–111, dated September 17, 2015; Diamond Aircraft Industries GmbH Work Instruction WI–OSB 36–111, dated September 17, 2015; Diamond Aircraft Service Bulletin No.: DA20–72–04, dated January 22, 2015; Diamond Aircraft Industries GmbH Optional Service Bulletin OSB 20–066, dated September 17, 2015; Diamond Aircraft Industries GmbH Work Instruction WI–OSB 20–066, dated September 17, 2015; and Scheibe Aircraft GmbH Service Information 02/14–1, dated December 15, 2014, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4878. For service information related to this AD, contact BRP-Powertrain GmbH & Co. KG, Welser Strasse 32, A–4623 Gunskirchen, Austria; phone: +43 7246 601 0; fax: +43 7246 601 9130; Internet: *http://www.rotax-aircraft-engines.com.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on March 10, 2016.

Pat Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–06279 Filed 3–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–1074; Airspace Docket No. 16–ASO–3]

Proposed Revocation of Class D Airspace; North, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove Class D Airspace at North, SC, as the North Air Force Auxiliary Field Air Traffic Control Tower is no longer staffed, and controlled airspace is no longer required. This action would enhance the safety and airspace management in North, SC.

DATES: Comments must be received on or before May 12, 2016.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Bldg. Ground Floor Rm. W12–140, Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2016–1074; Airspace Docket No. 16–ASO–3, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would remove Class D airspace at North Air Force Auxiliary Field, North, SC.

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2016–1074; Airspace Docket No. 16–ASO–3) and be submitted in triplicate to the Docket Management System (see ''**ADDRESSES**'' section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–1074; Airspace Docket No. 16–ASO–3.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Z, airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to remove Class D airspace at North Air Force Auxiliary Field, North, SC. The air traffic control tower is no longer in use. Therefore, the airspace is no longer necessary.

Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February

26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment:

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, effective September 15, 2015, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO SC D North, SC [Removed]

Issued in College Park, Georgia, on March 15, 2016.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2016–06842 Filed 3–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–3937; Airspace Docket No. 16–AWA–1]

RIN 2120–AA66

Proposed Amendment of Class C Airspace; Syracuse Hancock International Airport, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the Syracuse Hancock International Airport Class C airspace area by removing a cutout from the surface area that was put in place to accommodate operations at an airport that is now permanently closed.

DATES: Comments must be received on or before May 27, 2016. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA, Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2016–3937 and Airspace Docket No. 16–AWA–1 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2016–3937 and Airspace Docket No. 16–AWA–1) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2016–3937 and

Airspace Docket No. 16–AWA–1.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify the Syracuse Hancock International Airport Class C airspace area by removing a cutout from the Class C surface area that excludes the airspace within a 0.75-nautical mile radius of the former Michael Field/Onondaga Flight School Airport. The sole purpose of the exclusion was to allow aircraft to operate freely to and from that airport without the need to contact air traffic control (ATC). Since the former airport is now permanently closed, the purpose for the exclusion no longer exists; therefore, the FAA is proposing to remove the words ''. . . excluding that airspace within a 0.75-mile radius of Michael Field/Onondaga Flight School Airport . . . ;'' as well as the words ''Michael Field/Onondaga Flight School Airport, NY (lat. 43°10′45″ N., long. 76°07′29″ W.),'' from the Class C airspace description.

Class C airspace areas are published in paragraph 4000 of FAA Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class C airspace description listed in this document would be subsequently published in the Order.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015 and effective September 15, 2015, is amended as follows:

Paragraph 4000 Subpart C—Class C Airspace.

* * * * *

AEA NY C Syracuse Hancock International Airport, NY

Syracuse Hancock International Airport, NY (Lat. 43°06′40″ N., long. 76°06′23″ W.)

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of Syracuse Hancock International Airport; and that airspace extending upward from 1,600 feet MSL to and including 4,400 feet MSL within a 10-mile radius of Syracuse Hancock International Airport from the 248° bearing from the airport clockwise to the 118° bearing from the airport; and that airspace extending upward from 2,700 feet MSL to and including 4,400 feet MSL within a 10-mile radius from the 118° bearing from the airport clockwise to the 188° bearing from the airport; and that airspace extending upward from 2,300 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the airport from the 188° bearing from the airport clockwise to the 248° bearing from the airport.

* * * * *

Issued in Washington, DC, on March 21, 2016.

Leslie M. Swann,

Acting Manager, Airspace Policy Group.

[FR Doc. 2016–06833 Filed 3–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0742; Airspace Docket No. 14–ASW–5]

Proposed Establishment of Class D and E Airspace; Brookshire, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class D and Class E airspace at Brookshire, TX. The establishment of an airport traffic control tower has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations within the airspace at Houston Executive Airport.

DATES: Comments must be received on or before May 12, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2014–0742; Docket No. 14–ASW–5, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Raul Garza Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone: 817–222–5874.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2014–0742/Airspace Docket No. 14–ASW–5.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Central Service Center, Operation Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document would amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) Part 71 by establishing Class D airspace, and Class E surface area airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of Houston Executive Airport, excluding that airspace west and northwest, to accommodate the establishment of an airport traffic control tower. Class E airspace extending upward from 700 feet above the surface would be established within a 6.6-mile radius of Houston Executive Airport to accommodate new standard instrument approach procedures for the safety and management of IFR operations at the airport.

Class D and E airspace areas are published in Section 5000, 6002, and 6005, respectively, of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class D, and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a

routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

* * * * *

Paragraph 5000 Class D Airspace.

ASW TX D Brookshire, TX [New]

Houston Executive Airport, TX
(Lat. 29°48′18″ N., long. 95°53′52″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL bounded by a line beginning at lat. 29°46′44″ N., long. 95°58′06″ W., to lat. 29°47′35″ N., long. 95°55′49″ W., to lat. 29°51′55″ N., long. 95°55′52″ W., thence clockwise along the 4-mile radius of Houston Executive Airport to the point of beginning. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

ASW TX E2 Brookshire, TX [New]

Houston Executive Airport, TX
(Lat. 29°48′18″ N., long. 95°53′52″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL bounded by a line beginning at lat. 29°46′44″ N., long. 95°58′06″ W., to lat. 29°47′35″ N., long. 95°55′49″ W., to lat. 29°51′55″ N., long. 95°55′52″ W., thence clockwise along the 4-mile radius of Houston Executive Airport, to the point of beginning. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

ASW TX E5 Brookshire, TX [New]

Houston Executive Airport, TX
(Lat. 29°48′18″ N., long. 95°53′52″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Houston Executive Airport.

Issued in Fort Worth, TX, on March 16, 2016.

Walter Tweedy,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–06839 Filed 3–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–7488; Airspace Docket No. 15–ASW–19]

Proposed Amendment of Class D and Class E Airspace and Revocation of Class E Airspace; Roswell, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class D airspace, Class E surface area airspace, and Class E airspace extending upward from 700 feet above the surface at Roswell, NM. This action is necessary due to advances Global Positioning System (GPS) capabilities and implementation of area navigation (RNAV) procedures at Roswell International Air Center, Roswell, NM. Additionally, this proposal would remove Class E airspace designated as an extension at Roswell International Air Center. This action would also update the name and geographic coordinates of the airport to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before May 12, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2015–7488; Airspace Docket No. 15–ASW–19, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

scope of that authority as it would amend Class D and Class E airspace at Roswell International Air Center, Roswell, NM.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–7488/Airspace Docket No. 15–ASW–19.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document would amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface at Roswell International Air Center, Roswell, NM, due to amendment and cancellation of the standard instrument approach procedures (SIAP) at the airport. Advances in GPS capabilities and implementation of RNAV procedures at Roswell International Air Center (formerly Roswell Industrial Air Center) have made this action necessary for the safety and management of IFR operations in SIAP at the airport. Additionally, this action removes Class E surface area airspace designated as an extension at the airport. The airport name and geographic coordinates would be amended for the Class D and E airspace areas noted above.

Class D and E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASW NM D Roswell, NM [Amended]

Roswell International Air Center, NM
(Lat. 33°18′06″ N., long. 104°31′50″ W.)

That airspace extending upward from the surface to and including 6,200 feet MSL within a 5-mile radius of Roswell International Air Center. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ASW NM E2 Roswell, NM [Amended]

Roswell International Air Center, NM
(Lat. 33°18′06″ N., long. 104°31′50″ W.)

Within a 5-mile radius of Roswell International Air Center. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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

* * * * *

ASW NM E4 Roswell, NM [Removed]

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

* * * * *

ASW NM E5 Roswell, NM [Amended]

Roswell International Air Center, NM
(Lat. 33°18′06″ N., long. 104°31′50″ W.)
Chisum VORTAC
(Lat. 33°20′15″ N., long. 104°37′17″ W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of Roswell International Air Center, and within 1.7 miles each side of the Chisum VORTAC 278° radial extending from the 7.4-mile radius of the airport to 11 miles northwest of the airport.

Issued in Fort Worth, Texas, on March 16, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, Central Service Center.

[FR Doc. 2016–06836 Filed 3–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–8304; Airspace Docket No. 15–AEA–15]

Proposed Amendment of Class D and Class E Airspace; Charlottesville, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E Airspace Designated as an Extension to a Class D at Charlottesville-Albemarle Airport, Charlottesville, VA, as the Azalea Park Non-Directional Radio Beacon (NDB) has been decommissioned requiring airspace reconfiguration at the airport. Also, the Notice to Airmen (NOTAM) part time status would be removed from this airspace. This action also would update the geographic coordinates of the above airport and the University of Virginia Medical Center Heliport in Class D and E airspace listed in this proposal. This action would enhance the safety and management of Instrument Flight Rules (IFR) operations in the area.

DATES: Comments must be received on or before May 12, 2016.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Bldg Ground Floor Rm W12–140, Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2015–8304; Airspace Docket No. 15–AEA–15, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class D airspace, Class E Surface Area Airspace, Class E Airspace Designated as an Extension to a Class D Surface Area, and Class E airspace extending upward from 700 feet above the surface, at Charlottesville-Albemarle Airport, Charlottesville, VA.

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2015–8304; Airspace Docket No. 15–AEA–15) and be submitted in triplicate to the Docket Management System (see ''**ADDRESSES**'' section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–8304; Airspace Docket No. 15–AEA–15.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and

phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class D airspace, Class E Surface Area Airspace, Class E Airspace Designated as an Extension to a Class D, and Class E airspace extending upward from 700 feet above the surface at Charlottesville-Albemarle Airport, Charlottesville, VA. The Azalea Park NDB has been decommissioned requiring airspace reconfiguration at the airport. This action also proposes to update the geographic coordinates of the airport and University of Virginia Medical Center Heliport, and eliminate the NOTAM information that reads, ''This Class E airspace area is effective during the specific dates and time established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.'' from the regulatory text of the Class E airspace designated as an extension to Class D at Charlottesville-Albemarle Airport, Charlottesville, VA.

Class D and Class E airspace designations are published in Paragraphs 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, effective September 15, 2015, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AEA VA D Charlottesville, VA [Amended]

Charlottesville-Albemarle Airport, VA
(Lat. 38°08′23″ N., long 78°27′08″ W.)

That airspace extending upward from the surface to and including 3,100 MSL within a 4.2-mile radius of the Charlottesville-Albemarle Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E Surface Area Airspace.

* * * * *

AEA VA E2 Charlottesville, VA [Amended]

Charlottesville-Albemarle Airport, VA
(Lat. 38°08′23″ N., long 78°27′08″ W.)

That airspace extending upward from the surface within a 4.2-mile radius of the Charlottesville-Albemarle Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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

* * * * *

AEA VA E4 Charlottesville, VA [Amended]

Charlottesville-Albemarle Airport, VA
(Lat. 38°08′23″ N., long 78°27′08″ W.)

That airspace extending upward from the surface within 2.2 miles each side of the 202° bearing from Charlottesville-Albemarle Airport extending from the 4.2-mile radius to 6-miles southwest of the airport.

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

* * * * *

AEA VA E5 Charlottesville, VA [Amended]

Charlottesville-Albemarle Airport, VA
(Lat. 38°08′23″ N., long 78°27′08″ W.)
University of Virginia Medical Center Heliport
(Lat. 38°01′52″ N., long 78°29′54″ W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Charlottesville-Albemarle Airport, and within a 6-mile radius of the University of Virginia Medical Center Heliport.

Issued in College Park, Georgia, on March 15, 2016.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2016–06845 Filed 3–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0944]

RIN 1625–AA87

Security Zone, Escorted Vessels; Sector Long Island Sound Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent security zone within Coast Guard Sector Long Island Sound's Captain of the Port (COTP) Zone on the waters in the vicinity of escorted vessels. This security zone would be enforced around any escorted vessel in the Sector Long Island Sound COTP Zone in order to protect the vessel and the public from destruction, loss, or injury from sabotage, subversive acts, or other malicious acts of a similar nature. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before May 27, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2014–0944 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 Chief Petty Officer Ian M. Fallon, U.S. Coast Guard Waterways Management Division Sector Long Island Sound; telephone (203) 468–4565, or email *Ian.M.Fallon@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On occasion, the Sector Long Island Sound Captain of the Port (COTP) Zone has vessels enter its zone that require the implementation of heightened security measures for the protection of the vessel and the public.

The purpose of this rulemaking to protect the vessel and the public from destruction, loss, or injury from sabotage, subversive acts, or other malicious acts of a similar nature.

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 security zone in all navigable waters within the Sector Long Island Sound COTP Zone, extending from the surface to the bottom, within a 500-yard radius of any escorted vessel.

While this security zone is being enforced, no person or vessel would be allowed to enter or remain in it without the permission of the COTP or the designated representative.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This 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.

The Coast Guard determined that this rulemaking would not be a significant regulatory action for the following reasons: The security zone area covers only a small portion of the navigable waterways, waterway users may transit around the area, and mariners may request permission from the COTP Sector Long Island Sound or the designated representative to transit 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 security 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 above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this 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 establishing a security zone and maybe categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary environmental analysis checklist supporting this 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, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

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 Web site'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 AREA AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.155 to read as follows:

§ 165.155 Security Zone, Escorted Vessels, Sector Long Island Sound Captain of the Port Zone.

(a) *Location.* The following areas are security zones: All navigable waters within the Sector Long Island Sound Captain of the Port (COTP) Zone, extending from the surface to the bottom, within a 500-yard radius of any escorted vessel.

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

(1) *Escorted Vessel.* ''Escorted vessel'' as used in this section means any vessels deemed to be in need of escort protection by the COTP for security reasons.

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

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

(c) *Regulations.* (1) In accordance with the general regulations contained in § 165.33 of this part, entry into or movement within this zone is prohibited unless previously authorized by the COTP, Sector Long Island Sound or his designated representative.

(2) All persons and vessels must comply with the instructions of the COTP or the designated representative.

(3) No person may swim upon or below the surface of the water of this security zone unless previously authorized by the COTP or his designated representative.

(4) Upon being hailed by an official patrol vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

Dated: March 8, 2016.

E.J. Cubanski, III,

Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.

[FR Doc. 2016–06911 Filed 3–25–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF STATE

48 CFR Parts 609 and 649

[Public Notice: 9479]

RIN 1400–AD90

Department of State Acquisition Regulation

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State (DOS) proposes to amend the Department of State Acquisition Regulation (DOSAR) to provide procedural changes relating to the suspension and debarment process.

DATES: The Department of State will accept comments on this proposed rule until May 27, 2016.

ADDRESSES: You may submit comments by any of the following methods:

- *E-mail: KosarCM@state.gov.* You must include the RIN in the subject line of your message.
- *Mail (paper, disk, or CD–ROM submissions)*: Ms. Colleen Kosar, Policy Division, Office of the Procurement Executive, A/OPE, 2201 C Street NW., Suite 1060, State Annex Number 15, Washington, DC 20520.
- Persons with access to the Internet may view this proposed rule and submit comments by visiting the regulations.gov Web site at: *http://www.regulations.gov/search/Regs/home.html#home,* and searching for docket number DOS–2016–0012.

FOR FURTHER INFORMATION CONTACT: Ms. Colleen Kosar, Policy Division, Office of the Procurement Executive, A/OPE, 2201 C Street NW., Suite 1060, State Annex Number 15, Washington, DC 20520. Telephone 703–516–1685.

SUPPLEMENTARY INFORMATION: The purpose of this proposed rule is to update 48 CFR part 609, subpart 609.4, Debarment, Suspension, and Ineligibility and part 649, Termination of Contracts. Primarily, this update simplifies the procedural aspects of the suspension and debarment process, by simplifying the fact-finding process, wherein a single fact-finding official may be used in lieu of a fact-finding panel. Specifically, the proposed rule would:

- Amend section 609.403–70 to remove the definition of ''Notice,'' and revise the definition of ''fact-finding official.''
- Make an editorial change to section 609.405–1.
- Redesignate section 609.405–70 as section 649.101–70.
- Amend section 609.406–3(a)(1) to remove references to mandated actions by the Office of the Inspector General (OIG). The OIG is autonomous by statute and not subject to direction from the DOSAR.
- Make editorial changes to paragraphs 609.406–3(a)(2), (b)(2) and (c)(2).
- Add paragraph 609.406–3(a)(3) to make it clear that the referral file may be supplemented prior to determining whether or not to propose debarment.
- Revise paragraphs 609.406–3(b)(3)–(7) to simplify the fact-finding process, wherein a single fact-finding official may be used in lieu of a fact-finding panel and to eliminate specific entitlements and deadlines not required by the FAR.
- Amend section 609.406–3(d) and 609.407–3(d) to remove ''and to the General Services Administration in accordance with 609.404.''
- Amend section 609.407–3(b)(2) to change ''panel'' to ''official.''

Regulatory Findings

Administrative Procedure Act

In accordance with the provisions of the Administrative Procedure Act governing rules promulgated by federal agencies that affect the public (5 U.S.C. 552 and 553), the Department is publishing this proposed rule and inviting public comment.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This determination was based on the fact that the changes proposed in this update have no impact on small businesses. The number of small businesses considered for suspension or debarment will not grow or shrink as a result of the proposed changes. The Department analyzed the suspension/debarment actions that occurred in FY14 and no small businesses were impacted.

Unfunded Mandates Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by the Small Business Regulatory Enforcement Act of 1996 (5 U.S.C. 801 *et seq.*). This proposed rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and import markets. This determination was based on the fact that the proposed changes are intended to simplify the procedural aspects of the suspension and debarment process. The proposed rule does not place new requirements on contract performance. The proposed rule does not have a significant cost or administrative impact on offerors or contractors.

Executive Orders 12866 and 13563

Executive Orders (E.O.) 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). E.O. 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Department of State does not consider this proposed rule to be an ''economically significant regulatory action'' under Executive Order 12866.

In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in the Executive Orders and finds that the benefits of updating this rule outweigh any costs, which the Department assesses to be minimal.

Executive Order 13132

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this proposed rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

Executive Order 13175

The Department has determined that this proposed rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Executive Order 13175

do not apply to this proposed rulemaking.

Paperwork Reduction Act

The proposed rule imposes no new or revised information collections under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

List of Subjects in 48 CFR Parts 609 and 649

Administrative practice and procedure, Government procurement.

For the reasons stated in the preamble, the Department of State proposes to amend 48 CFR chapter 6 as follows:

■ 1. The authority citation for 48 CFR parts 609 and 649 continues to read as follows:

Authority: 22 U.S.C. 2651a, 40 U.S.C. 121(c) and 48 CFR chapter 1.

PART 609—CONTRACTOR QUALIFICATIONS

■ 2. Revise section 609.403–70 to read as follows:

609.403–70 DOSAR definitions.

Fact-finding official means the individual designated by the debarring official to conduct additional proceedings as necessary concerning disputed material facts.

609.405–1 [Amended]

■ 3. In section 609.405–1, remove ''609.405–70'' and add in its place ''649.101–70''.

609.405–70 [Redesignated as 649.101–70 and Amended]

■ 4. Redesignate section 609.405–70 as 649.101–70 and revise the heading of redesignated section 649.101–70 to read as follows:

649.101–70 Termination action decisions after debarment.

* * * * *

609.406–3 [Revised]

■ 5. In section 609.406–3, revise paragraphs (a), (b)(2)–(b)(7), (c)(2) and (d), to read as follows:

609.406–3 Procedures.

(a) *Investigation and referral.* (1) DOS employees aware of any cause that might serve as the basis for debarment shall refer those cases through the contracting officer to the debarring official. The debarring official shall refer to the Office of the Inspector General all reported cases that involve possible criminal or fraudulent activities for investigation by that office.

(2) Referrals for consideration of debarment shall include, as appropriate and available—

(i) The cause for debarment (see FAR 9.406–2);

(ii) A statement of facts;

(iii) Copies of supporting documentary evidence and a list of all necessary or probable witnesses, including addresses and telephone numbers, together with a statement concerning their availability to appear at a fact-finding proceeding and the subject matter of their testimony;

(iv) A list of all contractors involved, either as principals or as affiliates, including current or last known home and business addresses and ZIP codes;

(v) A statement of the acquisition history with such contractors;

(vi) A statement concerning any known pertinent active or potential criminal investigation, criminal or civil court proceedings, or administrative claim before Boards of Contract Appeals; and

(vii) A statement from each DOS organizational element affected by the debarment action as to the impact of a debarment on DOS programs.

(3) As deemed appropriate, the debarring official may conduct investigations to supplement the information provided in the referral, or may request investigations by the Office of the Inspector General or other Department office.

(b) * * *

(2) In response to the debarment notice, if the contractor or its representative notifies the debarring official within 30 days after receipt of the notice that it wants to present information and arguments in person to the debarring official, that official, or a designee, shall chair such a meeting. The oral presentation shall be conducted informally and a transcript need not be made. However, the contractor may supplement its oral presentation with written information and arguments for inclusion in the administrative record.

(3) Pursuant to FAR 9.406–3(b)(2), the contractor may request a fact-finding proceeding.

(4) The debarring official shall designate a fact-finding official and shall provide the fact-finding official with a copy of all documentary evidence considered in proposing debarment. Upon receipt of such material, the fact-finding official shall notify the contractor and schedule a hearing date.

(5) In addition to the purposes provided in FAR 9.406–3(b)(2), the hearing is intended to provide the debarring official with findings of fact based on a preponderance of evidence submitted to the fact-finding official and to provide the debarring official with a determination as to whether a cause for debarment exists, based on the facts as found.

(6) The fact-finding proceeding shall be conducted in accordance with procedures determined by the fact-finding official. The rules shall be as informal as is practicable, consistent with FAR 9.406–3(b). The fact-finding official is responsible for making the transcribed record of the hearing, unless the contractor and the fact-finding official agree to waive the requirement for a transcript.

(7) The fact-finding official shall deliver written findings and the transcribed record, if made, to the debarring official. The findings shall resolve any facts in dispute based on a preponderance of the evidence presented and recommend whether a cause for debarment exists.

(c) * * *

(2) When a determination is made to initiate action, the debarring official shall provide to the contractor and any specifically named affiliates written notice in accordance with FAR 9.406–3(c).

* * * * *

(d) *Debarring official's decision.* In addition to complying with FAR 9.406–3(d) and FAR 9.406–3(e), the debarring official shall provide single copies of the decision to each DOS organizational element affected by the decision.

609.407–3 [Amended]

■ 6. In section 609.407–3:

■ a. In paragraph (b)(2), remove the word ''panel'', and add in its place ''official''.

■ b. In paragraph (d), remove ''and to the General Services Administration in accordance with 609.404''.

PART 649—TERMINATION OF CONTRACTS

■ 7. In Part 649, add section heading 649.101 to read as follows:

649.101 Authorities and responsibilities.

Corey M. Rindner,

Procurement Executive, Department of State.

[FR Doc. 2016–06973 Filed 3–25–16; 8:45 am]

BILLING CODE 4710–24–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1817 and 1852

RIN 2700–AE28

Removal of Outdated and Duplicative Guidance (2016–N010)

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: National Aeronautics and Space Administration (NASA) is proposing to amend the NASA FAR Supplement (NFS) to remove duplicative language of the FAR and superseded NFS guidance. The revision is part of NASA's retrospective plan under Executive Order (EO) 13563 completed in August 2011.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before May 27, 2016 to be considered in formulation of the final rule.

ADDRESSES: Submit comments identified by NFS Case 2016–N010, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''NFS Case 2016–N010'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''NFS Case 2016–N010.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''NFS Case 2016–N010'' on your attached document.
- *Email: manuel.quinones@nasa.gov.* Include NFS Case 2016–N010 in the subject line of the message.
- *Fax:* (202) 358–3082.
- *Mail:* National Aeronautics and Space Administration, Headquarters, Office of Procurement, Contract and Grant Policy Division, Attn: Mr. Manuel Quinones, Suite 5K32, 300 E. Street SW., Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Manuel Quinones, NASA, Office of Procurement, Contract and Grant Policy Division, Suite 5K32, 300 E. Street SW., Washington, DC 20456–0001.

Telephone (202) 358–2143; facsimile 202–358–3082; email: *manuel.quinones@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

This rule proposes to amend the NASA FAR Supplement (NFS) by removing from the Code of Federal Regulations (CFR) those portions of the NFS containing information that consists of internal Agency administrative procedures and guidance that does not control the relationship between NASA and contractors or prospective contractors. This change is consistent with the guidance and policy in FAR Part 1 regarding what comprises the Federal Acquisition Regulations System and requires publication for public comment. NASA conducted a comprehensive review of the NFS to validate the accuracy and relevancy of its policy, guidance, and procedures. Additionally, to streamline and clarify its regulation, NASA identified a number of NFS parts and sections to be (1) deleted because of its duplication of the FAR or (2) relocated as internal Agency operating procedures to a NASA maintained Web site available on the internet at *http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm.* During a recent review of the NFS we discovered that an extraneous provision and two inapplicable clauses had been inadvertently retained in the regulation and for which their respective prescriptions had been previously deleted during one of the NASA FAR Supplement Rewrite final rules. Accordingly, this rule proposes to remove from the CFR the duplicative provision and superseded clauses, and relocate internal Agency-specific guidance and operating procedures.

The NFS document found on the NASA Procurement Library Web site will continue to contain both information requiring codification in the CFR and internal Agency guidance and procedures in a single document.

II. Discussion

NASA's proposed changes to the CFR are as follows:

- Remove section 1817.200, as this statement is redundant.
- Remove section 1817.204, as this section pertains to internal Agency guidance and operating procedures.
- Remove section 1852.210–70, which is duplicative of FAR requirements and for which no prescriptive language exists.
- Remove sections 1852.212–70 and 1852.212–74, which are superseded and for which no prescriptive language exists.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

NASA does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* because this rule proposes to remove from the CFR only information that is either considered internal Agency administrative procedures or extraneous provisions/clauses that were invalidated by previous final rules. Therefore, an initial regulatory flexibility analysis has not been performed. NASA invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (NFS case 2016–N010) in their correspondence.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 1817 and 1852

Government procurement.

Manuel Quinones,

NASA FAR Supplement Manager.

Accordingly, 48 CFR parts 1817 and 1852 are amended as follows:

■ 1. The authority citation for parts 1817 and 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

PART 1817—SPECIAL CONTRACTING METHODS

1817.200 and 1817.204 [Removed]

■ 2. Remove sections 1817.200 and 1817.204.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.210–70, 1852.212–70, and 1852.212–74 [Removed]

■ 3. Remove sections 1852.210–70, 1852.212–70, and 1852.212–74.

[FR Doc. 2016–06887 Filed 3–25–16; 8:45 am]

BILLING CODE 7510–01–P

SURFACE TRANSPORTATION BOARD

49 CFR Part 1039

[Docket No. EP 704 (Sub-No. 1)]

Review of Commodity, Boxcar, and Trailer-on-Flatcar/Container-on-Flatcar (TOFC/COFC) Exemptions

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (Board or STB) seeks public comment on its proposal to revoke the existing class exemptions for crushed or broken stone or rip rap; hydraulic cement; and coke produced from coal, primary iron or steel products, and iron or steel scrap, wastes or tailings. The Board also invites interested parties to file, during the comment period for these proposed rules, comments regarding the possible revocation of other commodity class exemptions.

DATES: Comments on the proposed rulemaking are due on or before May 27, 2016; replies are due June 27, 2016.

ADDRESSES: Any filings submitted in this proceeding must be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions found at the E–FILING link on the Board's Web site at *www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies and also an electronic version to: Surface Transportation Board, Attn: Docket No. EP 704 (Sub-No. 1), 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Scott Zimmerman at (202) 245–0386. Assistance for the hearing impaired is available through the Federal Information Relay Services (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

In 1976, as part of the Railroad Revitalization and Regulatory Reform Act of 1976, Public Law 94–210, 90 Stat. 31, Congress gave the Board broad authority to exempt rail carriers from regulation when such regulation was not needed to protect against abuses of market power. The Interstate Commerce Commission (ICC or Commission) first exercised its exemption authority in *Rail General Exemption Authority—Fresh Fruits & Vegetables,* 361 I.C.C. 211 (1979), categorically exempting the transportation of certain fresh fruits and vegetables from its regulations.

Congress revised the statutory exemption standard in the Staggers Rail Act of 1980, 94 Stat. 1895, to provide that the agency shall exempt a person, class of persons, or a transaction or service when it finds that the application of a provision of 49 U.S.C. subtitle IV (1) is not necessary to carry out the transportation policy of section 10101a; and (2) either (a) the transaction or service is of limited scope, or (b) the application of the statute is not necessary to protect shippers from the abuse of market power. The exemption provision, which is now codified at 49 U.S.C. 10502,[1] also provides that the agency may revoke an exemption (partially or completely) if the agency later determines that the application of the Interstate Commerce Act is necessary to carry out the Rail Transportation Policy at 49 U.S.C. 10101 (the RTP). *See* section 10502(d).

Pursuant to its exemption authority, the ICC, and later the Board, exempted from regulation the transportation by rail of numerous other individual commodities, finding that traffic for these individual commodities was sufficiently competitive and that railroads lacked the ability to subject shippers to an abuse of market power.[2] These commodity exemptions are codified at 49 CFR 1039.10 and 1039.11. The Commission also exempted rail (and truck) operations provided in connection with trailer-on-flatcar/container-on-flatcar (TOFC/COFC) services, at 49 CFR pt. 1090,[3] and the rail transportation of all commodities in single-line boxcar service, at 49 CFR 1039.14.[4]

February 2011 Hearing

The agency's exemption decisions were instrumental in the U.S. rail system's transition from a heavily regulated, financially weak component of the economy into a mature, healthy industry that operates with limited oversight. However, more than 30 years have passed since many of the commodity exemptions were adopted, and there have been many changes in the railroad industry over that period. In more recent years, the Board received informal inquiries questioning the relevance or necessity of some of the existing commodity exemptions. The Board, therefore, requested public comment and held a public hearing in February 2011 to explore the continued utility of, and the issues surrounding, the various commodity exemptions under 49 CFR 1039.10 and 1039.11, the boxcar exemption under 49 CFR 1039.14, and the TOFC/COFC exemption under 49 CFR pt. 1090. The Board encouraged interested parties to address the effectiveness of the exemptions in the marketplace, whether the rationale behind any of these exemptions should be revisited, and whether the exemptions should be subject to periodic review.

The Board received written comment from numerous parties representing a diverse group of stakeholders including railroads, shippers, and the U.S. Department of Transportation. Twenty-one individuals testified at the hearing. The Board has considered those written comments and the oral testimony in developing the proposal discussed below.

Proposed Rule

As discussed above, pursuant to 49 U.S.C. 10502(d), the Board may revoke an exemption, in whole or in part, when it finds that regulation is necessary to carry out the RTP. After considering the oral testimony and written comments, waybill rate data for years 1992 through 2013,[5] and other industry information, the Board now proposes to revoke the commodity exemptions for the following Standard Transportation Commodity Code (STCC) groups: STCC

[1] There have been additional changes to the exemption provision since the Staggers Act with regard to the process and timing of exemption proceedings. The substantive standard, however, has remained the same.

[2] *See Rail Gen. Exemption Auth.—Nonferrous Recyclables,* 3 S.T.B. 62 (1998); *Rail Gen. Exemption Auth.—Pet. of AAR to Exempt Rail Transp. of Selected Commodity Groups,* 9 I.C.C.2d 969 (1993); *Exemption from Regulation—Rail Transp. Frozen Food,* 367 I.C.C. 859 (1983); *Liquid Iron Chloride,* 367 I.C.C. 347 (1983); *Rail Gen. Exemption Auth.—Miscellaneous Agric. Commodities,* 367 I.C.C. 298 (1983).

[3] *See Improvement of TOFC/COFC Regulation,* 364 I.C.C. 731 (1981); *Improvement of TOFC/COFC Regulations (R.R.-Affiliated Motor Carriers & Other Motor Carriers),* 3 I.C.C.2d 869 (1987); *Improvement of TOFC/COFC Regulations (Pickup & Delivery),* 6 I.C.C.2d 208 (1989).

[4] *See Exemption from Regulation—Boxcar Traffic,* 367 I.C.C. 425 (1983); *Exemption from Regulation—Boxcar Traffic,* 367 I.C.C. 747 (1983), *Exemption from Regulation—Boxcar Traffic,* 3 I.C.C.2d 23 (1986). *See also Brae Corp.* v. *United States,* 740 F.2d 1023 (D.C. Cir. 1984).

[5] The Board reviewed a 22-year period of confidential waybill data, beginning with information filed in 1992 and ending with data filed in 2013, the most recent on file with the Board.

No. 14–2, crushed or broken stone or rip rap; STCC No. 29–914, coke produced from coal; STCC No. 33–12, primary iron or steel products (plates, pipes, and rods); STCC No. 32–4, hydraulic cement; and STCC No. 40–211, iron or steel scrap, wastes or tailings.[6]

With regard to each of these commodity groups, the dynamics of the particular transportation markets appear to have changed so significantly since the exemptions were first promulgated as to warrant the application of the Interstate Commerce Act in order to carry out the Rail Transportation Policy. As discussed below, these changes point toward an increased likelihood of railroad market power for each of these specific commodity groups. This conclusion is also supported by the fact that railroad waybill rate data for these commodities shows a substantial increase in revenue from potentially captive traffic (*i.e.,* traffic with a revenue-to-variable cost (R/VC) ratio of more than 180%) over the last 22 years.[7] Thus, with respect to these commodities, the Board believes that reestablishing regulatory oversight is necessary to foster sound economic conditions in transportation, 49 U.S.C. 10101(5), maintain reasonable rates where there is an absence of effective competition, section 10101(6), and prohibit predatory pricing and practices, avoid undue concentrations of market power, and prohibit unlawful discrimination, section 10101(12).

The purpose of this proposal is to restore shippers' access to the Board's regulatory oversight and processes—in particular, shippers of those commodities where evidence indicates that the competitive landscape has changed significantly enough to indicate that renewed regulation is needed to carry out the RTP. The Board is committed to ensuring that stakeholders have an appropriate, meaningful path to the Board, and the proposal here is an important step towards that goal. The Board also welcomes interested parties to file comments regarding the possible revocation of other commodity class exemptions; such comments should address any marketplace changes comparable to the ones described below.

1. STCC Nos. 14–2, Crushed or Broken Stone or Rip Rap

In *Rail General Exemption Authority—Petition of AAR to Exempt Rail Transportation of Selected Commodity Groups* (*Petition of AAR*) 9 I.C.C.2d 969 (1993), the Commission exempted from its regulation the railroad transportation of several commodities, including crushed or broken stone or rip rap (crushed stone).[8] After reviewing broad, market-share data, the Commission found that the rail transportation of crushed stone consisted of short hauls and was characterized by declining or stagnant revenue per unit of service—market characteristics not consistent with a finding of market power. *Id.* at 974. Thus, the Commission concluded that regulation of this commodity was not necessary to carry out the transportation policy of section 10101 because transportation was competitive, and an exemption would, among other things, minimize the need for federal regulatory control; increase competition between rail carriers and trucks by allowing quick, selective rate changes in response to competition; and allow more efficient management by allowing pricing changes in response to changing business conditions. *Id.* at 973.

In its February 2011 hearing comments, Texas Crushed Stone (TCS), a limestone quarry operator, argued that the Board should consider revoking the class exemption for crushed stone or aggregates. (TCS Comments 8.) TCS stated that the business landscape of the railroad industry had changed since the Staggers Rail Act of 1980 was enacted. (*Id.* at 4.) TCS also claimed that intramodal competition had been reduced as a result of railroad consolidation and asserted that some railroads had abused their market power by aggressively increasing rail transportation rates. (*Id.* at 8.) TCS maintained that trucking was not a practical check on railroad market power as there are not enough trucks or drivers to handle the volumes it had shipped in the past. (*Id.* at 5.) TCS also asserted that the preponderance of its shipments were captive, as most of its customers were served by one railroad. (*Id.* at 5.) Accordingly, TCS requested that the Board revoke the exemptions for crushed stone so that TCS can seek regulatory relief from unfair rates and unreasonable practices. (*Id.* at 6.)

When the Commission first exempted the rail transportation of this commodity group, testimony provided by witnesses on behalf of individual rail carriers indicated that this commodity group was subject to motor carrier competition because movements were often short haul in nature. *Petition of AAR,* 9 I.C.C.2d at 975. The Commission also found, based on data provided by AAR, that the rail market share of this commodity group was 5.4% in 1975, 4.8% in 1980, 4.0% in 1985, and 4.6% in 1990, evidencing a lack of railroad market dominance. *Id.* at 974. Recent information suggests that certain market dynamics may have changed significantly.

While it appears that railroads still have a relatively small modal market share of the overall commodity group, TCS's testimony suggests that trucking does not effectively limit railroad market power with respect to this commodity group. Moreover, waybill data analysis demonstrates that the average R/VC ratio for potentially captive traffic for this commodity group increased from 232.2% in 1992 to 254.9% in 2013. Similarly, the percentage of potentially captive traffic by revenue for this commodity group during the 22-year review period increased from 14.8% in 1992 to 62.0% in 2013. These significant changes indicate that revocation of the exemption may be necessary to carry out the RTP provisions discussed above with regard to crushed or broken stone or rip rap.

2. STCC Nos. 29–914, Coke Produced From Coal; 33–12, Primary Iron or Steel Products (Plates, Pipes, and Rods); and 40–211, Iron or Steel Scrap, Wastes, or Tailings

In *Petition of AAR,* 9 I.C.C.2d at 978, the Commission also exempted from its regulation the railroad transportation of coke produced from coal, as well as primary iron or steel products. With regard to coke produced from coal, the Commission observed that there was, overall, a significant railroad market share for this commodity.[9] *Id.* Nevertheless, based on other evidence, the ICC determined that there was product competition, intramodal competition, and depressed prices for coke. *Id.* For example, the ICC concluded that the average revenue per

[6] The Standard Transportation Commodity Code is a numerical code used to identify commodities and groupings of commodities. The initial two digits represent a broad commodity grouping; subsequent numbers indicate smaller sub-groupings or individual commodities. *See Rail Gen. Exemption Auth.—Pet. of AAR to Exempt Rail Transp. of Selected Commodity Groups,* 9 I.C.C.2d 969 n.2 (1993).

[7] R/VC ratios in excess of the market dominance threshold of 180% do not, standing alone, establish market power or an abuse of such power. Thus, the Board bases its proposal to revoke these commodity class exemptions on a variety of marketplace changes described in this notice of proposed rulemaking. However, R/VC ratios have long been used by the Board as one indication of market power, and it is appropriate to rely on this data as supporting evidence.

[8] In that decision, the Commission exempted the railroad transportation of 16 other classes of commodities as well.

[9] The Board considered combined market share data for coke produced from coal and petroleum coke. AAR subsequently withdrew its request for the exemption of petroleum coke.

ton-mile for coke had increased at rates below inflation. Also, the American Iron and Steel Institute supported the exemption and asserted, among other things, that an exemption would reduce the administrative burden associated with tariff and contract filing. Viewing the testimony from a trade association of shippers to be especially probative, the Commission exempted the rail transportation for coke produced from coal. *Id.*

In determining whether to exempt the rail transportation of primary iron or steel products, the Commission reviewed modal market share data for this commodity group. 9 I.C.C.2d at 979. The agency concluded that fluctuating railroad market shares over the course of 15 years (*i.e.,* 40.4% (1975), 39.2% (1980), 29.7% (1985), and 37.8% (1990)) was consistent with a lack of market power. The Commission also noted that much of this traffic moved under contract. After considering the data, along with the testimony submitted from witnesses of individual railroads and a statement from the American Iron and Steel Institute supporting the exemption, the Commission exempted this class of commodities.

A few years later, in *Rail General Exemption Authority—Exemption of Ferrous Recyclables,* Docket No. EP 346 (Sub-No. 35) (ICC served May 16, 1995), the Commission exempted from regulation the railroad transportation of iron or steel scrap, wastes and tailings (STCC No. 40–211). The Commission found the transportation of this commodity group to be extremely competitive. Specifically, the ICC found that intramodal competition with other railroads and intermodal competition with trucks and barges existed in many markets. *Id.* at 3. Also, the Commission determined that there was exceptionally strong geographic competition for this commodity group, which would further inhibit railroads from exercising market power. *Id.* Further, the Commission found the iron and steel scrap traffic average R/VC ratios of 139.5% in 1991 and 138.6% in 1992, more than 40 percentage points less than the Commission's statutory 180% R/VC rate threshold. *Id.* at 4. Accordingly, the Commission concluded that it was reasonable to assume that the majority of the individual carload R/VC ratios were also below the jurisdictional threshold. *Id.*

Several changes relating to the transportation of these commodity groups suggest that railroads have greater market power today than they did when the ICC issued its exemption decisions. First, as a general matter, in the last several decades, the United States has been generating more scrap and requiring less traditional steel production in general, which has led the steelmaking industry to shift away from traditional blast furnaces towards electric arc furnaces (EAF) to convert scrap into new steel.[10] This trend towards the utilization of EAFs has resulted in the movement of steel production away from the Great Lakes region to the South.[11] When steel production was located primarily in the Great Lakes region, water carriage was an option for transportation—*e.g.,* over the Great Lakes themselves—but is now less so after the migration to the South. With respect to trucking, a review of confidential waybill data for 1992 and 2013 demonstrates that the average length of haul (weighted by tons) for primary iron or steel products and iron or steel scrap has increased for non-intermodal and non-boxcar movements. For primary iron or steel products, the average length of haul has increased by 74 miles, from 652 miles to 726. Similarly, the average length of haul for iron or steel scrap has increased 114 miles, from 306 miles in 1992, to 420 miles in 2013. Although it is unknown what specific factors have contributed to such increases, this data is one indication of trucking being less competitive in today's marketplace.[12] For these reasons, railroads may be enjoying more market power now than in the early 1990's over shippers in the iron and steel industry.[13] We note that the submission of modal market share data over time (between railroads, trucks and barge) with regard to these commodity groups will be helpful in assessing the degree to which the geographic migration may have affected intermodal competition.

Similar arguments with regard to EAFs are also applicable to coke produced from coal (STCC No. 29–914). Years ago, blast furnaces in Pennsylvania, for instance, were not located far from coke sources in that same area. These short-haul distances potentially allowed for a significant volume of coke to be shipped to blast furnaces on trucks for use in the steelmaking process. However, a review of the Board's confidential waybill rate data indicates that the average length of haul for non-intermodal, non-boxcar coke produced from coal has increased by 39 miles, from 372 miles in 1992, to 411 in 2013. A 39-mile increase in the average length of haul is consistent with more transportation movements exceeding 500 miles in 2013 than in 1992, which supports the Board's concern that there is less competition from the trucking industry to transport this commodity.

We are aware that, in one rate reasonableness case, the complaining shipper requested that the exemption for coke be partially revoked. *See FMC Wyo. Corp.* v. *Union Pac. R.R.,* NOR 42022 et al., slip op. at 13 n.17 (STB served May 12, 2000). Although the Board found that there was not sufficient evidence to revoke the exemption for coke at that time, more recent quantitative findings, discussed below, lend support to the idea that the transportation market for that commodity might have changed significantly since then.

Second, analysis of the Board's confidential waybill data further supports a conclusion that each of these commodity groups may be subject to increased market power from railroads. With regard to primary iron or steel products (STCC No. 33–12), from 1992 to 2013, the percentage of revenue that was potentially captive for primary iron or steel products doubled from 18.8% to 37.6%. Similarly, for iron and steel scrap (STCC No. 40–211), the percentage of revenue that was potentially captive doubled from 22.1% to 44.0% during this same time frame. Also, for primary iron or steel products, the average R/VC ratio for potentially captive traffic increased during the 22-year period, from 219.1% in 1992 to 236.6% in 2013. For the iron or steel scrap commodity group, the average R/VC ratio for potentially captive traffic increased by approximately four points, from 225.6% to 229.8%. Thus, the Board observes that the traffic for both primary iron or steel products and iron

[10] John W. Miller, *Times Have Changed: New Plan for a Century-Old U.S. Steel Mill,* Wall Street Journal (Jan. 28, 2014), *http://blogs.wsj.com/corporate-intelligence/2014/01/28/times-have-changed-new-plan-for-a-century-old-u-s-steel-mill/.*

[11] AMM Staff, *Electric Arc Furnace Production Keeps Moving South,* American Metal Market (Aug. 27, 2015, 4:12 p.m.), *http://www.amm.com/Article/3483752/Electric-arc-furnace-production-keeps-moving-south.html.*

[12] Trucking becomes less viable when the length of haul exceeds 500 miles because any transport over that threshold, in many instances, could not be completed in one day. Increases in the average length of haul for the above mentioned commodities is one possible indicator that there are more movements exceeding the 500-mile threshold—thereby contributing to less competitive pressure from trucking.

[13] During the Board's February 2011 proceeding, AK Steel Corporation (AK Steel), a steel producer with seven steelmaking and finishing plants in the United States, filed comments arguing that the rationale underlying many of the exemptions no longer exists or is otherwise inapplicable in today's market. According to AK Steel, due to the characteristics of its particular freight, it must ship via rail because other modes, such as truck, are not viable options. (AK Steel Comments 3.) AK Steel further notes that, in many instances, its facilities are captive to a single railroad and are subject to monopoly railroad power and market dominant pricing. (*Id.* at 5.)

or steel scrap appears to be increasingly potentially captive to railroads, and that this potentially captive traffic is being charged higher R/VC ratios over time. This data suggests that railroads may be exerting increased market power over shippers of these commodities.

Likewise, the Board's confidential waybill data for coke produced from coal indicates that the percentage of revenue that was potentially captive almost tripled from 1992 to 2013. In 1992, 20.1% of revenue was potentially captive compared to 58.9% in 2013. During that same time period, the average R/VC ratio for potentially captive coke traffic increased by approximately 23 points from 225.0% to 248.2%. Thus, it appears that coke produced from coal is becoming increasingly captive to railroads, and that the captive traffic is being charged higher R/VC ratios over time. These findings are consistent with increased market power.

3. STCC No. 32–4, Hydraulic Cement

In *Rail General Exemption Authority—Exemption of Hydraulic Cement,* EP 346 (Sub-No. 34) (ICC served July 26, 1995), the Commission exempted from its regulation the rail transportation of hydraulic cement. The ICC found that movements of hydraulic cement were predominantly short-haul in nature, and that railroads therefore faced pervasive competition from other railroads, from barges, and especially from trucks. *Id.,* slip op. at 4. The Commission, consequently, determined that regulation was not necessary to carry out the RTP and that an exemption would not permit railroads to abuse market power.

Several shippers of exempted construction commodities and a shipper organization filed comments and/or testified at the Board's February 2011 hearing.[14] The Cement Shippers urged the Board to reexamine or revoke the exemptions that applied specifically to cement and construction materials. They asserted that the competitive landscape had changed significantly and that the railroad industry's financial situation had improved markedly since the adoption of the commodity exemptions. They also asserted that railroad consolidation had resulted in carriers having increased market power, enabling railroads to impose steep rate increases, and that the competitive situation was made worse by declining competition from the motor carrier industry, due to fuel prices, a shortage of drivers, and increased congestion on highways and roads.

When the ICC first exempted the rail transportation of hydraulic cement, the Commission found that railroads faced pervasive competition. The ICC concluded that intermodal and intramodal competition for hydraulic cement existed in many regions—trucking was dominant, and barges and other rail carriers also competed in the marketplace. *See Rail Gen. Exemption Auth.—Exemption of Hydraulic Cement,* EP 346 (Sub-No. 34), slip op. at 4. However, changes in the rail and cement industries appear to have significantly reduced the effectiveness of competitive transportation alternatives. According to PCA, over the course of 30 years, the number of cement manufacturing plants has fallen from 179 to fewer than 100, while plant capacity, on average, has doubled. (PCA Comments 10.) Consequently, cement shippers are shipping greater distances, where trucking is not economically feasible. (*Id.*) On average, according to PCA, cement shipments now range between 250 to 300 miles, yet truck transportation is not an economical mode of transport beyond 100 to 125 miles. (*Id.* at 2) The Cement Shippers state that over 80% of cement shipments in the United States are served by a single railroad. (*Id.*)

The Board's analysis of waybill data for years 1992 through 2013 reveals that R/VC ratios for hydraulic cement have trended upwards over the course of 22 years. In 1992, the R/VC ratio for potentially captive cement traffic was 208.3%, compared to 239.6% in 2013. Also, the percentage of potentially captive traffic by revenue increased from 18.9% in 1992 to 54.6% in 2013. The Board finds that increases in both the R/VC ratio for potentially captive traffic and the percentage of potentially captive traffic by revenue are possible indicators of increased railroad market power sufficient to warrant regulatory oversight. This data further supports the Board's proposal to revoke the exemption for hydraulic cement.

Conclusion

For the foregoing reasons, the Board proposes to revoke the exemptions, in whole, of STCC No. 14–2, crushed or broken stone or rip rap; STCC No. 29–914, coke produced from coal; STCC No. 33–12, primary iron or steel products (plates, pipes, and rods); STCC No. 40–211, iron or steel scrap, wastes or tailings; and STCC No. 32–4, hydraulic cement, because regulation of these commodities is necessary to carry out the RTP.

The Board seeks public comment on whether the exemptions should be revoked.[15] Commenters are invited to include any relevant data in support of their comments, including, but not limited to, the types of data (for example, modal market share, among other things), upon which the ICC relied in first promulgating the class exemptions now proposed to be revoked.[16] The Board also invites parties to address how market conditions today differ from those that existed when the exemptions were granted and to reflect upon whether or how those changes should affect the Board's evaluation of those data sources upon which the ICC relied. Finally, as noted, the Board welcomes interested parties to file further comments regarding the possible revocation of other commodity class exemptions.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. Sections 601–604. In its notice of proposed rulemaking, the agency must either include an initial regulatory flexibility analysis, section 603(a), or certify that the proposed rule would not have a ''significant impact on a substantial number of small entities,'' section 605(b).

Because the goal of the RFA is to reduce the cost to small entities of complying with federal regulations, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates those entities. In other words, the impact must be a direct impact on

[14] These included CEMEX, Inc. (CEMEX); Holcim (US), Inc. (Holcim); and the Portland Cement Association (PCA). CEMEX requested that the Board revoke the exemption for construction materials. Similarly, Holcim requested revoking the exemption for hydraulic cement and the materials used in the manufacture of cement. PCA requested that the Board revoke the exemption for construction materials, and more specifically, cement and fly ash. These shippers are collectively referred to as ''Cement Shippers.''

[15] We note that additional commenters addressed certain of these commodity exemptions in the February 2011 hearing proceeding. In commenting in this proceeding, parties may incorporate and supplement prior comments as appropriate.

[16] *See Rail Gen. Exemption Auth.—Pet. of AAR to Exempt Rail Transp. of Selected Commodity Groups,* 9 I.C.C.2d 969 (1993); *Rail Gen. Exemption Auth.—Exemption of Ferrous Recyclables,* EP 346 (Sub-No. 35) (ICC served May 16, 1995); and *Rail Gen. Exemption Auth.—Exemption of Hydraulic Cement,* EP 346 (Sub-No. 34) (ICC served July 26, 1995).

small entities ''whose conduct is circumscribed or mandated'' by the proposed rule. *White Eagle Coop. Ass'n* v. *Conner,* 553 F.3d 467, 480 (7th Cir. 2009).

The rules proposed here would potentially have a significant economic impact on a substantial number of small entities. Thus, we encourage comment on any information relevant to a significant burden, if any, the proposed rules would have on small rail carriers.

Description of the Reasons That Action by the Agency Is Being Considered

The Board held a public hearing in February 2011 to explore the continued utility of, and the issues surrounding, exemptions under section 10502, specifically the various commodity exemptions under 49 CFR 1039.10 and 1039.11, the boxcar exemption under 49 CFR 1039.14, and the TOFC/COFC exemption under 49 CFR pt. 1090. The Board held the hearing because it had been many years (and, in some cases, decades) since the agency promulgated many of these commodity exemptions, and the Board had received various informal inquiries questioning the relevance and/or necessity of some of the existing commodity exemptions, given the changes in the competitive landscape and the railroad industry that have occurred in the intervening years. A more detailed description of the agency's historical deregulation of the aforementioned commodities, and the Board's reasons for considering the proposed rules are set forth above in this NPRM.

Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The objective of the proposed rule is to restore shippers' access to the Board's regulatory oversight and processes—in particular, shippers of those commodities where evidence indicates that the competitive landscape has changed significantly enough to indicate that renewed regulation is needed to carry out the national RTP. Specifically, the Board has concluded, based on the record in this proceeding, that renewed regulation is needed with respect to the rail transportation of (1) crushed or broken stone or rip rap; (2) hydraulic cement; and (3) coke produced from coal, primary iron or steel products, and iron or steel scrap, wastes or tailings. The legal basis for the proposed rule is 49 U.S.C. 10502(d), which gives the Board authority to revoke an exemption, in whole or in part, when it finds that regulation is necessary to carry out the RTP of 49 U.S.C. 10101.

Description of and, Where Feasible, an Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

In general, revoking the exemptions for the commodities listed above would impose on all of the nation's approximately 562 small rail carriers [17] the obligation to, among other things, provide common carrier rail transportation of those commodities upon reasonable request.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities That Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

Under the Board's proposed rules, the revocation of exemption for STCC No. 14–2, crushed or broken stone or rip rap; STCC No. 29–914, coke produced from coal; STCC No. 33–12, primary iron or steel products (plates, pipes, and rods); STCC No. 32–4, hydraulic cement; and STCC No. 40–211, iron or steel scrap, wastes would now require a carrier to comply with the Board's statutes and regulations regarding the provision of common carrier service upon reasonable request, maintenance of reasonable practices and rates, and provision of adequate service. However, regulation would not impose new reporting requirements directly or indirectly on small entities—ICCTA removed regulatory paperwork burdens (with limited exceptions) on rail carriers to file tariffs or contract summary filings for rail shipments, exempt or non-exempt. Nevertheless, the Board seeks further comment on any recordkeeping or other compliance requirements, if any, needed to conform to the proposed rules.

Identification, to the Extent Practicable, of all Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

The Board is unaware of any duplicative, overlapping, or conflicting federal rules. The Board seeks comments and information about any such rules.

[17] The Small Business Administration's Office of Size Standards has established a size standard for rail transportation, pursuant to which a ''line-haul railroad'' is considered small if its number of employees is 1,500 or less, and a ''short line railroad'' is considered small if its number of employees is 500 or less. 13 CFR 121.201 (industry subsector 482).

Description of any Significant Alternatives to the Proposed Rule That Accomplish the Stated Objectives of Applicable Statutes and That Minimize any Significant Economic Impact of the Proposed Rule on Small Entities, Including Alternatives Considered, Such as: (1) Establishment of Differing Compliance or Reporting Requirements or Timetables That Take Into Account the Resources Available to Small Entities; (2) Clarification, Consolidation, or Simplification of Compliance and Reporting Requirements Under the Rule for Such Small Entities; (3) use of Performance Rather Than Design Standards; (4) any Exemption From Coverage of the Rule, or any Part Thereof, for Such Small Entities

Under the proposed rule, rail carriers would be required to comply with the Board's statutes and regulations regarding the provision of common carrier service upon reasonable request, maintenance of reasonable practices and rates, and provision of adequate service. One alternative to the proposed rule would be to exempt certain or all small carriers from coverage or compliance with the rule, in whole or in part (that is, to revoke the commodity class exemptions at issue for larger carriers but keep the exemptions in place for some or all small carriers). Another alternative would be to take no action—thereby implementing no changes to the current regulatory regime. However, neither alternative would accomplish the proposed rules' objective of restoring the rail transportation of the commodities at issue to the Board's statutory and regulatory regime. Commenters should, if they advance these or any other alternatives in their comments, address how such alternatives would be consistent or inconsistent with the goals envisioned by the proposed rules.

Authority: 49 U.S.C. 10502 and 13301.

List of Subjects in 49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Railroads.

Decided: March 23, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman. Vice Chairman Miller concurred with a separate expression. Commissioner Begeman dissented with a separate expression.

Jeffrey Herzig,

Clearance Clerk.

VICE CHAIRMAN MILLER, concurring:

I am pleased that the Board is taking action on this long delayed matter and, in general, I agree with the outcome to

institute a Notice of Proposed Rulemaking (NPRM) to revoke the commodity exemptions listed in the decision. However, I write separately to express my frustration at the lengthy delay by the Board to take any action on this matter, and the narrow analysis that was used to reach this result.

It has been over five years since the Board first held a hearing to examine whether any commodity exemptions should be revoked. For these five years, our stakeholders have been left in the dark as to if or when the Board would act. My hope was that, given the long wait, the Board would at least conduct a thorough and wide-ranging analysis, but as today's decision makes clear, that was not the case.

In order to demonstrate that the commodity exemptions here warrant revocation, the Board mainly relies on two pieces of data: the change in R/VC ratios over the last two decades and the percentage of traffic moved by rail that is ''potentially captive'' (*i.e.,* above 180% R/VC). While not the strongest foundation on which to propose new rules, I believe it provides a sufficient basis to move forward, which is why I support today's decision. However, I would have liked the Board to go further and provide an analysis of all other commodities that are currently exempt from regulation. Instead, the scope of the decision here is limited to just those commodities that shippers identified at the 2010 hearing (and, even then, not all of them). I see no reason why the Board could not have analyzed other commodities, even if they were not presented at the 2010 hearing.

By the same token, the Board—without explanation—provides no analysis regarding whether commodities that are currently regulated should now be exempted. Instead, the Board chooses to look only at commodities that are already exempt. In fact, the Board's decision ignores the request from Norfolk Southern Railway (NSR) for the Board to examine four commodities that NSR claims no longer require Board regulation. After keeping our stakeholders waiting for years, a broader analysis is the least I would expect.

As I was unsatisfied with this limited analysis, I requested the Board's Office of Economics (OE) to conduct such analyses and provide me with the results. While I would have included such analyses as part of the decision today, they would not have led me to a different outcome. In particular, based on the conclusions I have drawn from the analyses, I believe that the railroads have likely not increased market power for any exempt commodities other than those addressed in this decision.

In addition, I requested that OE look at available data to assess whether it appears that the railroads have lost market power over any commodities that are currently regulated, including the commodities that NSR identified in its comments as part of the 2010 hearing. Based on this analysis, only a handful of commodities showed a potential loss of market power by the railroads, but they all involved too minimal an amount of traffic to warrant revising the regulations.

For reasons I do not understand, the Board has chosen not to include this analysis as part of the decision, though in my view its inclusion would strengthen it. Based on the results of the analysis, I would not have advocated for any further revocations of commodity exemptions other than the ones listed here, nor to exempt any commodities that are currently regulated. Without the analysis though, I would not have known that was the case and I would not have felt comfortable voting to approve this decision.

That being said, I agree with Commissioner Begeman that the record on which we are basing this decision is less than robust and could benefit from additional information. Accordingly, I understand Commissioner Begeman's concern about proceeding directly to a NPRM. However, I believe that even without additional information, there is enough of a foundation on the record that we can move forward with an NPRM. Given that our stakeholders have waited for five years for the Board to take action, I am reluctant to proceed in a fashion that will add even more time to get to a final rule. As the Board will still receive comments from stakeholders, and because we can still make changes through a supplemental NPRM if the comments indicate our conclusions were wrong, I feel that this is a better course of action than the alternatives, such as starting with an Advanced Notice of Proposed Rulemaking. I will remain open to the idea of initiating an additional NPRM or a supplemental NPRM if we receive evidence that indicates that our conclusions with regard any commodities proposed for revocation are incorrect.

COMMISSIONER BEGEMAN, dissenting:

This record was created over half a decade ago, before two of the three current Board members were even appointed (and my five-year term since expired). For this Board to take informed action *now,* we should first ask interested stakeholders to update the docket, and then propose whatever changes are necessary. And, importantly, we should commit to completing final action by a timely date certain.

Although I appreciate the Board staff's recent review of waybill rate data from 1992 through 2013, I am not convinced that analysis sufficiently supports altering the exemption landscape. The ''record'' the majority is relying on to support its proposed changes is a waybill-based hunch using limited information on these commodities. Today's decision also begs the question: if waybill data are sufficient basis for a proposed rule, then why didn't the Board act years ago? Nothing in this decision suggests that the case for action has markedly changed since 2011.

The proposed rule also fails to account for the present. Considerable and important events have taken place since the February 2011 hearing and the 2013 waybill cutoff, including the 2014 rail service crisis that impacted shippers and carriers across the country and the significant shifts in service demand for coal, oil, and other important commodities. Fuel prices have also changed dramatically. Unfortunately, today's proposed rule is completely uninformed by any of these or other current market considerations.

The law directs the Board to exercise its exemption authority broadly, and that directive was unchanged with passage of the recent STB Reauthorization Act, P.L. 114–110. Therefore, we shouldn't narrow or revoke exemptions granted under that authority absent compelling circumstances. Instead, the majority is proposing changes without really knowing whether the revocations are justified.

Even if a commodity is exempt, however, the Board is not uninterested. We still conduct broad oversight of exempt commodities and take action when we deem it necessary. For example, when the Board directed the carriers to provide weekly service reporting, we included reporting on intermodal and automobiles, which are exempt. The Board's Rail Shipper Transportation Advisory Council has included shippers of exempt commodities who also provide the Board with key rail service demand information. The Board's Rail Customer and Public Assistance Program also helps resolve the questions and problems of exempt commodity shippers whenever possible.

Clearly, stakeholders have waited far too long for Board action on this docket. But we should be asking the parties to update the record so that the Board can

propose an informed rule based on up-to-date information. Instead, the majority appears to be taking the path of least resistance to close a languishing docket. I dissent.

For the reasons set forth in the preamble, the Surface Transportation Board proposes to amend 49 CFR part 1039 as follows:

PART 1039—EXEMPTIONS

■ 1. The authority citation for part 1039 continues to read as follows:

Authority: 49 U.S.C. 10502, 13301.

■ 2. Section 1039.11 is revised to read as follows:

§ 1039.11 Miscellaneous commodities exemptions.

(a) *Commodities exempted.* (1) Except as indicated in paragraph (b) of this section, the rail transportation of the commodities listed below is exempt from the provisions of 49 U.S.C. subtitle IV. The Standard Transportation Commodity Code (STCC) numbers that identify the exempted commodities are those in effect on the effective date of the tariff cited, and shall embrace all commodities assigned additional digits.

STCC No.	STCC Tariff	Commodity
14 1	6001–T, eff. 1–1–92	Dimension stone, quarry.
14 411	do	Sand (aggregate or ballast).
14 412	do	Gravel (aggregate or ballast).
20	do	Food or kindred products except: 20 143 Grease or inedible tallow. 20 32 Canned specialties. 20 33 Canned fruits, jams, jellies, preserves or vegetables. 20 4 Grain mill products. 20 6 Sugar, beet or cane. 20 8 Beverages or flavoring extracts. 20 911 Cottonseed oil, crude or refined. 20 914 Cottonseed cake or meal or by-products. 20 92 Soybean oil or by-products. 20 93 Nut or vegetable oils or by-products.
22	do	Textile mill products.
23	do	Apparel or other finished textile products or knit apparel.
24	do	Lumber or wood products.
25	do	Furniture or fixtures.
26	do	Pulp, paper or allied products except: 26 1 Pulp or pulp mill products. 26 211 Newsprint. 26 212 Ground wood paper, uncoated. 26 213 Printing paper, coated or uncoated, etc. 26 214 Wrapping paper, wrappers or coarse paper. 26 218 Sanitary tissue stock. 26 471 Sanitary tissues or health products. 26 6 Building paper or building board except: 26 613 Wallboard.
27	do	Printed matter.
28 195 22–23	do	Iron chloride, liquid.
28 195 27–30	do	Iron sulphate.
28 195 68–69	do	Ferrous sulphate.
29 915	do	Distillate or residual fuel oil from coal refining.
30	do	Rubber or miscellaneous plastics products except: 30 111 Rubber pneumatic tires or parts.
31	do	Leather or leather products.
32	do	Clay, concrete, glass or stone products except: 32 4 Hydraulic cement. 32 741 Lime or lime plaster. 32 95 Nonmetallic earths or minerals, ground or treated in any other manner except: 32 952 15 Cinders, clay, shale expanded shale), slate or volcanic (not pumice stone), or haydrite.
33	do	Primary metal products, including galvanized, except: 33 12 Primary Iron or Steel Products.
34	do	Fabricated metal products except: 34 6 Metal stampings. 34 919 40 Radioactive material shipping containers, etc.
35	do	Machinery except: 35 11 Steam engines, turbines, turbine generator sets, or parts. 35 85 Refrigerators or refrigeration machinery or complete air-conditioning units.
36	do	Electrical machinery, equipment or supplies except: 36 12 Power, distribution or specialty transformers. 36 21 Motors or generators.
3711	do	Motor vehicles.
3714	do	Motor vehicle parts or accessories.
38	do	Instruments, photographic goods, optical goods, watches or clocks.
39	do	Miscellaneous products of manufacturing.
41 118	6001–U, eff. 1–1–93	Used vehicles.
14 715	6001–V, eff. 1–1–94	Rock salt.

STCC No.	STCC Tariff	Commodity
20 143	.....do	Grease or Inedible Tallow.
28 133	.....do	Carbon dioxide.
28 991	.....do	Salt.
34 912	6001–W, eff. 1–1–95	Steel shipping containers.
33 119	6001–X, eff. 1–11–96	Blast furnace, open hearth, rolling mill or coke oven products, NEC.
20511	6001–X, eff., 1–1–96	Bread or other bakery products exc. biscuits, crackers, pretzels or other dry bakery products. See 20521–20529.
22941	.....do	Textile waste, garnetted, processed, or recovered or recovered fibres or flock exc. packing or wiping cloths or rags. See 22994.
22973	.....do	Textile fibres, laps, noils, nubs, roving, sliver or slubs, prepared for spinning, combed or converted.
22994	.....do	Packing or wiping cloths or rags (processed textile wastes).
24293	.....do	Shavings or sawdust.
30311	.....do	Reclaimed rubber.
3229924	.....do	Cullet (broken glass).
33312	.....do	Copper matte, speiss, flue dust, or residues, etc.
33322	.....do	Lead matte, speiss, flue dust, dross, slag, skimmings, etc.
33332	.....do	Zinc dross, residues, ashes, etc.
33342	.....do	Aluminum residues, etc.
33398	.....do	Misc. nonferrous metal residues, including solder babbitt or type metal residues.
40112	.....do	Ashes.
40212	.....do	Brass, bronze, copper or alloy scrap, tailings, or wastes.
40213	.....do	Lead, zinc, or alloy scrap, tailings or wastes.
40214	.....do	Aluminum or alloy scrap, tailings or wastes.
4021960	.....do	Tin scrap, consisting of scraps or pieces of metallic tin, clippings, drippings, shavings, turnings, or old worn-out block tin pipe having value for remelting purposes only.
40221	.....do	Textile waste, scrap or sweepings.
40231	.....do	Wood scrap or waste.
40241	.....do	Paper waste or scrap.
40251	.....do	Chemical or petroleum waste, including spent.
40261	.....do	Rubber or plastic scrap or waste.
4029114	.....do	Municipal garbage waste, solid, digested and ground, other than sewage waste or fertilizer.
4029176	.....do	Automobile shredder residue.
4111434	.....do	Bags, old, burlap, gunny, istle (ixtle), jute, or sisal, NEC.
41115	.....do	Articles, used, returned for repair or reconditioning.
42111	.....do	Nonrevenue movement of containers, bags, barrels, bottles, boxes, crates, cores, drums, kegs, reels, tubes, or carriers, NEC, empty, returning in reverse of route used in loaded movement, and so certified.
42112	.....do	Nonrevenue movement of shipping devices, consisting of blocking, bolsters, cradles, pallets, racks, skids, etc., empty, returning in reverse of route used in loaded movement, and so certified.
42311	.....do	Revenue movement of containers, bags, barrels, bottles, boxes, crates, cores, drums, kegs, reels, tubes, or carriers, NEC, empty, returning in reverse of route used in loaded movement and so certified.

(2) Also excepted from this exemption are those recyclable products specifically identified by the Board at 356 I.C.C. 445–447, those commodities previously exempt, and any transportation service regarding which the Board has made a finding of market dominance. However, this exemption shall not be construed as affecting in any way the existing regulations, agreements, prescriptions, conditions, allowances or levels of compensation regarding the use of equipment, whether shipper or railroad owned or leased, including car hire, per diem and mileage allowances, and also including exemption from the anti-trust laws necessary to negotiate car service regulations or mandatory interchange of equipment or to maintain and execute such agreements. Nor shall this exemption be construed to affect existing Class III railroad ''protections'' in the case of boxcars.

(b) *Conditions.* Carriers must continue to comply with Board accounting and reporting requirements. All railroad tariffs pertaining to the transportation of these miscellaneous commodities will no longer apply. This exemption shall remain in effect, unless modified or revoked by a subsequent order of this Board.

[FR Doc. 2016–06956 Filed 3–25–16; 8:45 am]

BILLING CODE 4915–01–P

Notices

Federal Register
Vol. 81, No. 59
Monday, March 28, 2016

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

Agricultural Marketing Service

[Doc. No. AMS–NOP–16–0010; NOP–15–15]

National Organic Program: Request for an Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget, for an extension of the currently approved information collection National Organic Program (NOP) Reporting and Recordkeeping Requirements.

DATES: Comments received by May 27, 2016 will be considered.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice. Comments must be sent to Stacy Jones King, Agricultural Marketing Specialist, National Organic Program, AMS/USDA, 1400 Independence Ave. SW., Room 2642–S., Ag Stop 0268, Washington, DC 20250–0268 or by Internet: *http://www.regulations.gov.* Written comments responding to this notice should be identified with the document number AMS–NOP–16–0010; NOP–15–15. It is USDA's intention to have all comments concerning this notice, including names and addresses when provided, regardless of submission procedure used, available for viewing on the Regulations.gov (*http://www.regulations.gov*) Internet site. Comments submitted in response to this notice will also be available for viewing in person at USDA–AMS, National Organic Program, Room 2642-South Building, 1400 Independence Ave. SW., Washington, DC, from 9 a.m. to 12 noon and from 1:00 p.m. to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South Building to view comments received in response to this notice are requested to make an appointment in advance by calling (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Paul I. Lewis, Ph.D., Director, Standards Division, National Organic Program, USDA–AMS, 1400 Independence Ave. SW., Room 2642-So., Ag Stop 0268, Washington, DC 20250, Telephone: (202) 720–3252, Fax: (202) 205–7808.

SUPPLEMENTARY INFORMATION:

Title: National Organic Program.

OMB Number: 0581–0191.

Expiration Date of Approval: December 31, 2016.

Type of Request: Extension of a currently approved information collection.

Abstract: The Organic Foods Production Act of 1990 (OFPA) as amended (7 U.S.C. 6501–6522) mandates that the Secretary develop the NOP to accredit eligible State program's governing State officials or private persons as certifying agents who would certify producers or handlers of agricultural products that have been produced using organic methods as provided for in OFPA. The USDA organic regulation (7 CFR part 205): (1) Established national standards governing the marketing of certain agricultural products as organically produced products; (2) assures consumers that organically produced products meet a consistent standard; and (3) facilitates interstate commerce in fresh and processed food that is organically produced.

Reporting and recordkeeping are essential to the integrity of the organic certification system. They create a paper trail that is a critical element in carrying out the mandate of OFPA and NOP. They serve the AMS mission, program objectives, and management needs by providing information on the efficiency and effectiveness of the program. The information affects decisions because it is the basis for evaluating compliance with OFPA and NOP, for administering the program, for management decisions and planning, and for establishing the cost of the program. It supports administrative and regulatory actions in response to noncompliance with OFPA and NOP.

In general, the information collected is used by USDA, State program governing State officials, and certifying agents. It is created and submitted by State and foreign program officials, accredited certifying agents, organic inspectors, certified organic producers and handlers, those seeking accreditation or certification, and parties interested in changing the National List of Allowed and Prohibited Substances at sections 205.600 through 205.607. Additionally, it causes most of these entities to have procedures and space for recordkeeping.

USDA. USDA is the accrediting authority. USDA accredits domestic and foreign certifying agents who certify domestic and foreign organic producers and handlers, using information from the agents documenting their business operations and program expertise. USDA also permits States to establish their own state organic programs after the programs are approved by the Secretary, using information from the States documenting their ability to operate such programs and showing that such programs meet the requirements of OFPA and NOP.

States. States may operate their own organic programs. State officials obtain the Secretary's approval of their programs by submitting information to USDA documenting their ability to operate such programs and showing that such programs meet the requirements of OFPA and NOP. The Secretary, or delegated representative, will review a State organic program not less than once during each 5-year period following the date of the initial program approval. To date, one State organic program is approved by USDA.

Certifying agents. Certifying agents are State, private, or foreign entities who are accredited by USDA to certify domestic and foreign producers and handlers as organic in accordance with OFPA and NOP. Each entity wanting to be an agent seeks accreditation from USDA by submitting information documenting its business operations and program expertise. Accredited certifying agents determine if a producer or handler meets organic requirements, using detailed information from the operation documenting its specific practices and on-site inspection reports from organic

inspectors. Currently, there are 79 certifying agents accredited under NOP.

Administrative costs for reporting, disclosure of information, and recordkeeping vary among certifying agents. Factors affecting costs include the number and size of clients, the categories of certification provided, and the type of systems maintained.

When an entity applies for accreditation as a certifying agent, it must provide a copy of its procedures for complying with recordkeeping requirements (§ 205.504(b)(3)). Once accredited, agents have to make their records available for inspection and copying by authorized representatives of the Secretary (§ 205.501(a)(9)). USDA charges certifying agents for the time required to do these document reviews. Audits require less time when the documents are well organized and centrally located.

Recordkeeping requirements for certifying agents are divided into three categories of records with varying retention periods: (1) Records created by certifying agents regarding applicants for certification and certified operations, maintain 10-years, consistent with OFPA's requirement for maintaining all records concerning activities of certifying agents; (2) records obtained from applicants for certification and certified operations, maintain 5-years, the same as OFPA's requirement for the retention of records by certified operations; and (3) records created or received by certifying agents regarding accreditation, maintain 5-years, consistent with OFPA's requirement for renewal of agent's accreditation (§ 205.510(b)).

Organic inspectors. Inspectors, on behalf of certifying agents, conduct on-site inspections of certified operations and operations applying for certification. They report the findings from their inspection to the certifying agent. Inspectors are the agents themselves, employees of the agents, or individual contractors. We estimate that about half are certifying agents or their employees and half are individual contractors. Individuals who apply for positions as inspectors submit to the agents information documenting their qualifications to conduct such inspections. According to International Organic Inspectors Association (IOIA), there are at least 250 inspectors currently providing services.[1]

Producers and handlers. Producers and handlers, domestic and foreign, apply to certifying agents for organic certification, submit detailed information documenting their specific practices, provide annual updates to continue their certification, and report changes in their practices. Producers include farmers, livestock and poultry producers, and wild crop harvesters. Handlers include those who transport or transform food and include millers, bulk distributors, food manufacturers, processors, or packers. Some handlers are part of a retail operation that processes organic products in a location other than the premises of the retail outlet. Based upon AMS NOP's 2015 List of certified organic operations, there are approximately 31,000 certified operations globally.[2] Based on past growth of the industry, AMS estimates the addition of 1,900 new certified organic operations a year. In addition, AMS estimates that there are 7,650 producers exempt from certification, but who must still maintain records pursuant to section 205.101(c).

Administrative costs for reporting and recordkeeping vary among certified operators. Factors affecting costs include the type and size of operation, and the type of systems maintained.

AMS believes that operations using product labels containing the term ''organic'' handle an average of 20 labels annually. Based upon AMS NOP's 2015 List of certified organic operations, there are over 13,100 certified organic handlers. For each certified handler, AMS estimates that the average annual burden to develop product labels with organic claims is one hour per product label times 20 product labels per handler. The annual burden will be lower for smaller operations and higher for large operations that produce a significant volume of organic processed product.

Interested parties. Any interested party may petition the National Organic Standards Board (NOSB) for the purpose of having a substance evaluated for recommendation to the Secretary for inclusion on or deletion from the National List. Based on the number of petitions received in the past, AMS estimates 25 parties petitioning the NOSB to amend the National List in a given year. The annual burden for each interested party to prepare a complete petition is an average of 30 hours.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 4.79 hours per response.

Respondents: Producers, handlers, certifying agents, inspectors and State, Local or Tribal governments and interested parties.

Estimated Number of Respondents: 31,329.

Estimated Number of Responses: 1,007,189.

Estimated Number of Responses per Respondent: 32.15.

Estimated Total Annual Burden on Respondents: 4,826,189.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Authority: 7 U.S.C. 6501–6522.

Dated: March 22, 2016.

Elanor Starmer,

Administrator, Agricultural Marketing Service.

[FR Doc. 2016–06930 Filed 3–25–16; 8:45 am]

BILLING CODE 3410–02–P

[1] Not all inspectors are members of IOIA.

[2] AMS NOP 2012 List of certified organic operations. Available at: *http://apps.ams.usda.gov/nop/*.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Submission for OMB Review; Comment Request

March 22, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the 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 burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 27, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Federal Collection Methods for Supplemental Nutrition Assistance Program Recipient Claims.

OMB Control Number: 0584–0446.

Summary of Collection: Section 13(b) of the Food and Nutrition Act of 2008 (The Act) and Supplemental Nutrition Assistance Program (SNAP) regulations at 7 CFR 273.18 require State agencies to refer delinquent debtors for SNAP benefit over-issuance to the U.S. Department of Treasury for collection. The Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. 3701, *et seq.,* requires these debts to be referred to Treasury for collection when they are 180 days or more delinquent. Through the Treasury Offset Program (TOP), 31 CFR part 285, payments such as Federal income tax refunds, Federal salaries and other Federal payments payable to these delinquent debtors will be offset and the amount applied to the delinquent debt.

Need and Use of the Information: The information collected is used by individuals or households to obtain due process before debts are referred to TOP for offset. State agencies will use the collected information to provide due process to individuals/households; to add and maintain debts in TOP; to request addresses; and to certify to Treasury the accuracy and legality of debts that are submitted to TOP. Without the information, compliance with the DCIA would not be possible and departmental participation in TOP would be jeopardized.

Description of Respondents: State, Local, or Tribal Government; Individual or households.

Number of Respondents: 523,272.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Annually.

Total Burden Hours: 47,051.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–06924 Filed 3–25–16; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Submission for OMB Review; Comment Request

March 22, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the 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 burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by April 27, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC, 20503. Commentors are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Health Screening Questionnaire.

OMB Control Number: 0596–0164.

Summary of Collection: The Protection Act of 1922 (16 U.S.C. 594) authorizes the Forest Service (FS) to fight fires on National Forest System lands. Title 5 CFR, part 339, authorizes the FS to establish medical qualification standards and require pre-appointment medical examinations, regular recurring periodic examinations after appointment, and whenever there is a direct question about a firefighter's continued ability to meet the medical qualification standards. The information collected pertains to an individual's health status and health history. The collection of this information and use thereof are consistent with the provisions of 5 U.S.C. 552a (Privacy Act of 1974).

Need and Use of the Information: Individuals seeking recertification or employment as a new firefighter with the FS or Department of Interior (DOI) must complete the Health Screening Questionnaire (HSQ). FS and DOI will collect information from potential applicants using forms FS–5100–30, Work Capacity Test Informed Consent and FS–5100–31, Health Screening Questionnaire. Applicants will also need to complete the Wildland Firefighter Medical Qualifications Program Medical Exam and a Self-Certification Statement and Blood Pressure Check. Wildland firefighters perform long hours of arduous labor in adverse conditions. The information collected is used to determine whether an individual being considered for a position can carry out those duties in a manner that will not place the candidate or coworkers unduly at risk due to inadequate physical fitness and health. If the information is not collected, the Government's liability risk is high, special needs of an individual may not be known, or the screening of an applicant's physical suitability would be greatly inhibited.

Description of Respondents: Individuals or households.

Number of Respondents: 20,271.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 8,268.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–06929 Filed 3–25–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Resource Coordinating Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Forest Resource Coordinating Committee (Committee) will meet via teleconference. The Committee is established consistent with the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C. App. II), and the Food, Conservation, and Energy Act of 2008 (the Act) (Pub. L. 110–246). Committee information can be found at the following Web site at *http://www.fs.fed.us/spf/coop/frcc/.*

DATES: The teleconference will be held on April 20, 2016 from 12:00 p.m. to 1:30 p.m., Eastern Daylight Time (EDT).

All meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held via teleconference. For anyone who would like to attend the teleconference, please visit the Web site listed in the **SUMMARY** section or contact Andrea Bedell-Loucks at *abloucks@fs.fed.us* for further details.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments placed on the Committee's Web site listed above.

FOR FURTHER INFORMATION CONTACT: Andrea Bedell-Loucks, Designated Federal Officer, Cooperative Forestry staff, 202–205–1190.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Consulting foresters role in private forest landowner assistance;

2. Finalize May agenda.

The teleconference is open to the public. However, the public is strongly encouraged to RSVP prior to the teleconference to ensure all related documents are shared with public meeting participants. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing 10 days before the planned meeting to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Written comments and time requests for oral comments must be sent to Laurie Schoonhoven, 1400 Independence Avenue SW., Mailstop 1123, Washington, DC 20250 or by email to *lschoonhoven@fs.fed.us.* A summary of the meeting will be posted on the Web site listed above within 21 days after the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled For Further Information Contact. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 16, 2016.

James E. Hubbard,

Deputy Chief, State and Private Forestry.

[FR Doc. 2016–06858 Filed 3–25–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AD27

Mitigation of Adverse Impacts

AGENCY: Forest Service, USDA.

ACTION: Request for information.

SUMMARY: The Department of Agriculture (USDA), Forest Service, is developing Agency policy concerning mitigation of adverse impacts. The Agency is hosting a webinar for all interested members of the public to share information concerning its goals and objectives for the mitigation policy, and the anticipated timeline for developing the policy. Attendees will have an opportunity to ask questions and provide feedback.

DATES: A webinar will be held for interested members of the general public on Wednesday, April 6, 2016, from 1:00–2:00 p.m. Eastern Daylight Time/10:00–11:00 a.m. Pacific Daylight Time.

ADDRESSES: The webinar will be held via Adobe Connect web conferencing software. To access the presentation, enter the following URL into any Flash-enabled web browser: *https://usfs.adobeconnect.com/emc-faca/.* Audio-only access is available toll-free by calling (888) 844–9904 and entering the following access code: 4941314.

FOR FURTHER INFORMATION CONTACT: Christopher Carlson, Acting Mitigation Coordinator, Ecosystem Management Coordination (202) 205–1481, *WO_Mitigation@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800) 877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of this RFI is to inform the public about and gather input on the Agency's forthcoming policy on mitigating adverse impacts. The webinar is open to the public. The agenda will include time for participants to ask clarifying questions and provide input in writing during the webinar. Written input following the webinar must be sent to Mitigation Policy Input, USDA Forest Service, Ecosystem Management Coordination, 201 14th Street Mail Stop 1104, Washington, DC 20250–1104; or by email at *WO_Mitigation@fs.fed.us.*

The November 3, 2015 Presidential Memorandum: Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment directs the Forest Service ''to avoid and then minimize harmful effects to land, water, wildlife, and other ecological resources (natural resources) caused by land- or water-disturbing activities, and to ensure that any remaining harmful effects are effectively addressed, consistent with existing mission and legal authorities.'' To that end, the Memorandum instructs the Agency to ''adopt a clear and consistent approach for avoidance and minimization of, and compensatory mitigation for, the impacts of their activities and the projects they approve'' through directives and a regulation.

The Memorandum will be implemented by the Forest Service initially through an agency regulation addressing adverse impacts on natural resources through avoiding and minimizing impact, and then compensating for those impacts that do occur to important or sensitive resources. The objective of these efforts

is to ensure clarity, improved transparency, and consistency for proposed activities affecting landscapes. Those efforts include improving information sharing and mitigation support tools by working with other Federal agencies, States, Tribes, and partners to identify and share information in order to define natural resources baselines and monitor the effectiveness of mitigation actions.

Dated: March 21, 2016.

Brian Ferebee,

Associate Deputy Chief of National Forest System, U.S. Forest Service.

[FR Doc. 2016–06857 Filed 3–25–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee (LTFAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee (Committee) will meet in Incline Village, Nevada. The Committee is established consistent with the Federal Advisory Committee Act of 1972. Additional information concerning the Committee, including meeting summary/minutes, can be found by visiting the Committee's Web site at: *http://www.fs.usda.gov/goto/ltbmu/LTFAC.* The summary/minutes of the meetings will be posted within 21 days of the meetings.

DATES: The meeting will be held on April 14, 2016, from 2:00 to 4:00 p.m. All meetings are subject to cancellation. For updated status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Donald W. Reynolds Nonprofit Community Center, Meiling Training Room, 948 Incline Way, Incline Village, Nevada. Written comments may be submitted as described under Supplementary Information. All comments, including names and addresses, when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Forest Service, 35 College Drive, South Lake Tahoe, California. Please call ahead at 530–543–2774 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Karen Kuentz, Lake Tahoe Basin Management Unit, Forest Service, 35 College Drive, South Lake Tahoe, California 96150, by phone at 530–543–2774, or by email at *kkuentz@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to provide:

(1) Current status of the Lake Tahoe Restoration Act and Southern Nevada Public Land Management Act

(2) Review of SNPLMA 2013 Report

(3) Review of Environmental Improvement Plan

(4) Committee's future implementation strategy discussion

(5) Review of 2016 meeting schedule

The meeting is open to the public. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee staff before the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by April 7, 2016. Written comments and time requests for oral comments must be sent to Karen Kuentz, Forest Service, Lake Tahoe Basin Management Unit, 35 College Drive, South Lake Tahoe, California 96150, or by email at *kkuentz@fs.fed.us,* or via facsimile to 530–543–2693.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 18, 2016.

Jeff Marsolais,

Forest Supervisor.

[FR Doc. 2016–06902 Filed 3–25–16; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Survey of Income and Program Participation (SIPP) 2014 Panel

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the proposed Survey of Income and Program Participation 2014 Panel, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before May 27, 2016.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Jason Fields, U.S. Census Bureau, ADDP, HQ–7H153, 4600 Silver Hill Road, Washington, DC 20233–0001 (301–763–2465 or via the Internet at *Jason.M.Fields@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau has completed two of four waves of the Survey of Income and Program Participation 2014 Panel (SIPP), which began in February 2014. Wave 1 of the SIPP 2014 Panel was conducted from February to June of 2014. Wave 2 was conducted from February to June of 2015. Wave 3 is scheduled to be conducted from April to June of 2016. Wave 4 is scheduled to be conducted from February to June of 2017. This notice is for a request to extend the current OMB approval, which expires on December 31, 2016, to December 31, 2019.

The SIPP is a household-based survey designed as a continuous series of national panels. The SIPP represents a source of information for a wide variety of topics and allows the integration of information for separate topics to form a single, unified database allowing for the examination of the interaction between tax, transfer, and other

government and private policies. Government domestic policy formulators depend heavily upon SIPP information concerning the distribution of income received either directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on that distribution. They also need improved and expanded data on the income and general economic and financial situation of the U.S. population, which the SIPP has provided on a continuing basis since 1983. The SIPP has measured levels of economic well-being and permitted measurement of changes in these levels over time.

The 2014 SIPP interview includes a portion conducted using an Event History Calendar (EHC) that facilitates the collection of dates of events and spells of coverage. The EHC assists the respondent's ability to recall events accurately over the one year reference period and provides increased data quality and inter-topic consistency for dates reported by respondents. The EHC is intended to help respondents recall information in a more natural ''autobiographical'' manner by using life events as triggers to recall other economic events. The EHC was previously used in the 2010–2013 SIPP–EHC field tests in addition to 2014 Panel Waves 1 and 2. The 2014 Panel SIPP design does not contain freestanding topical modules; however, a portion of traditional SIPP topical module content is integrated into the 2014 SIPP Panel interview. Examples of this content include questions on medical expenses, child care, retirement and pension plan coverage, marital history, adult and child well-being, and others.

The 2014 SIPP Panel Wave 1 was a brand new sample with new survey respondents who were not previously interviewed. The 2014 SIPP Panel uses a revised interviewing method structure that follows adults (age 15 years and older) who move from the prior wave household. Consequently, Waves 2, 3, and 4 incorporate dependent data, which is information collected from the prior wave interview brought forward to the current interview.

The Census Bureau used and plans to continue using Computer Assisted Recorded Interview (CARI) technology for some of the respondents during the 2014 SIPP Panel. CARI is a data collection method that captures audio along with response data during computer-assisted personal and telephone interviews (CAPI & CATI). With the respondent's consent, a portion of each interview is recorded unobtrusively and both the sound file and screen images are returned with the response data to a central location for coding. By reviewing the recorded portions of the interview, quality assurance analysts can evaluate the likelihood that the exchange between the field representative and respondent is authentic and follows critical survey protocol as defined by the sponsor and based on best practices. During the 2014 SIPP Panel we are developing protocols to use the CARI Interactive Data Access System (CARI System), an innovative, integrated, multifaceted monitoring system that features a configurable web-based interface for behavior coding, quality assurance, and coaching. This system assists in coding interviews for measuring question and interviewer performance and the interaction between interviewers and respondents.

SIPP designed a multi-wave incentive experiment to evaluate the efficacy of incentives as a means of increasing respondent cooperation. In Wave 1, the panel was divided into four groups and each household was randomly assigned to one of the groups. Group 1 was the control group; households in this group were not to be eligible for an incentive in any wave of the 2014 panel. Group 2 was not eligible to receive an incentive in Wave 1, but was eligible for a $40 debit card for Wave 2. This group was used to test retroactively the efficacy of a propensity model. Group 3 was eligible to receive a $20 incentive in Wave 1, but was not eligible to receive a debit card in Wave 2. Group 4 was eligible to receive a $40 incentive in Wave 1. In Wave 2 Group 4 was split in two subgroups: A—did not receive a debit card; and B—was eligible for a $40 debit card. Consequently, in Wave 2 only two groups were eligible to receive debit cards (Group 2 and 4B).

For Wave 3 in 2016, Group 1 will continue as prior waves (no incentive), Group 4A will continue to receive a $40 debit card, and Group 4B will be determined using an adaptive model with the remaining groups. For those in the modeled groups, roughly 22,500 households, 30% will be eligible for incentives. Selection for the Wave 3 incentive in the modeled groups will be made using a propensity model process. For all waves, we distribute the incentives centrally from our National Processing Center. This centralized distribution eliminates any discretion on the part of the field representatives, ensuring that only eligible households are given (or promised) incentives.

Approximately 30,500 households are expected to be interviewed for the 2014 SIPP Panel Waves 3 and 4. We estimate that each household contains 2.1 people aged 15 and above, yielding approximately 64,050 person-level interviews per wave in this panel. Interviews take approximately 60 minutes per adult on average, consequently the total annual burden for 2014 SIPP–EHC interviews will be 64,050 hours per year.

II. Method of Collection

The 2014 SIPP Panel instrument consists of one interview per person per wave (year) resulting in four total interviews over the life of the panel. Each interview will reference the previous calendar year depending on the wave. The interview is conducted in person with all household members 15 years old or over using regular proxy-respondent rules. In the instances where the residence is not accessible or the respondent makes a request the interview may be conducted by telephone.

III. Data

OMB Control Number: 0607–0977.

Form Number(s): SIPP/CAPI Automated Instrument.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 64,050.

Estimated Time per Response: 60 minutes per person on average.

Estimated Total Annual Burden Hours: 64,050.

Estimated Total Annual Cost to Public: $35,000,000.

Respondent's Obligation: Voluntary.

Legal Authority: 13 U.S.C. Section 182.

Confidentiality: The data collected under this agreement are confidential under 13 U.S.C. Section 9. All access to Title 13 data from this survey is restricted to those holding Census Bureau Special Sworn Status pursuant to 13 U.S.C. Section 23(c).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or

included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 23, 2016.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2016–06895 Filed 3–25–16; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: National Survey of Children's Health.

OMB Control Number: 0607–XXXX.

Form Number(s):

English survey forms include:

NSCH–S1 (English Screener),

NSCH–T1 (English Topical for 0- to 5-year-old children),

NSCH–T2 (English Topical for 6- to 11-year-old children),

NSCH–T3 (English Topical for 12- to 17-year-old children).

Spanish survey forms include:

NSCH–S–S1 (Spanish Screener),

NSCH–S–T1 (Spanish Topical for 0- to 5-year-old children),

NSCH–S–T2 (Spanish Topical for 6- to 11-year-old children), and

NSCH–S–T3 (Spanish Topical for 12- to 17-year-old children).

Type of Request: Regular submission.

Number of Respondents: 190,406 for the Screener and 76,500 for the Topical.

Average Hours Per Response: 0.083 for the screener and 0.5 for the topical.

Burden Hours: 54,117.

Needs and Uses: The National Survey of Children's Health (NSCH) enables the Maternal and Child Health Bureau (MCHB) of the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) to produce national and state-based estimates on the health and well-being of children, their families, and their communities as well as estimates of the prevalence and impact of children with special health care needs.

Data will be collected using two modes. The first mode is an Internet survey that contains the screener and topical instruments. The Internet instrument first will take the respondent through the screener questions. If the household screens into the study, the respondent will be taken directly into one of the three age-based topical sets of questions. The second mode that is a mailout/mailback of a self-administered paper-and-pencil interviewing (PAPI) screener instrument followed by a separate mailout/mailback of a PAPI age-based topical instrument.

The National Survey of Children's Health (NSCH) is a large-scale (sample size is 364,153 addresses) national survey. The survey will consist of several experiments: (i) To assess amount of respondent cash incentives ($0, $2, or $5) needed to gain cooperation and participation in the survey, (ii) to test whether an alternative Maternal and Child Health Bureau branding improves response for the NSCH over the Census Bureau's standard branding and (iii) modification to data collection procedures based on the tract level internet response likelihood.

Affected Public: Parents, researchers, policymakers, and family advocates.

Frequency: This 2016 collection is the first administration of the new NSCH. There is a possibility that this will become an annual or biennial survey, with a new sample drawn for each administration.

Respondent's Obligation: Voluntary.

Legal Authority: Census Authority: 13 U.S.C. Section 8(b), HRSA MCHB Authority: 42 U.S.C., Section 701(a)(2).

Confidentiality: The data collected under this agreement are confidential under 13 U.S.C. Section 9. All access to Title 13 data from this survey is restricted to Census Bureau employees and those holding Census Bureau Special Sworn Status pursuant to 13 U.S.C. Section 23(c).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: March 23, 2016.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2016–06903 Filed 3–25–16; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE537

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings and hearings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will convene a meeting of its Fishery Ecosystem Plan Team (Insular fisheries and Pelagic fisheries teams) and the Fishery Data Collection and Research Committee—Technical Committee (FDCRC–TC). The FEP Team will review the revised annual report to serve as the Stock Assessment and Fishery Evaluation (SAFE) Report for the Western Pacific region, conduct the evaluation of the 2015 catches to the 2015 Annual Catch Limits (ACL) for the coral reef, crustacean, and Territory bottomfish fisheries, and look at options for changing the current risk determination process and specification of optimum yield (OY). The FDCRC–TC will review the status of the data collection improvement efforts in the Western Pacific region and address the data collection gaps identified by the FEP Teams to support the monitoring of the fisheries in the SAFE report.

DATES: The FEP Team meeting will be held between 8:30 a.m. and 5 p.m. on April 11–13, 2016. The Insular and Pelagic Teams will have concurrent sessions from 8:30 a.m. on April 11, 2016 to 12 noon on April 12, 2016. A joint FEP Team session will be held from 1 p.m. on April 12, 2016 to 5 p.m. on April 13, 2016. The FDCRC–TC will be held on April 14–15, 2016. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The FEP Team and FDCRC–TC meetings will be held at the Ala Moana Hotel, 410 Atkinson Dr., Honolulu, HI 96814; phone (808) 956–4262. The Insular Fisheries Team concurrent session will be at the Carnation Room while the Pelagic Fisheries Team concurrent session will be at the Plumeria Room. The Joint FEP Team meeting will be at the Garden Lanai Room. The FDCRC–TC meeting will be at the Ilima Room.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, phone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: Public comment periods will be provided throughout the agendas. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Agenda for FEP Team Meeting—Insular Fishery Concurrent Session

8:30 a.m.–5 p.m., Monday, April 11, 2016

1. Welcome and introductions
2. Approval of draft agenda, 2015 report & assignment of rapporteurs
3. Report on previous Plan Team recommendations and Council actions
4. 2015 Annual/SAFE Report
   A. Fishery Performance
   i. Insular fisheries modules
   a. American Samoa
   i. Coral reef fisheries
   ii. Bottomfish fishery
   iii. Crustacean fishery
   iv. Precious coral fishery
   b. Guam
   i. Coral reef fisheries
   ii. Bottomfish fishery
   iii. Crustacean fishery
   iv. Precious coral fishery
   c. Commonwealth of Northern Mariana Islands (CNMI)
   i. Coral reef fisheries
   ii. Bottomfish fishery
   iii. Crustacean fishery
   iv. Precious coral fishery
   d. Hawaii
   i. Coral reef fisheries
   ii. Bottomfish fishery
   iii. Crustacean fishery
   iv. Precious coral fishery
   e. Pacific Island Remote Island Areas (PRIA)
   i. Coral reef fisheries
   ii. Bottomfish fishery
   iii. Crustacean fishery
   iv. Precious coral fishery
   ii. Discussions
   iii. Public Comment
   B. Ecosystem Considerations
   i. Protected species section
   ii. Climate, ecosystems and biological section
   a. Environmental & climate variables
   b. Coral reef ecosystem variables
   c. Life history and length-derived variables
   iii. Habitat section
   iv. Human dimension section
   v. Marine Planning section
   vi. Discussions
   vii. Public Comment
   C. Administrative Reports
   i. Number of federal permits
   ii. Regulatory actions in 2015
   iii. Discussions
   iv. Public Comment

Agenda for FEP Team Meeting—Pelagic/International Fishery Concurrent Session

8:30 a.m.–5 p.m., Monday, April 11, 2016

1. Welcome and introductions
2. Approval of draft agenda, 2015 report & assignment of rapporteurs
3. Report on previous Plan Team recommendations and Council actions
4. 2015 Annual/SAFE Report
   A. Ecosystem Considerations
   i. Climate change variables
   ii. Habitat conditions
   iii. Human dimensions
   iv. Protected species
   B. Fishery Performance
   i. CNMI
   ii. American Samoa
   iii. Guam
   iv. Hawaii
   v. International
   vi. Recreational
   C. Discussion
   D. 2015 annual report region-wide recommendations
   E. Public Comment

Agenda for FEP Team Meeting—Insular Fishery Concurrent Session (continued)

8:30 a.m.–12 p.m., Tuesday, April 12, 2016

   D. Facilitated discussion on dealing with data gaps and variable definitions
   i. Fishery modules
   ii. Ecosystem modules
   E. Workshop discussion on data integration (Chapter 3)
   F. Summary of annual report module action items
   G. Discussions
   H. Public Comment

Agenda for FEP Team Meeting—Pelagic/International Fishery Concurrent Session

8:30 a.m.–12 p.m., Tuesday, April 12, 2016

5. Continued discussion on Monday agenda items (if needed)
6. Other Pelagic FEP issues
   A. Amendments
   B. Other regulatory issues
7. Western Central Pacific Fishery Commission 12 Outcomes
8. Protected Species
   A. Seabirds
   B. Turtles
9. Discussion on CPUE variability with regards to the implementation of turtle mitigation measures in the AS longline fishery
10. Discussion
10. Public Comment

Agenda for the Joint Fishery Ecosystem Plan Team Meeting

1 p.m.–5 p.m., Tuesday, April 12, 2016

1. Welcome and introductions
2. Approval of the draft Joint meeting agenda, 2015 report, and assignment of rapporteurs
3. Plan Team 101 and Regional Operating Agreement (ROA)
4. Status of Fishery Ecosystem Plan revision
5. Monitoring and updating priorities
   A. Council's 5-year research priorities—work item (process of monitoring the status of the research priorities)
   B. Cooperative Research priorities
   i. Regional Implementation Framework
   ii. Revision of priorities to streamline with Magnuson-Stevens Act requirement
   C. Pacific Island Fisheries Research Program
   D. Discussions
   E. Public Comment

8:30 a.m.–5 p.m., Wednesday, April 13, 2016

6. Action agenda items
   A. Evaluating 2015 catches to its respective 2015 ACLs
   i. Coral reef fisheries
   ii. Crustacean fisheries
   iii. Territory bottomfish fisheries
   B. ACL specification process amendment
   i. Method of risk determination
   ii. ACL as OY
   C. Ecosystem component designation criteria: changing Management Unit Species designation
   D. Discussions
   E. Public Comment
7. Workshop discussion on ecosystem and fishery data integration
   A. Data availability
   B. Initial data integration discussion
   C. Developing integration workplan
   D. Discussions
   E. Public Comment
8. General Discussions
9. Fishery Ecosystem Plan Team Recommendations
10. Other Business

Agenda for FDCRC–TC Meeting

8:30 a.m.–5 p.m., Thursday, April 14, 2016

1. Welcome and introductions
2. Approval of draft agenda, 2015 report & assignment of rapporteurs
3. Report on previous FDCRC–TC recommendations and Council actions
4. Status of the data collection improvement efforts

A. American Samoa
B. Guam
C. CNMI
D. Hawaii
E. Marine Recreational Information Program and Territory Science Initiative Projects
F. Western Pacific Fishery Information Network Database Transition and Online Interface
G. Discussions
H. Public Comment
5. 2015 Annual/SAFE Report Recommendations
A. Overall Annual/SAFE Report Framework
i. Linkages with the on-the-ground data collection
ii. Timelines for data submission for Annual/SAFE Report
B. Discussion on Addressing Recommendations from the Fishery section
i. Insular fisheries modules
a. American Samoa
b. Guam
c. CNMI
d. Hawaii
ii. Ecosystem Considerations
a. Climate, ecosystems and biological section
b. Human dimension section
C. Discussions
D. Public Comment
6. Strategic Plan Monitoring
A. 2009 Data Workshop Recommendations and Status
B. Status of tasks for the FDCRC Strategic Plan
C. Grants and Funding Opportunity Matrix
D. Group discussion on status monitoring procedure
E. Discussions
F. Public Comment

8:30 a.m.–12 p.m., Friday, April 15, 2016

7. Improving the on-the-ground data collection
A. How much more do we need to collect: SHINY Database Analytics
B. BioSampling Program Review
C. Establishing Import-Export Database System
D. Discussions
E. Public Comment
8. General Discussions
9. FDCRC–TC Recommendations
10. Other Business

Non-emergency issues not contained in this agenda may come before the Council for discussion and formal Council action during its 163rd meeting. However, Council action on regulatory issues will be restricted to those issues specifically listed in this document and any regulatory issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: March 23, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–06897 Filed 3–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting via webinar.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a Post Council Meeting Briefing for the public via webinar.

DATES: The meeting will convene on Monday, April 18, 2016; starting at 6 p.m. EDT and ending no later than 9 p.m. EDT.

ADDRESSES: The meeting will take place via webinar at: *https://attendee.gotowebinar.com/register/3457390497527000068.*

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Charlene Ponce, Public Information Officer, Gulf of Mexico Fishery Management Council; *charlene.ponce@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: Click the link below to register for the webinar: *https://attendee.gotowebinar.com/register/3457390497527000068.* After registering, you will receive a confirmation email containing information about joining the webinar.

Agenda

1. Welcome and Introductions
2. Review of Council actions taken during the April, 2016 Council Meeting
3. Questions and Answers
4. Adjourn

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Gulf Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Dated: March 23, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–06921 Filed 3–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE461

Marine Mammals; Pinniped Removal Authority

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

ACTION: Notice; request for comments.

SUMMARY: On March 15, 2012, NMFS issued a Letter of Authorization (LOA) under section 120 of the Marine Mammal Protection Act (MMPA) to the States of Idaho, Oregon, and Washington (States) for the intentional take, by lethal methods, of individually identifiable California sea lions (*Zalophus californianus*) in the vicinity of Bonneville Dam, on the Columbia River in Washington and Oregon, that are having a significant negative impact on Pacific salmon and steelhead (*Onchorhynchus spp.*) listed as threatened or endangered species under the Endangered Species Act (ESA). The 2012 LOA expires on June 30, 2016. On January 27, 2016, NMFS received an application from the same States to extend the 2012 LOA through June 30, 2021. The States are not requesting any changes or modifications to the terms and conditions of the 2012 LOA.

The States' application contains a summary of the status and management of California sea lions and salmonid populations as they relate to the problem interaction at Bonneville Dam. Pursuant to the MMPA, NMFS has

determined that the application contains sufficient information to warrant convening a Pinniped-Fishery Interaction Task Force (Task Force), which will deliberate after the closing of a public comment period. NMFS is soliciting comments on the States' application and other relevant information related to pinniped predation on salmonids at Bonneville Dam.

DATES: Comments must be received by April 27, 2016.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2016–0034, by either of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0034*

2. Click the ''Comment Now!'' icon, complete the required fields

3. Enter or attach your comments.

- *Mail:* Comments on the application should be addressed to: National Marine Fisheries Service, West Coast Region, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232; ATTN: Robert Anderson, Protected Resource Division.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Robert Anderson, (503) 231–2226.

SUPPLEMENTARY INFORMATION: The States' application and further information is available on the NMFS West Coast Region Web site, including but not limited to: the States' application; background information on pinniped predation on listed salmonids; NMFS' past and current authorizations of lethal removal at Bonneville Dam; descriptions of nonlethal efforts to address the predation; Bonneville Dam field reports; Oregon Department of Fish and Wildlife field reports; NMFS' 2008 Final Environmental Assessment; NMFS' 2011 Supplemental Information Report to the Final Environmental Assessment; and NMFS' 2012 Report on Consideration of Statutory Factors under section 120 of the MMPA. The information can be accessed at: *http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/authorized_states.html*.

Statutory Authority

Section 120 of the MMPA (16 U.S.C. 1361, *et seq.*) allows the Secretary of Commerce, acting through the Assistant Administrator for Fisheries, and the West Coast Regional Administrator of NMFS, to authorize the intentional lethal taking of individually identifiable pinnipeds that are having a significant negative impact on the decline or recovery of salmonid fishery stocks which have been listed as threatened or endangered species under the Endangered Species Act (ESA) of 1973 (19 U.S.C. 1531 *et seq.*). The authorization applies only to pinnipeds that are not listed under the ESA, or designated as a depleted or strategic stock under the MMPA. California sea lions are neither listed under the ESA nor designated as a depleted or strategic stock under the MMPA. Pursuant to section 120(b) and (c), a State may request authorization to lethally remove pinnipeds, and the Regional Administrator is required to: (1) Review the application to determine whether the applicant has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force (Task Force) to address the situation described in the application; (2) establish the Task Force and publish a notice in the **Federal Register** requesting public comment on the application if sufficient evidence has been produced; (3) consider any recommendations made by the Task Force in making a determination whether to approve or deny the application; and (4) if approved, immediately take steps to implement the intentional lethal taking, which shall be performed by Federal or State agencies, or qualified individuals under contract to such agencies.

The MMPA requires the Task Force be composed of the following: (1) NMFS/NOAA staff, (2) scientists who are knowledgeable about the pinniped interaction, (3) representatives of affected conservation and fishing community organizations, (4) treaty Indian tribes, (5) the States, and (6) such other organizations as NMFS deems appropriate. The Task Force reviews the application, other background information, the factors contained in MMPA section 120(d), and public comments and, as required by section 120, recommends to NMFS whether to approve or deny the application. The Task Force is also required to submit with its recommendation a description of the specific pinniped individual or individuals; the proposed location, time, and method of such taking; criteria for evaluating the success of the action; the duration of the intentional lethal taking authority; and a suggestion for non-lethal alternatives, if available and practicable, including a recommended course of action.

Background

In December 2006, NMFS received an application co-signed by the directors of the Washington Department of Fish and Wildlife, the Oregon Department of Fish and Wildlife, and the Idaho Department of Fish and Game, on the States' behalf, requesting authorization under section 120 of the MMPA to intentionally take, by lethal methods, individually identifiable predatory California sea lions in the Columbia River, which were then having a significant negative impact on the recovery of threatened and endangered Pacific salmon and steelhead. After deeming the States' application complete, NMFS published a notice in the **Federal Register** seeking public comment on the application and also requested names of potential members of the Task Force (72 FR 4239, January 30, 2007). After the close of the public comment period, NMFS established the Bonneville Task Force under MMPA section 120(d) in August 2007, which consisted of 18 members (72 FR 44833, August 9, 2007). The Bonneville Task Force completed and submitted its report to NMFS on November 5, 2007. Seventeen of the eighteen members supported lethal removal of California sea lions while one member from the Humane Society of the United States (HSUS) opposed the States' application and any lethal removal. NMFS partially approved the State's 2006 request in 2008, issuing its LOA on March 18, 2008.

Shortly after NMFS issued the LOA, HSUS filed a lawsuit in the U.S. District Court in Oregon, alleging that NMFS' LOA violated section 120 of the MMPA and the National Environmental Policy Act (NEPA). In November 2008, the district court issued an order upholding NMFS' approval of the lethal removal program and its evaluation of impacts under NEPA. Plaintiffs appealed to the Ninth Circuit Court of Appeals, which declined to halt the removal program while the appeal was pending. On the merits the Ninth Circuit vacated and remanded the LOA in November 2010. *Humane Society of the United States, et al.* v. *Locke,* 626 F.3d 1040 (9th Cir. 2010). In response to the court's 2010 decision, the States submitted a new request for lethal removal authorization

on December 7, 2010. NMFS considered the request and new information available since its prior authorization, including the Bonneville Task Force's recommendations. NMFS again authorized lethal take, under similar conditions to the 2008 authorization (albeit with modifications), issuing a new LOA on May 13, 2011. HSUS again filed suit this time in federal court for the District of Columbia, alleging, among other things, that NMFS had not followed procedural requirements under MMPA section 120 prior to issuing the new authorization (including public notice and comment on the States' application). In coordination with the States, NMFS revoked the May 13 authorization on July 22, 2011, and HSUS voluntarily withdrew their lawsuit.

On August 18, 2011, the States submitted a new request for lethal removal of California sea lions at Bonneville Dam under essentially the same conditions as the prior authorizations. NMFS published notice of the States' application in the **Federal Register** on September 12, 2011, and requested comment on the application and other relevant information concerning the pinniped-salmonid conflict at Bonneville Dam (76 FR 56167; September 12, 2011). NMFS reconvened the Bonneville Task Force in October 2011 to evaluate the States' application and public comments and to recommend whether NMFS should approve or deny the proposed intentional lethal taking program. The Bonneville Task Force's final report and recommendation was provided to NMFS on November 14, 2011. On March 15, 2012, NMFS issued the current LOA to the States. In renewed litigation by HSUS, this LOA was upheld in district court on February 15, 2013, and later affirmed by the Ninth Circuit Court of Appeals. *Humane Society of the US* v. *Bryson,* 924 F.Supp.2d 1228 (D. Or., 2013); *HSUS* v. *Pritzker,* No. 13–35195 (9th Cir., 9/27/13).

The NMFS West Coast Regional Administrator has considered the States' application and determined that it provides sufficient evidence to warrant reconvening the Bonneville Task Force. The application, based on NMFS' 2012 LOA and its implementation, describes the continuing problem of interactions between pinnipeds and listed salmonids at and below Bonneville Dam, and describes the expected benefits from the removal of pinnipeds. The application also documents past nonlethal efforts to prevent problem pinniped-salmonid interactions.

The MMPA requires NMFS to consider the recommendations of the Task Force when determining whether to issue a section 120 LOA. In order to obtain the Bonneville Task Force's views regarding this extension of the existing LOA, NMFS will consult with Bonneville Task Force members after the 30-day public comment period closes.

Request for Comments and Other Information

NMFS solicits public comments on the States' application and any additional information that should be considered by the Bonneville Task Force in making its recommendation, or by NMFS in making its determination whether to approve or deny the application.

Dated: March 22, 2016.

Nicole R. LeBoeuf,

Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–06928 Filed 3–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Ecosystem Based Fishery Management (EBFM) Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, April 14, 2016 at 9 a.m.

ADDRESSES: The meeting will be held at the Hotel 1620, 180 Water Street, Plymouth, MA 02360; telephone: (508) 747–4900; fax: (508) 747–8937.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The committee will receive and discuss a progress report from the Plan Development Team on a prototype or example Fishery Ecosystem Plan (eFEP). A final report is scheduled to be presented at the June 2016 Council meeting. They will also discuss establishing an EBFM Advisory Panel and developing a Fishery Ecosystem Plan scoping process. Other business will be discussed if time permits.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 23, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–06894 Filed 3–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE525

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice; availability of hatchery plan and request for comment.

SUMMARY: Notice is hereby given that the California Department of Fish and Wildlife (CDFW) has submitted a Hatchery and Genetic Management Plan (HGMP) pursuant to the protective regulations promulgated for Pacific salmon and steelhead under the Endangered Species Act (ESA). The HGMP specifies the operation of a hatchery program rearing steelhead in the Mad River subbasin within the State of California. This document serves to notify the public of the availability of the HGMP and associated draft environmental assessment (EA) for comment prior to a decision by NMFS whether to approve the proposed hatchery program.

DATES: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific time on April 27, 2016.

ADDRESSES: Written comments on the application should be addressed to the NMFS NOAA Fisheries West Coast Region California Coastal Office, 1655 Heindon Road, Arcata, California 95521, or faxed to 707–825–4840. Comments may be submitted by email. The mailbox address for providing email comments is: *MadRiverHatcheryPlan.wcr@noaa.gov.* Include in the subject line of the email comment the following identifier: Comments on the Mad River hatchery plan.

FOR FURTHER INFORMATION CONTACT: Dan Free, at phone number: (707) 825–5126, or via email: *dan.free@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened, naturally produced and artificially propagated California Coastal.

Coho salmon (*O. kisutch*): Threatened, naturally produced and artificially propagated Southern Oregon/Northern California (SONCC).

Steelhead (*O. mykiss*): Threatened, naturally produced and artificially propagated Northern California.

Background

CDFW has submitted to NMFS an HGMP describing a hatchery program that releases steelhead into the Mad River, in northern California, for consideration pursuant to limit 5 of the ESA 4(d) rule for salmon and steelhead.

The hatchery program that is the subject of the NMFS evaluation would operate to provide steelhead for harvest in freshwater recreational fisheries in the Mad River. The program would propagate steelhead that are derived from the local steelhead population in the Mad River, ensuring that at least half of the MRH winter-run steelhead spawning pairs are hatchery spawned natural-origin and to match natural-origin steelhead with their natural counterparts whenever possible. Measures would be applied in the hatchery program to reduce the risk of incidental adverse genetic, ecological, and demographic effects on natural-origin steelhead and salmon populations.

As specified in the July 10, 2000, ESA 4(d) rule for salmon and steelhead (65 FR 42422) and updated June 28, 2005 (70 FR 37160), NMFS may approve an HGMP if it meets criteria set forth in 50 CFR 223.203(b)(5)(i)(A) through (K). Prior to final approval of an HGMP, NMFS must publish notification announcing its availability for public review and comment.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as she deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, June 28, 2005) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. Limit 5 of the updated 4(d) rule (50 CFR 223.203(b)(5)) further provides that the prohibitions of paragraph (a) of the updated 4(d) rule (50 CFR 223.203(a)) do not apply to activities associated with artificial propagation programs provided that an HGMP has been approved by NMFS to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, June 28, 2005).

Dated: March 23, 2016.

Perry F. Gayaldo,

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

[FR Doc. 2016–06943 Filed 3–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE538

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council and its Committees.

DATES: The meetings will be held Monday, April 11, 2016 through Thursday, April 14, 2016. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held at: Montauk Yacht Club, 32 Star Island Road, Montauk, NY, telephone: (631) 668–3100.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's Web site, *www.mafmc.org* also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, though agenda items may be addressed out of order (changes will be noted on the Council's Web site when possible).

Monday, April 11, 2016

Tilefish Committee

Review blueline tilefish alternatives, Advisory Panel recommendation and public comments, consider Scientific and Statistical Committee (SSC) Allowable Biological Catch (ABC) recommendations, and develop recommendations to the Council for final action on amendment.

Mackerel, Squid, Butterfish Committee and River Herring and Shad Committee

Review Industry-Funded Monitoring (IFM) mackerel coverage alternatives and Advisory Panel comments and make recommendations to the Council for preferred IFM alternatives for public hearings.

Mackerel, Squid, Butterfish Committee and River Herring and Shad Committee Joint With River Herring and Shad Advisory Panel

Review 2013 Stocks in the Fishery (River Herring and Shad) White Paper and develop recommendations to the Council regarding terms of reference for reconsideration of River Herring and Shad as stocks in the fishery.

Executive Committee

Review MAFMC and other Council ABC Control Rules and Risk Policies and discuss framework to modify existing MAFMC Risk Policy.

Tuesday, April 12, 2016

Ecosystems Approach to Fisheries Management (EAFM)

Review and discuss draft EAFM Guidance Document.

Unmanaged Forage Fish Amendment

Review the Fishery Management Action Team and Ecosystems and Ocean Planning Advisory Panel, Committee comments, and review and approve public hearing document.

European Union Pelagic Advisory Council and EAFM

Dr. Verena Ohms, Director Pelagic Advisory Council, will provide a presentation to the Council.

November 2016 Discard Methods Workshop

Michael Lanning, of the NMFS, will provide a presentation to the Council.

Wednesday, April 13, 2016

Golden Tilefish—2017 Specifications

Review SSC, Advisory Panel, Monitoring Committee, and staff recommendations for 2017 specifications.

Golden Tilefish Framework 2—Meeting 2

Review and adopt Framework.

Blueline Tilefish Amendment

Review Tilefish Committee recommendations and approve Blueline Tilefish Amendment.

Law Enforcement Report

Reports will be received from NOAA Office of Law Enforcement and the U.S. Coast Guard.

Scup Gear Restricted Areas Framework

Review alternatives and adopt Framework.

Omnibus Industry-Funded Monitoring Amendment

Review Committee recommendations and select preferred alternatives for public hearings.

Thursday, April 14, 2016

Spiny Dogfish Trip Limits

Review ASMFC Spiny Dogfish Trip Limit modification request and consider changes to the trip limit.

National Bycatch Reduction Strategy

A presentation will be given by a NMFS Representative.

Business Session

Organization Reports; Liaison Reports; Executive Director's Report; Science Report; and Committee Reports.

• Continuing and New Business

Although non-emergency issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: March 23, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–06898 Filed 3–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE512

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 49 data webinar for Gulf of Mexico Data-limited Species.

SUMMARY: The SEDAR 49 assessment process of Gulf of Mexico Data-limited Species will consist of a data workshop, a series of assessment webinars, and a review workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 49 Data webinar will be held April 12, 2015, from 1 p.m. to 3 p.m. Eastern Time.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT** below) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net*.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the data webinar are as follows:

Panelists will present summary data, and discuss data needs and treatments.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 23, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–06893 Filed 3–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Multistakeholder Process To Promote Collaboration on Vulnerability Research Disclosure

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Telecommunications and Information Administration (NTIA) will convene a meeting of a multistakeholder process concerning the collaboration between security researchers and software and system developers and owners to address security vulnerability disclosure on April 8, 2016.

DATES: The meeting will be held on April 8, 2016 from 10:00 a.m. to 4:00 p.m., Central Time. See **SUPPLEMENTARY INFORMATION** for details.

ADDRESSES: The meeting will be held at the Westin Chicago River North, 320 North Dearborn Street, Chicago, IL 60654.

FOR FURTHER INFORMATION CONTACT: Allan Friedman, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4725, Washington, DC 20230; telephone (202) 482–4281; email; *afriedman@ntia.doc.gov*. Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002; email *press@ntia.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background: On March 19, 2015, the National Telecommunications and Information Administration, working with the Department of Commerce's Internet Policy Task Force (IPTF), issued a Request for Comment to ''identify substantive cybersecurity issues that affect the digital ecosystem and digital economic growth where broad consensus, coordinated action, and the development of best practices could substantially improve security for organizations and consumers.'' [1] This Request built on earlier work from the Department, including the 2011 Green Paper *Cybersecurity, Innovation, and the Internet Economy*,[2] as well as comments the Department had received on related issues.[3] On July 9, 2015, after reviewing the comments, NTIA announced that the first issue to be addressed would be ''collaboration on vulnerability research disclosure,'' [4] and subsequently announced that the first meeting of a multistakeholder process on this topic would be held on September 29, 2015. A second meeting was convened on December 2, 2015.[5]

Matters to Be Considered: The April 8, 2016 meeting is a continuation of a series of NTIA-convened multistakeholder discussions concerning collaboration on vulnerability disclosure. Stakeholders will engage in an open, transparent, consensus-driven process to develop voluntary principles guiding the collaboration between vendors and researchers about vulnerability information. The April 8, 2016 meeting will build on stakeholders' previous work. More information about stakeholders' work is available at: *http://www.ntia.doc.gov/other-publication/2015/multistakeholder-process-cybersecurity-vulnerabilities.*

Time and Date: NTIA will convene a meeting of the multistakeholder process to promote collaboration on vulnerability research disclosure on April 8, 2016, from 10:00 a.m. to 4:00 p.m., Central Time. The meeting date and time are subject to change. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/other-publication/2015/multistakeholder-process-cybersecurity-vulnerabilities,* for the most current information.

Place: The meeting will be held at the Westin Chicago River North, 320 North Dearborn Street, Chicago, IL 60654. The location of the meeting is subject to change. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/other-publication/2015/multistakeholder-process-cybersecurity-vulnerabilities,* for the most current information.

Other Information: The meeting is open to the public and the press. The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Allan Friedman at (202) 482–4281 or *afriedman@ntia.doc.gov* at least seven (7) business days prior to the meeting. The meeting will also be webcast. Requests for real-time captioning of the webcast or other auxiliary aids should be directed to Allan Friedman at (202) 482–4281 or *afriedman@ntia.doc.gov* at least seven (7) business days prior to the meeting. There will be an opportunity for stakeholders viewing the webcast to participate remotely in the meeting through a moderated conference bridge, including polling functionality. Access details for the meeting are subject to change. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/other-publication/2015/multistakeholder-process-cybersecurity-vulnerabilities,* for the most current information.

Dated: March 23, 2016.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2016–06966 Filed 3–25–16; 8:45 am]

BILLING CODE 3510–60–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2016–0015]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is requesting to renew the Office of Management and Budget (OMB) approval for an existing information collection titled, ''Generic Information Collection Plan for the Office of Intergovernmental Affairs Outreach Activities.''

DATES: Written comments are encouraged and must be received on or before May 27, 2016 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information

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[1] U.S. Department of Commerce, Internet Policy Task Force, Request for Public Comment, Stakeholder Engagement on Cybersecurity in the Digital Ecosystem, 80 FR 14360, Docket No. 150312253–5253–01 (Mar. 19, 2015), *available at: http://www.ntia.doc.gov/files/ntia/publications/cybersecurity_rfc_03192015.pdf.*

[2] U.S. Department of Commerce, Internet Policy Task Force, *Cybersecurity, Innovation, and the Internet Economy* (June 2011) (Green Paper), *available at: http://www.nist.gov/itl/upload/Cybersecurity_Green-Paper_FinalVersion.pdf.*

[3] *See* Comments Received in Response to Federal Register Notice Developing a Framework for Improving Critical Infrastructure Cybersecurity, Docket No. 140721609–4609–01, *available at: http://csrc.nist.gov/cyberframework/rfi_comments_10_2014.html.*

[4] NTIA, *Enhancing the Digital Economy Through Collaboration on Vulnerability Research Disclosure* (July 9, 2015), *available at: http://www.ntia.doc.gov/blog/2015/enhancing-digital-economy-through-collaboration-vulnerability-research-disclosure.*

[5] NTIA, *Cybersecurity Vulnerabilities, http://www.ntia.doc.gov/other-publication/2015/multistakeholder-process-cybersecurity-vulnerabilities.*

collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- Electronic: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552.
- Hand Delivery/Courier: Consumer Financial Protection Bureau (Attention: PRA Office), 1275 First Street NE., Washington, DC 20002.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *CFPB_PRA@cfpb.gov. Please do not submit comments to this mailbox.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Generic Information Collection Plan for the Office of Intergovernmental Affairs Outreach Activities.

OMB Control Number: 3170–0041.

Type of Review: Extension without change of a currently approve collection.

Affected Public: State, local, or Tribal governments.

Estimated Number of Annual Respondents: 400.

Estimated Total Annual Burden Hours: 3,200.

Abstract: The Office of Intergovernmental Affairs (IGA) at the Bureau requests OMB's approval for an extension without change this generic information collection plan (GICP) in order to collect information from state, local, and tribal governments. These governments interact closely with consumers and are critical partners in promoting transparency and competition in the consumer financial products marketplace, eliminating unfair and unlawfully discriminatory practices, and enforcing consumer financial laws. The outreach activities performed by IGA will collect low-burden, non-generalizable information through this GICP on trends in consumer financial markets, enforcement actions, regulatory and supervisory issues, and consumer needs at the state, local, and tribal levels. Most of this information will be in the form of government representatives providing impressions and overviews of their activities. Information will be collected on an occasional and voluntary basis from state, local, and tribal governments and from their respective trade associations.

Request For Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Dated: March 22, 2016.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2016–06959 Filed 3–25–16; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: Defense Travel Management Office, DoD.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Defense Travel Management Office is publishing Civilian Personnel Per Diem Bulletin Number 302. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States when applicable. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 302 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Date:* April 1, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Sonia Malik, 571–372–1276.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Defense Travel Management Office for non-foreign areas outside the contiguous United States. It supersedes Civilian Personnel Per Diem Bulletin Number 301. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. Civilian Bulletin 302 includes updated rates for Hawaii and the Midway Islands.

Dated: March 23, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA						
[OTHER]						
01/01 - 12/31	120		76		196	03/01/2016
ADAK						
10/01 - 04/30	150		51		201	03/01/2016
05/01 - 09/30	192		51		243	03/01/2016
ANCHORAGE [INCL NAV RES]						
05/16 - 09/30	339		114		453	03/01/2016
10/01 - 05/15	99		114		213	03/01/2016
BARROW						
01/01 - 12/31	205		96		301	03/01/2016
BARTER ISLAND LRRS						
01/01 - 12/31	120		76		196	03/01/2016
BETHEL						
01/01 - 12/31	179		121		300	03/01/2016
BETTLES						
01/01 - 12/31	175		79		254	03/01/2015
CAPE LISBURNE LRRS						
01/01 - 12/31	120		76		196	03/01/2016
CAPE NEWENHAM LRRS						
01/01 - 12/31	120		76		196	03/01/2016
CAPE ROMANZOF LRRS						
01/01 - 12/31	120		76		196	03/01/2016
CLEAR AB						
01/01 - 12/31	120		76		196	03/01/2016
COLD BAY LRRS						
01/01 - 12/31	120		76		196	03/01/2016
COLDFOOT						
01/01 - 12/31	165		70		235	10/01/2006
COPPER CENTER						
05/15 - 09/15	150		86		236	03/01/2016

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
	09/16 - 05/14	115		86		201	03/01/2016
CORDOVA							
	01/01 - 12/31	140		94		234	03/01/2016
CRAIG							
	04/01 - 09/30	151		74		225	03/01/2016
	10/01 - 03/31	88		74		162	03/01/2016
DEADHORSE							
	01/01 - 12/31	170		51		221	03/01/2016
DELTA JUNCTION							
	05/01 - 09/30	169		60		229	03/01/2015
	10/01 - 04/30	139		57		196	03/01/2015
DENALI NATIONAL PARK							
	06/01 - 08/31	185		80		265	03/01/2016
	09/01 - 05/31	139		80		219	03/01/2016
DILLINGHAM							
	10/16 - 04/30	220		85		305	03/01/2016
	05/01 - 10/15	350		85		435	03/01/2016
DUTCH HARBOR-UNALASKA							
	01/01 - 12/31	142		77		219	03/01/2016
EARECKSON AIR STATION							
	01/01 - 12/31	120		76		196	03/01/2016
EIELSON AFB							
	05/15 - 09/15	154		78		232	03/01/2016
	09/16 - 05/14	75		78		153	03/01/2016
ELFIN COVE							
	01/01 - 12/31	275		51		326	03/01/2016
ELMENDORF AFB							
	05/16 - 09/30	339		114		453	03/01/2016
	10/01 - 05/15	99		114		213	03/01/2016
FAIRBANKS							
	09/16 - 05/14	75		78		153	03/01/2016
	05/15 - 09/15	154		78		232	03/01/2016
FOOTLOOSE							
	01/01 - 12/31	175		18		193	10/01/2002

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
FORT YUKON LRRS						
01/01 - 12/31	120		76		196	03/01/2016
FT. GREELY						
05/01 - 09/30	169		60		229	03/01/2015
10/01 - 04/30	139		57		196	03/01/2015
FT. RICHARDSON						
05/16 - 09/30	339		114		453	03/01/2016
10/01 - 05/15	99		114		213	03/01/2016
FT. WAINWRIGHT						
05/15 - 09/15	154		78		232	03/01/2016
09/16 - 05/14	75		78		153	03/01/2016
GAMBELL						
01/01 - 12/31	133		51		184	03/01/2016
GLENNALLEN						
05/15 - 09/15	150		86		236	03/01/2016
09/16 - 05/14	115		86		201	03/01/2016
HAINES						
01/01 - 12/31	107		101		208	01/01/2011
HEALY						
09/01 - 05/31	139		80		219	03/01/2016
06/01 - 08/31	185		80		265	03/01/2016
HOMER						
05/01 - 09/30	194		90		284	03/01/2016
10/01 - 04/30	89		90		179	03/01/2016
JB ELMENDORF-RICHARDSON						
05/16 - 09/30	339		114		453	03/01/2016
10/01 - 05/15	99		114		213	03/01/2016
JUNEAU						
05/01 - 09/30	159		88		247	03/01/2016
10/01 - 04/30	125		88		213	03/01/2016
KAKTOVIK						
01/01 - 12/31	165		86		251	10/01/2002
KAVIK CAMP						
01/01 - 12/31	250		51		301	03/01/2016

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
KENAI-SOLDOTNA						
05/01 - 10/31	179		106		285	03/01/2016
11/01 - 04/30	84		106		190	03/01/2016
KENNICOTT						
01/01 - 12/31	285		85		370	03/01/2016
KETCHIKAN						
04/01 - 10/01	250		97		347	03/01/2016
10/02 - 03/31	99		97		196	03/01/2016
KING SALMON						
05/01 - 10/01	225		91		316	10/01/2002
10/02 - 04/30	125		81		206	10/01/2002
KING SALMON LRRS						
01/01 - 12/31	120		76		196	03/01/2016
KLAWOCK						
04/01 - 09/30	151		74		225	03/01/2016
10/01 - 03/31	88		74		162	03/01/2016
KODIAK						
05/01 - 09/30	157		81		238	03/01/2016
10/01 - 04/30	100		81		181	03/01/2016
KOTZEBUE						
01/01 - 12/31	219		105		324	03/01/2016
KULIS AGS						
05/16 - 09/30	339		114		453	03/01/2016
10/01 - 05/15	99		114		213	03/01/2016
MCCARTHY						
01/01 - 12/31	285		85		370	03/01/2016
MCGRATH						
01/01 - 12/31	160		65		225	03/01/2016
MURPHY DOME						
05/15 - 09/15	154		78		232	03/01/2016
09/16 - 05/14	75		78		153	03/01/2016
NOME						
01/01 - 12/31	165		84		249	03/01/2016
NUIQSUT						

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
01/01 - 12/31	234		51		285	03/01/2016
OLIKTOK LRRS						
01/01 - 12/31	120		76		196	03/01/2016
PETERSBURG						
01/01 - 12/31	120		76		196	03/01/2016
POINT BARROW LRRS						
01/01 - 12/31	120		76		196	03/01/2016
POINT HOPE						
01/01 - 12/31	175		85		260	03/01/2016
POINT LAY						
01/01 - 12/31	255		51		306	03/01/2016
POINT LAY LRRS						
01/01 - 12/31	255		51		306	03/01/2016
POINT LONELY LRRS						
01/01 - 12/31	120		76		196	03/01/2016
PORT ALEXANDER						
02/01 - 08/31	210		51		261	03/01/2016
09/01 - 01/31	165		51		216	03/01/2016
PORT ALSWORTH						
01/01 - 12/31	135		88		223	10/01/2002
PRUDHOE BAY						
01/01 - 12/31	170		51		221	03/01/2016
SELDOVIA						
05/01 - 09/30	194		90		284	03/01/2016
10/01 - 04/30	89		90		179	03/01/2016
SEWARD						
10/01 - 04/30	99		84		183	03/01/2016
05/01 - 09/30	298		84		382	03/01/2016
SITKA-MT. EDGECUMBE						
01/01 - 12/31	200		98		298	03/01/2016
SKAGWAY						
04/01 - 10/01	250		97		347	03/01/2016
10/02 - 03/31	99		97		196	03/01/2016
SLANA						

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
	05/01 - 09/30	139		55		194	02/01/2005
	10/01 - 04/30	99		55		154	02/01/2005
SPARREVOHN LRRS							
	01/01 - 12/31	120		76		196	03/01/2016
SPRUCE CAPE							
	05/01 - 09/30	157		81		238	03/01/2016
	10/01 - 04/30	100		81		181	03/01/2016
ST. GEORGE							
	01/01 - 12/31	220		51		271	03/01/2016
TALKEETNA							
	01/01 - 12/31	100		89		189	10/01/2002
TANANA							
	01/01 - 12/31	165		84		249	03/01/2016
TATALINA LRRS							
	01/01 - 12/31	120		76		196	03/01/2016
TIN CITY LRRS							
	01/01 - 12/31	120		76		196	03/01/2016
TOK							
	05/15 - 09/30	95		83		178	03/01/2016
	10/01 - 05/14	73		83		156	03/01/2016
UMIAT							
	01/01 - 12/31	350		51		401	03/01/2016
VALDEZ							
	05/16 - 09/16	169		89		258	03/01/2016
	09/17 - 05/15	89		89		178	03/01/2016
WAINWRIGHT							
	01/01 - 12/31	175		83		258	01/01/2011
WASILLA							
	05/01 - 09/30	170		105		275	03/01/2016
	10/01 - 04/30	99		105		204	03/01/2016
WRANGELL							
	04/01 - 10/01	250		97		347	03/01/2016
	10/02 - 03/31	99		97		196	03/01/2016
YAKUTAT							

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
	01/01 - 12/31	105		94		199	01/01/2011
AMERICAN SAMOA							
	AMERICAN SAMOA						
	01/01 - 12/31	139		69		208	06/01/2015
	PAGO PAGO						
	01/01 - 12/31	139		69		208	12/01/2015
GUAM							
	GUAM (INCL ALL MIL INSTAL)						
	01/01 - 12/31	159		87		246	07/01/2015
	JOINT REGION MARIANAS (ANDERSEN)						
	01/01 - 12/31	159		87		246	07/01/2015
	JOINT REGION MARIANAS (NAVAL BASE)						
	01/01 - 12/31	159		87		246	07/01/2015
	TAMUNING						
	01/01 - 12/31	159		87		246	12/01/2015
HAWAII							
	[OTHER]						
	01/01 - 12/31	189		103		292	04/01/2016
	CAMP H M SMITH						
	01/01 - 12/31	177		123		300	04/01/2016
	EASTPAC NAVAL COMP TELE AREA						
	01/01 - 12/31	177		123		300	04/01/2016
	FT. DERUSSEY						
	01/01 - 12/31	177		123		300	04/01/2016
	FT. SHAFTER						
	01/01 - 12/31	177		123		300	04/01/2016
	HICKAM AFB						
	01/01 - 12/31	177		123		300	04/01/2016
	HILO						
	01/01 - 12/31	189		103		292	04/01/2016
	HONOLULU						
	01/01 - 12/31	177		123		300	04/01/2016
	ISLE OF HAWAII: HILO						
	01/01 - 12/31	189		103		292	04/01/2016

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ISLE OF HAWAII: OTHER						
01/01 - 12/31	189		148		337	04/01/2016
ISLE OF KAUAI						
01/01 - 12/31	325		135		460	04/01/2016
ISLE OF MAUI						
01/01 - 12/31	259		134		393	04/01/2016
ISLE OF OAHU						
01/01 - 12/31	177		123		300	04/01/2016
JB PEARL HARBOR-HICKAM						
01/01 - 12/31	177		123		300	04/01/2016
KAPOLEI						
01/01 - 12/31	177		123		300	04/01/2016
KEKAHA PACIFIC MISSILE RANGE FAC						
01/01 - 12/31	325		135		460	04/01/2016
KILAUEA MILITARY CAMP						
01/01 - 12/31	189		103		292	04/01/2016
LANAI						
01/01 - 12/31	254		118		372	04/01/2016
LIHUE						
01/01 - 12/31	325		135		460	04/01/2016
LUALUALEI NAVAL MAGAZINE						
01/01 - 12/31	177		123		300	04/01/2016
MCB HAWAII						
01/01 - 12/31	177		123		300	04/01/2016
MOLOKAI						
01/01 - 12/31	157		96		253	04/01/2016
NAS BARBERS POINT						
01/01 - 12/31	177		123		300	04/01/2016
PEARL HARBOR						
01/01 - 12/31	177		123		300	04/01/2016
PMRF BARKING SANDS						
01/01 - 12/31	325		135		460	04/01/2016
SCHOFIELD BARRACKS						
01/01 - 12/31	177		123		300	04/01/2016

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
TRIPLER ARMY MEDICAL CENTER						
01/01 - 12/31	177		123		300	04/01/2016
WHEELER ARMY AIRFIELD						
01/01 - 12/31	177		123		300	04/01/2016
MIDWAY ISLANDS						
MIDWAY ISLANDS						
01/01 - 12/31	125		77		202	04/01/2016
NORTHERN MARIANA ISLANDS						
[OTHER]						
01/01 - 12/31	99		102		201	07/01/2015
ROTA						
01/01 - 12/31	130		107		237	07/01/2015
SAIPAN						
01/01 - 12/31	140		98		238	07/01/2015
TINIAN						
01/01 - 12/31	99		102		201	07/01/2015
PUERTO RICO						
[OTHER]						
01/01 - 12/31	109		112		221	06/01/2012
AGUADILLA						
01/01 - 12/31	171		84		255	11/01/2015
BAYAMON						
06/01 - 11/30	167		88		255	12/01/2015
12/01 - 05/31	195		88		283	12/01/2015
CAROLINA						
06/01 - 11/30	167		88		255	12/01/2015
12/01 - 05/31	195		88		283	12/01/2015
CEIBA						
01/01 - 12/31	139		92		231	10/01/2012
CULEBRA						
01/01 - 12/31	150		98		248	03/01/2012
FAJARDO [INCL ROOSEVELT RDS NAVSTAT]						
01/01 - 12/31	139		92		231	10/01/2012
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]						

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
06/01 - 11/30	167		88		255	12/01/2015
12/01 - 05/31	195		88		283	12/01/2015
HUMACAO						
01/01 - 12/31	139		92		231	10/01/2012
LUIS MUNOZ MARIN IAP AGS						
06/01 - 11/30	167		88		255	12/01/2015
12/01 - 05/31	195		88		283	12/01/2015
LUQUILLO						
01/01 - 12/31	139		92		231	10/01/2012
MAYAGUEZ						
01/01 - 12/31	109		112		221	09/01/2010
PONCE						
01/01 - 12/31	149		89		238	09/01/2012
RIO GRANDE						
01/01 - 12/31	169		123		292	06/01/2012
SABANA SECA [INCL ALL MILITARY]						
06/01 - 11/30	167		88		255	12/01/2015
12/01 - 05/31	195		88		283	12/01/2015
SAN JUAN & NAV RES STA						
12/01 - 05/31	195		88		283	12/01/2015
06/01 - 11/30	167		88		255	12/01/2015
VIEQUES						
01/01 - 12/31	175		95		270	03/01/2012
VIRGIN ISLANDS (U.S.)						
ST. CROIX						
04/15 - 12/14	247		110		357	06/01/2015
12/15 - 04/14	299		116		415	06/01/2015
ST. JOHN						
05/01 - 12/03	170		107		277	08/01/2015
12/04 - 04/30	230		113		343	08/01/2015
ST. THOMAS						
01/01 - 12/31	240		112		352	08/01/2015
WAKE ISLAND						
WAKE ISLAND						

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
	01/01 - 12/31	173		66		239	07/01/2014

[FR Doc. 2016–06937 Filed 3–25–16; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE Bundled Payment for Lower Extremity Joint Replacement or Reattachment (LEJR) Surgeries Based on Centers for Medicare and Medicaid Services (CMS) Comprehensive Care for Joint Replacement (CJR) Model

AGENCY: Department of Defense.

ACTION: Notice of demonstration.

SUMMARY: This notice is to advise interested parties of a Military Health System (MHS) demonstration project under the authority of Title 10, United States Code, Section 1092, entitled TRICARE Bundled Payment for Lower Extremity Joint Replacement or Reattachment (LEJR) Surgeries that will test bundled payment and quality measurement on an ''episode of care'' basis to encourage hospitals, physicians, and post-acute care providers to work together to improve the quality and coordination of care from the initial hospitalization through recovery. This demonstration is being conducted in compliance with Section 726 of the National Defense Authorization Act (NDAA) for 2016. This particular TRICARE demonstration will be based on Centers for Medicare and Medicaid Services' (CMS) Comprehensive Care for Joint Replacement (CJR) Model, which will be implemented in 67 metropolitan statistical areas (MSAs) beginning April 1, 2016. CMS's CJR Model is designed to promote better and more efficient care for beneficiaries undergoing LEJR surgery (DRG 469 (major joint replacement or reattachment of lower extremity with major complications or comorbidities) or 470 (major joint replacement or reattachment of lower extremity without major complications or comorbidities)). Participant hospitals in the CMS model will be held financially accountable for the quality and cost of the entire episode of care, which begins with hospital admission of a beneficiary and ends 90 days post-discharge in order to cover all related costs for the complete recovery period. This ''bundled'' episode includes all related items and services paid under Medicare Part A and Part B for all Medicare fee-for-service beneficiaries. The TRICARE demonstration project will test this value-based payment model in the Tampa-St. Petersburg MSA for DRG 470 only (including 90 days of related post-operative care) to assess whether value-driven bundled payment incentives will result in a reduction in the rate of increase in health care spending and improvements in health care quality, patient experience of care, and overall health of TRICARE beneficiaries. All network and non-network hospitals with at least 20 TRICARE admissions for DRG 470 over the three years of Fiscal Year (FY) 2013, 2014, and 2015 shall be required to participate in the demonstration project (excluding admissions for beneficiaries with primary Other Health Insurance (OHI), Active Duty Service Members (ADSMs), and Medicare-TRICARE dual eligible beneficiaries). Once selected for participation, hospitals will remain in the project throughout the duration of this demonstration (regardless of actual TRICARE utilization) unless the Government directs otherwise.

DATES: *Effective Date:* This demonstration is mandated by Section 726 of the National Defense Authorization Act for Fiscal Year 2016, with an implementation deadline of May 23, 2016. This demonstration authority will remain in effect until December 31, 2019.

ADDRESSES: Defense Health Agency, Health Plan Execution and Operations, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042.

FOR FURTHER INFORMATION CONTACT: For questions pertaining to this demonstration, please contact Ms. Debra Hatzel at (303) 676–3572.

SUPPLEMENTARY INFORMATION:

A. Background

Section 726 of the National Defense Authorization Act (NDAA) for Fiscal Year 2016 directed the Department of Defense to conduct a demonstration project on incentives to improve health care provided under the TRICARE program, also known as paying for value rather than for volume or value-based reimbursement. Innovative health care payment models are being tested and implemented by the CMS and a variety of commercial health care programs and insurers. This demonstration will assess whether value-driven incentives will result in a reduction in the rate of increase in health care spending and improvements in health care quality, patient experience of care, and overall health of TRICARE beneficiaries.

This demonstration program is based on the Medicare Program for Comprehensive Care for Joint Replacement (CJR) Payment Model for Acute Care Hospitals Furnishing Lower Extremity Joint Replacement Services, under the authority of the Center for Medicare and Medicaid Innovation (CMMI) pursuant to section 1115A of the Social Security Act, and as implemented by CMS. A copy of the Final Rule published by CMS on November 24, 2015, may be found at *https://www.federalregister.gov/articles/2015/11/24/2015-29438/medicare-program-comprehensive-care-for-joint-replacement-payment-model-for-acute-care-hospitals.* In general, CMS sought to target high expenditure, high utilization procedures for which there were significant regional variation in spending. Acute care hospitals, as the site of surgery, will be held accountable for spending during the entire episode of care. This model seeks to promote the alignment of financial and other incentives for all health care providers and suppliers caring for a beneficiary during an LEJR episode, thereby improving quality and increasing efficiency in the provision of care. It is also anticipated the CJR model will benefit Medicare beneficiaries by improving coordination and transition of care by incentivizing more efficient service delivery and higher value care across the inpatient and post-acute care spectrum spanning the episode of care. The CMS CJR model will be implemented in 67 metropolitan statistical areas (MSAs) beginning April 1, 2016. Under Medicare, this episode-based payment model is mandatory for all hospitals in the designated MSAs.

The Department of Defense elected to conduct a demonstration project to adapt, in general, and test this value-based incentive program to assess whether a reduction in the rate of increase in health care spending can be achieved while simultaneously improving the experience and quality of health care provided to our beneficiaries by providing financial incentives for high-quality, efficient care. Consistent with the CJR model, TRICARE demonstration hospitals will be held accountable for the costs and quality of the entire episode of care and will be afforded the opportunity to earn performance-based payments by appropriately reducing expenditures and meeting certain quality metrics.

An analysis of LEJR surgeries in the TRICARE beneficiary population was conducted. This analysis revealed some of the Metropolitan Service Areas (MSAs) participating in the CMS Comprehensive Care for Joint Replacement (CJR) model have a substantial number of TRICARE-eligible beneficiaries. These locations include the Killeen-Temple TX MSA, the Seattle-Tacoma WA MSA, and the Tampa-St. Petersburg FL MSA. Both the Killeen-Temple MSA and the Seattle-Tacoma MSA are associated with large inpatient military treatment facilities

(MTFs); however, there are not any inpatient MTFs associated with the Tampa-St. Petersburg MSA. Based on FY 2015 data, there are 74,133 TRICARE eligibles residing in the Tampa-St. Petersburg area, and 128 joint replacement or reattachment surgeries for TRICARE beneficiaries were performed in FY 2015. Due to co-location with CMS's MSA (which makes hospital participation mandatory), the significant number of TRICARE eligible beneficiaries receiving joint replacement or reattachment surgeries, and the lack of MTF inpatient resources, Tampa-St. Petersburg was selected for this demonstration project. Additionally, it was determined only one to two percent of all TRICARE LEJR patients are in DRG 469 (major joint replacement or reattachment of lower extremity with major complications or comorbidities). As a result, the TRICARE demonstration project will exclude DRG 469 admissions since there are insufficient volumes for setting target episode prices for these procedures.

B. Description of the Demonstration Project

All network and non-network hospitals in the Tampa-St. Petersburg area will be required to participate in the demonstration if they had at least 20 TRICARE admissions for DRG 470 over the three years of FY 2013, FY 2014, and FY 2015 (excluding admissions for beneficiaries with Other Health Insurance (OHI), Active Duty Service Members (ADSMs), and Medicare-TRICARE dual eligible beneficiaries). Once selected for participation, demonstration hospitals will remain in the program throughout the duration of this NDAA demonstration (regardless of actual TRICARE utilization) unless the Government directs otherwise. Demonstration hospitals will be accountable for quality and cost of care for an inpatient stay that results in DRG 470, along with all related care provided during the 90-day period following discharge.

The Defense Health Agency (DHA) will prospectively establish target episode prices for each demonstration hospital at least 30 days prior to the start of each demonstration year. This target episode price shall be based on TRICARE claims for DRG 470 admissions and associated post-operative care for FY 2013, FY 2014, and FY 2015, and shall be a blend of hospital-specific and market-wide historical episode costs. This historical data period shall be used for the duration of the demonstration, with annual adjustments for inflation. In Demonstration Years one and two, the blended rate for the target episode price shall be developed with two-thirds hospital-specific data and one-third market-wide data; in Demonstration Year three, the target episode price shall be developed with one-third hospital-specific data and two-thirds market-wide data.

Although the CMS CJR Model incorporates an automatic cost savings of 3percent into their target episode prices, DHA will not deduct an automatic cost savings amount when developing TRICARE target episode prices. Instead, target episode pricing will take historical network discounts, DRG and CPT pricing adjustments, and annual inflation factors into consideration. Additionally, the value of any care provided in the direct care system will not be considered in developing target prices. This will permit local military treatment facilities to recapture, where appropriate, post-surgery outpatient care under existing TRICARE procedures based on the MTF's capability and capacity without affecting incentive calculations. The target episode price will clearly indicate the cost build-up calculations for each component of care within the episode. These target episode prices will become the basis for calculating any incentive payments or penalties.

For purposes of this demonstration, Demonstration Year one will commence for admissions on May 23, 2016, and will include all completed episodes with an end date continuing through September 30, 2017 (including the full 90 days post-discharge period). Subsequent demonstration years will be conducted on a fiscal year basis (*i.e.,* for episodes ending October 1st through September 30th). The target episode price in effect on the date of hospital admission shall be used for incentive calculation purposes, even if a portion of post-discharge care is delivered in the subsequent demonstration year.

During each demonstration year, all hospital, physician, and post-acute care claims will be paid under the normal TRICARE reimbursement methodologies. At the end of each demonstration year, the total costs of all completed episodes for the year will be compared to the aggregate target episode price for each demonstration hospital to determine whether actual costs were less than, equal to, or greater than the target episode price. In order to ensure all costs are properly attributed to each demonstration hospital, actual cost calculations shall occur no sooner than 90 calendar days following the end of the demonstration year to allow adequate time for claims processing. In order to encourage use of the direct care system and because the managed care support contractor processing the episode calculations will not have access to direct care cost data, costs for direct care shall be excluded (consistent with the target cost development).

In addition to performing these cost calculations, DHA will utilize the composite quality score (as determined by CMS) for each demonstration hospital as the basis for determining eligibility for gain-sharing. This composite quality score is a hospital-level summary quality score reflecting performance and improvement on the quality measures adopted for the Medicare CJR model (Total Hip Arthroplasty (THA)/Total Knee Arthroplasty (TKA)) complications measure and the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) patient experience survey measure. TRICARE will use Hospital Compare as the source for these data. Hospitals that do not achieve and maintain a favorable CJR composite quality score for the full demonstration year are not eligible for incentive payments, regardless of whether cost savings are achieved. TRICARE is following the same approach as Medicare in order to ensure hospitals are not reducing the quality of care offered to beneficiaries or reducing patients' overall perception of their hospital experience.

Incentive payments will be calculated using the CMS gain/loss sharing model; beginning in Demonstration Year one, positive incentive payments will be made to hospitals who achieve and maintain a favorable CJR composite quality score for the full demonstration year and who demonstrate cost savings as compared to the target episode price. ''Downside'' risk (negative financial incentives) will not be phased into the payment model until the second demonstration year. Gain/Loss sharing will increase over time, from no loss sharing in Demonstration Year one (only gain sharing), to higher levels in later years (gain sharing of 5 percent in Demonstration Years one and two, and 10 percent in Demonstration Year three). Loss sharing is 0 in Demonstration Year one, 5 percent in Demonstration Year two, and 10 percent in Demonstration Year three.

On a quarterly basis, demonstration hospitals will receive feedback from the MCSCs on their current quality performance (as identified in Hospital Compare), episode of care costs to date, and projected eligibility for incentives (based on TRICARE claims and Medicare's composite quality scores for each hospital). To facilitate effective communication with demonstration

hospitals, these quarterly reports shall mirror the format and detail of CMS's feedback reports to the extent feasible. Active Duty Service Members (ADSMs), Medicare-TRICARE Dual Eligible (TDEFIC) beneficiaries, and beneficiaries with Other Health Insurance (OHI) are excluded from this demonstration.

C. Communications

The DHA will proactively educate beneficiaries, providers, and other stakeholders about this change.

D. Evaluation

This demonstration project will assist the Department in evaluating whether value-driven incentives will result in a reduction in the rate of increase in health care spending and improvements in health care quality, patient experience of care, and overall health of TRICARE beneficiaries. Regular status reports and a full analysis of demonstration outcomes will be conducted consistent with the requirements in Section 726 of the 2016 NDAA. Future expansions of the demonstration project to additional locations may be considered based on DHA data analysis for the Tampa-St. Petersburg market. Details of any future expansions will be announced via **Federal Register** notice prior to implementation.

Dated: March 22, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–06859 Filed 3–25–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0009]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Campus Equity in Athletics Disclosure Act (EADA) Survey

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before April 27, 2016.

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–2016–ICCD–0009. 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 2E–103, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Ashley Higgins, 202–219–7061.

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: Campus Equity in Athletics Disclosure Act (EADA) Survey.

OMB Control Number: 1840–0827.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 2,072.

Total Estimated Number of Annual Burden Hours: 11,397.

Abstract: The collection of information is necessary under section 485 of the Higher Education Act of 1965, as amended, with the goal of increasing transparency surrounding college athletics for student, prospective students, parents, employees and the general public. The survey is a collection tool to compile the annual data on college athletics. The data collected from the individual institutions by ED and is made available to the public through the Equity in Athletics Data Analysis Cutting Tool as well as the College Navigator.

Dated: March 23, 2016.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–06890 Filed 3–25–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 16–29–LNG]

Cheniere Marketing, LLC; Application for Blanket Authorization To Export Previously Imported Liquefied Natural Gas on a Short-Term Basis

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on March 7, 2016, by Cheniere Marketing, LLC (CMI), requesting blanket authorization to export liquefied natural gas (LNG) previously imported into the United States from foreign sources in an amount up to the equivalent of 500 billion cubic feet (Bcf) of natural gas on a short-term or spot market basis for a two-year period commencing on June 7, 2016.[1] CMI seeks authorization to export the LNG from the Sabine Pass LNG terminal owned by Sabine Pass LNG, L.P. located in Cameron Parish, Louisiana, to any country with the capacity to import LNG via ocean-going carrier and with which trade is not

[1] CMI's current blanket authorization to export previously imported LNG, granted in DOE/FE Order No. 3442 on June 6, 2014, extends through June 6, 2016.

prohibited by U.S. law or policy. CMI states that it does not seek authorization to export any domestically produced natural gas or LNG. DOE/FE notes that CMI currently holds a blanket authorization to import and export natural gas from and to Canada and Mexico, to import LNG from various international sources by vessel, and to export LNG to Canada and Mexico by vessel and truck, up to a combined total volume equivalent to 1,600 Bcf of natural gas.[2] CMI is requesting this authorization both on its own behalf and as agent for other parties who will hold title to the LNG at the time of export. The Application was filed under section 3 of the Natural Gas Act (NGA). Additional details can be found in CMI's Application, posted on the DOE/FE Web site at: *http://energy.gov/fe/cheniere-marketing-llc-fe-dkt-no-16-29-lng-export-previously-imported-fta.* Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, April 27, 2016.

ADDRESSES:

Electronic Filing by email: fergas@hq.doe.gov

Regular Mail: U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585

FOR FURTHER INFORMATION CONTACT:

Beverly Howard or Larine Moore, U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9387; (202) 586–9578

Cassandra Bernstein, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9793

SUPPLEMENTARY INFORMATION:

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3 of the NGA, as amended, and the authority contained in DOE Delegation Order No. 00–002.00N (July 11, 2013) and DOE Redelegation Order No. 00–006.02 (Nov. 17, 2014). In reviewing this LNG export application, DOE will consider domestic need for the natural gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment in their responses on these issues.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 16–29–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 16–29–LNG. PLEASE NOTE: If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation and International Engagement docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on March 21, 2016.

John A. Anderson,

Director, Office of Regulation and International Engagement, Office of Oil and Natural Gas.

[FR Doc. 2016–06913 Filed 3–25–16; 8:45 am]

BILLING CODE 6450–01–P

[2] *Cheniere Marketing, LLC,* DOE/FE Order No. 3578, FE Docket No. 14–186–NG, Order Granting Blanket Authorization to Import and Export Natural Gas from and to Canada and Mexico, to Import Liquefied Natural Gas from Various International Sources by Vessel, and to Export Liquefied Natural Gas to Canada and Mexico by Vessel and Truck (Jan. 8, 2015).

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its Contractor Legal Management Requirements, OMB Control Number 1910–5115. The proposed collection will require covered DOE contractors and subcontractors to submit to DOE counsel a legal management plan within 60 days following execution of a contract or request of the contracting officer. Covered contractors must also submit an annual legal budget that includes cost projections for matters defined as significant matters. The budget detail will depend on the nature of the activities and complexity of the matters included in the budget. The regulation further requires covered contractors to submit staffing and resource plans addressing matters defined as significant matters in litigation. The regulation requires covered contractors to submit certain information related to litigation initiated against the contractor before initiating defensive litigation, offensive litigation, or entering into a settlement agreement.

DATES: Comments regarding this collection must be received on or April 27, 2016. 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 202–395–4718.

ADDRESSES: Written comments should be sent to the DOE Desk Officer, 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 Eric Mulch, *eric.mulch@hq.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Eric Mulch, *eric.mulch@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.:* 1910–5115; (2) *Information Collection Request Title:* Contractor Legal Management Requirements; (3) *Type of Review:* extension; (4) *Purpose:* the information collection to be extended has been and will be used to form the basis for DOE actions on requests from the contractors for reimbursement of litigation and other legal expenses. The information collected related to annual legal budget, staffing and resource plans, and initiation or settlement of defensive or offensive litigation is and will be similarly used.; (5) *Annual Estimated Number of Respondents:* 45; (6) *Annual Estimated Number of Total Responses:* 154; (7) *Annual Estimated Number of Burden Hours:* 1,150; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* 0.

Statutory Authority: Section 161 of the Atomic Energy Act of 1954, 42 U.S.C. 2201, the Department of Energy Organization Act, 42 U.S.C 7101, *et seq.,* and the National Nuclear Security Administration Act, 50 U.S.C. 2401, *et seq.*

Issued in Washington, DC, on March 18, 2016.

Steven Croley,

General Counsel, United States Department of Energy.

[FR Doc. 2016–06912 Filed 3–25–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Public Meeting To Inform the Design of a Consent-Based Siting Process for Nuclear Waste Storage and Disposal Facilities

AGENCY: Fuel Cycle Technologies, Office of Nuclear Energy, Department of Energy.

ACTION: Notice of public meeting.

SUMMARY: The U.S Department of Energy (DOE) is implementing a consent-based siting process to establish an integrated waste management system to transport, store, and dispose of spent nuclear fuel and high-level radioactive waste. In a consent-based siting approach, DOE will work with communities, tribal governments and states across the country that express interest in hosting any of the facilities identified as part of an integrated waste management system. As part of this process, the Department is hosting a series of public meetings to engage communities and individuals and discuss the development of a consent-based approach to managing our nation's nuclear waste. A public meeting will be held in Atlanta, GA on April 11, 2016.

DATES: The meeting will take place on Monday April 11, 2016 from 1:00 p.m. to 5:00 p.m. EDT. Informal poster sessions will be held from 12:00 p.m. until 1:00 p.m. EDT and again after 5:00 p.m. EDT. Department officials will be available to discuss consent-based siting during the poster sessions.

ADDRESSES: The meeting will be held at the Georgia Tech Hotel and Conference Center, 800 Spring Street NW., Atlanta, GA 30308. To register for this meeting and to review the agenda for the meeting, please go to *energy.gov/consentbasedsiting.*

FOR FURTHER INFORMATION CONTACT: Requests for further information should be sent to *consentbasedsiting@hq.doe.gov* or to Michael Reim at 202–586–2981. Updated information on this and other planned public meetings on consent based siting will be posted at *energy.gov/consentbasedsiting.*

If you are unable to attend a public meeting or would like to further discuss ideas for consent-based siting, please request an opportunity for us to speak with you. The Department will do its best to accommodate such requests and help arrange additional opportunities to engage. To learn more about nuclear energy, nuclear waste, and ongoing technical work please go to *energy.gov/consentbasedsiting.*

Privacy Act: Data collected via the mechanisms listed above will not be protected from the public view in any way.

Issued in Washington, DC, on March 22, 2016.

Andrew Griffith,

Associate Deputy Assistant Secretary for Fuel Cycle Technologies, Office of Nuclear Energy, Department of Energy.

[FR Doc. 2016–06914 Filed 3–25–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Salt Lake City Area Integrated Projects and Colorado River Storage Project 2025 General Power Marketing Criteria—Extension of Public Comment Period

AGENCY: Western Area Power Administration, Department of Energy (DOE).

ACTION: Notice of extension of public comment period for the Proposed 2025 Marketing Plan for the Salt Lake City Area Integrated Projects (SLCA/IP).

SUMMARY: Western Area Power Administration (Western), Colorado River Storage Project Management Center (CRSP MC), a Federal power marketing agency of the Department of Energy, is extending the public comment period on its Proposed 2025 Marketing Plan for the SLCA/IP. This **Federal Register** notice (FRN) extends the public comment period for the Proposed 2025 Marketing Plan for the

SLCA/IP contained in Western's December 16, 2015, FRN.

DATES: The public comment period for the Proposed 2025 Marketing Plan for the SLCA/IP has been extended from March 30, 2016, to May 31, 2016.

ADDRESSES: Submit written comments regarding the Proposed 2025 Marketing Plan for the SLCA/IP to Ms. Lynn Jeka, CRSP Manager, Western Area Power Administration, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111–1580. Comments may also be faxed to (801) 524–5017, or emailed to *SLIPPost2024@wapa.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Parker Wicks, Public Utilities Specialist, or Mr. Steve Mullen, Public Utilities Specialist, at Western Area Power Administration, CRSP Management Center, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111–1580, telephone (801) 524–5493, or email to *SLIPPost2024@wapa.gov.* Information can also be found at *https://www.wapa.gov/regions/CRSP/PowerMarketing/Pages/Proposed-2025-Salt-Lake-City-Area-Integrated-Projects-Marketing-Plan.aspx.*

SUPPLEMENTARY INFORMATION: On December 16, 2015, Western published a notice in the **Federal Register** (80 FR 78222) announcing its Proposed 2025 Marketing Plan for the SLCA/IP. In that notice, the public comment period was reported to close March 30, 2016. After clarifying questions were received during its Public Information Meeting held January 14, 2016, in Salt Lake City, Utah, Western has decided to extend the public comment period from the previously published public comment period closing of March 30, 2016, to May 31, 2016. This additional time will allow Western to post the results of its preliminary determination of the 2025 SLCA/IP Marketable Resource, which are expected to be posted for review on or before May 3, 2016, at *https://www.wapa.gov/regions/CRSP/PowerMarketing/Pages/Proposed-2025-Salt-Lake-City-Area-Integrated-Projects-Marketing-Plan.aspx.* This extension will also provide interested parties an additional opportunity to consult with Western and to comment on the Proposed 2025 Marketing Plan for the SLCA/IP.

Dated: March 21, 2016.

Mark A. Gabriel,

Administrator.

[FR Doc. 2016–06917 Filed 3–25–16; 8:45 am]

BILLING CODE 6450–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Meeting of the Advisory Committee of the Export-Import Bank of the United States (EXIM Bank)

SUMMARY: The Advisory Committee was established by P.L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the report on competitiveness of the Export-Import Bank of the United States to Congress.

Time and Place: Thursday, April 7, 2016 from 7:30 a.m. until 8:00 a.m. and 4:00 p.m. until 5:00 p.m. The meeting will be held at the Omni Shoreham Hotel in the Cabinet Room—lobby level, 2500 Calvert Street NW., Washington, DC 20008.

Agenda: Agenda items include updates for the Advisory Committee members regarding: past recommendations and 2016 recommendations, EXIMs business and pipeline, and EXIMs report on competitiveness to Congress.

Public Participation: The following portions of the meeting will be open to public participation: 7:30 a.m.–8 a.m. and from 4:00 p.m.–5:00 p.m., and 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If you plan to attend, a photo ID must be presented at the sign-in table in the meeting room, you may contact Tia Pitt at *tia.pitt@exim.gov* to have your name placed on an attendee list. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please email Tia Pitt at *tia.pitt@exim.gov* by April 1, 2016.

Members of the Press: For members of the Press planning to attend the meeting please email Tia Pitt at *tia.pitt@exim.gov* to be placed on an attendee list.

FOR FURTHER INFORMATION CONTACT: For further information, contact Tia Pitt, 811 Vermont Ave. NW., Washington, DC 20571, at *tia.pitt@exim.gov.*

Lloyd Ellis,

Program Specialist, Office of the General Counsel.

[FR Doc. 2016–06907 Filed 3–25–16; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 12, 2016.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Strategic Value Investors, LP, and its general partner, Strategic Value Bank Partners, LLC, both in Beachwood, Ohio; Benjamin Mackovak, Cleveland, Ohio; and Martin E. Adams,* Naples, Florida; to acquire voting shares of First Citizens Financial Corporation, and thereby indirectly acquire voting shares of Foothills Community Bank, both in Dawsonville, Georgia.

Board of Governors of the Federal Reserve System, March 23, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–06899 Filed 3–25–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: The meeting will be held on Wednesday, April 20, 2016, from 8:30 a.m. to 2:45 p.m.

ADDRESSES: The meeting will be held at AHRQ, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Jaime Zimmerman, Designated Management Official, at the Agency for Healthcare Research and Quality, 5600 Fishers Lane, Mail Stop 06E37A, Rockville, Maryland 20857, (301) 427–1456. For press-related information, please contact Alison Hunt at (301) 427–1244 or *Alison.Hunt@ahrq.hhs.gov.*

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact the Food and Drug Administration (FDA) Office of Equal Employment Opportunity and Diversity Management on (301) 827–4840, no later than Wednesday, April 6, 2016. The agenda, roster, and minutes are available from Ms. Bonnie Campbell, Committee Management Officer, Agency for Healthcare Research and Quality, 5600 Fishers Lane, Rockville, Maryland 20857. Ms. Campbell's phone number is (301) 427–1554.

SUPPLEMENTARY INFORMATION:

I. Purpose

The National Advisory Council for Healthcare Research and Quality is authorized by Section 941 of the Public Health Service Act, 42 U.S.C. 299c. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to AHRQ's conduct of its mission including providing guidance on (A) priorities for health care research, (B) the field of health care research including training needs and information dissemination on health care quality and (C) the role of the Agency in light of private sector activity and opportunities for public private partnerships. The Council is composed of members of the public, appointed by the Secretary, and Federal ex-officio members specified in the authorizing legislation.

II. Agenda

On Wednesday, April 20, 2016, there will be a subcommittee meeting for the National Healthcare Quality and Disparities Report scheduled to begin at 7:30 a.m. The subcommittee meeting is open the public. The Council meeting will convene at 8:30 a.m., with the call to order by the Council Chair and approval of previous Council summary notes. The meeting is open to the public and will be available via webcast at *www.webconferences.com/ahrq.* The meeting will begin with an update on AHRQ's current research, programs, and initiatives. Following this update, the agenda will include a presentation on AHRQ's work in Primary Care and a discussion on possible new research ideas that AHRQ could pursue to improve health care delivery and outcomes. The final agenda will be available on the AHRQ Web site at *www.AHRQ.gov* no later than Friday, April 15, 2016.

Sharon B. Arnold,

Acting Director.

[FR Doc. 2016–06882 Filed 3–25–16; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–0853]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Asthma Information Reporting System (AIRS)—Revision—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In 1999, the CDC began its National Asthma Control Program (NACP), a public health approach to address the burden of asthma. The program supports the goals and objectives of ''Healthy People 2020'' for asthma and is based on the public health principles of surveillance, partnerships, interventions, and evaluation. The CDC requests to revise the ''Asthma Information Reporting System (AIRS)'' (OMB Control No. 0920–0853; expiration date 5/31/2016). Specifically, CDC seeks to make the following changes:

- Rather than using the web-based system, state awardees will use AIRS Excel spreadsheets to report CDC-developed process and outcome performance measures.
- The performance measures will be collected annually, rather than biannually, as previously approved.

The goal of this data collection is to provide NCEH with routine information about the activities and performance of the state and territorial awardees funded under the NACP through an annual reporting system. NACP requires awardees to report activities related to partnerships, infrastructure, evaluation and interventions to monitor the state programs' performance in reducing the burden of asthma. AIRS also includes two forms to collect aggregate ED and HD data from awardees.

AIRS was first approved by OMB in 2010 to collect data in a web-based system to monitor and guide participating state health departments. Since implementation in 2010, AIRS and the technical assistance provided by CDC staff have provided states with uniform data reporting methods and linkages to other states' asthma program information and resources. Thus, AIRS has saved state resources and staff time

when asthma programs embark on asthma activities similar to those done elsewhere.

In the past three-years, AIRS data were used to:

- Serve as a resource to NCEH when addressing congressional, departmental and institutional inquiries.
- Help the branch align its current interventions with CDC goals and allowed the monitoring of progress toward these goals.
- Allow the NACP and the state asthma programs to make more informed decisions about activities to achieve objectives.
- Facilitate communication about interventions across states, and enable inquiries regarding interventions by populations with a disproportionate burden, age groups, geographic areas and other variables of interest.

A revision to this data collection is necessary because: (1) The web-based reporting platform is no longer supported by CDC; (2) in collaboration with state asthma programs, reporting requirements have been prioritized to provide specific information on the two main strategies in the associated Funding Opportunity Announcement (FOA): Services and health systems strategies; (3) CDC now endorses limiting state program reporting to once a year; and (4) the number of state awardees has been reduced from 34 to 23 states.

There will be no cost for respondents other than their time to complete the three AIRS spreadsheets annually. The estimated annualized burden hours are 82.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden response (hours)
State Asthma Program Awardees	AIRS Performance Measures Reporting Spreadsheets.	23	1	150/60
	AIRS Emergency Department Visits Reporting Form.	23	1	30/60
	AIRS Hospital Discharge Reporting Forms	23	1	30/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–06885 Filed 3–25–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–16CQ]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Occupational Health Safety Network (OHSN)—Existing Information Collection in Use without an OMB Control Number—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Healthcare in the United States is a growing industry that employs more than 19 million workers with a substantial burden of occupational injuries and illnesses. In 2013, one in five workers in the healthcare and social assistance industry reported a nonfatal job-related injury. This is the highest number of non-fatal injuries reported among all private industries.

U.S. healthcare facilities depend on surveillance data to track the incidence of injuries, identify risk factors, target prevention activities and evaluate interventions to reduce the occurrence of occupational injury among healthcare personnel. In 2012, to assist healthcare facilities to enhance capacity to use existing surveillance data, the National Institute for Occupational Safety and Health (NIOSH) launched the Occupational Health Safety Network (OHSN), a voluntary surveillance system developed specifically for healthcare personnel environment. OHSN is a free, and secure electronic occupational safety and health surveillance system that has provided U.S. healthcare facilities the ability to efficiently analyze their own occupational injury data while, at the same time, serving as a source for national surveillance by sharing their de-identified injury data with NIOSH. Unlike other national occupational surveillance systems, OHSN offers integrated approach to monitor standard occupational injuries among facility-based healthcare personnel in the U.S.

and to provide timely, facility-level feedback to participants with benchmarking and analyses capabilities.

OHSN collects two types of data from participating facilities. Facilities collect these data to meet specific regulatory or administrative requirements. Thus, no new data collection is required. Participating facilities provides OHSN—(1) a onetime enrollment form, requests information of the participating facility and is publically available information from American Hospital Association database; and (2) a monthly submission of occupational injury data collected in the previous month. These data are sent to OHSN via a web portal in a format using standardized data elements and value sets. No personal identifiable information is transmitted to OHSN. Data elements include: Injury time, location and surrounding circumstances of each injury event.

Healthcare facilities download data through an OHSN-provided data conversion and mapping tools to upload the monthly occupational injury data.

Each participating facilities has access to OHSN web portal, facilities are able to analyze workers current and historical worker injury data to benchmark their internal injury rates and trends against aggregate data from similar workplaces. In addition they are able to assess the impact of prevention efforts on occupational health and safety over time using integrated data analysis and visualization tools (charts and graphs).

OHSN currently tracks three common, serious, and preventable categories of traumatic injury to healthcare personnel: Slips, trips and falls; musculoskeletal disorders resulting from patient handling and movement events; and workplace violence. OHSN will add new modules about exposure to sharps injury and blood and body fluids exposures.

NIOSH analyzes the data submitted to OHSN to conduct surveillance and to produce periodic aggregate reports on the occurrence of and risk factors for occupational injuries among all OHSN facilities.

OHSN has been operating continuously and receiving voluntary monthly reports from 116 participating facilities since 2012 and is projected to enroll total of 900 facilities in the next three years. Current burden estimates were derived using the estimated number of facilities participating in OHSN for each facility type and form. OSHA reporting mandates were taken into account when estimating the number of facilities (participants) and the annual number of responses per facility. Total burden hours for this request is 185.

NIOSH seeks approval for an OMB control number to continue this important work. There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
U.S. healthcare facilities	Occupational Health Safety Network (OHSN)	300	12	3/60
U.S. healthcare facilities	Enrollment form	300	1	1/60
Total				

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–06884 Filed 3–25–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10434]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by April 27, 2016.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR* Email: *OIRA_submission@omb.eop.gov*.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of

information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicaid and CHIP Program (MACPro); *Use:* The MACPro system is being transitioned to become the system of record that will be used by both state and CMS officials to: Improve the state application and federal review processes, improve federal program management of Medicaid programs and CHIP, and standardize Medicaid program data. Specifically, it will be used by state agencies to: Submit and amend Medicaid state plans, CHIP state plans and ADPs (Information System Advanced Planning Documents); submit applications and amendments for state waivers, demonstrations, and benchmark and grant programs; and submit reporting data.

Among the collections submitted for approval under MACPro will be relevant collections that are currently approved under our generic umbrella information collection request (CMS–10398; OMB control number 0938–1148), certain collections approved as a regular stand-alone information collections, and upcoming collections. A list of those collections is included in our PRA package.

While currently approved by OMB under the regular PRA process which requires 60- and 30-day comment periods, CMS is proposing to have the umbrella of MACPro collections approved under OMB's generic process which would—in most cases—eliminate the need for the 60- and 30-day comment periods. Although the formal 60- and 30-day public comment periods would be eliminated, the public may continue to comment on any of the MACPro collections at any time.

Form Number: CMS–10434 (OMB control number: 0938–1188); *Frequency:* Monthly, yearly, quarterly, semi-annually, once, or occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 3,360; *Total Annual Hours:* 96,844. (For policy questions regarding this collection contact Annette Pearson at 410–786–6858).

Dated: March 23, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–06922 Filed 3–25–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Low Income Home Energy Assistance Program 2015 RECS LIHEAP Administrative Data Matching.

OMB No.: New Collection.

Description: The Low Income Home Energy Assistance Program (LIHEAP) block grant (42 U.S.C. 8621 *et seq.*) was established under Title XXVI of the Omnibus Budget Reconciliation Act of 1981, 97. The Office of Community Services (OCS) within the U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF) administers LIHEAP at the federal level.

The LIHEAP statute requires HHS to report to Congress annually on program impacts on recipient and eligible households. The primary program goals, as articulated in the statute, are to ensure that benefits are targeted to those households where the greatest program impacts are expected, and to assure that timely resources are available to households experiencing home energy crises.

OCS is seeking authorization to collect data from all State LIHEAP grantees and the District of Columbia that will allow OCS to identify LIHEAP recipients that responded to the Residential Energy Consumption Survey (RECS). The U.S. Energy Information Administration (EIA) conducts this survey to provide periodic national and regional data on residential energy use in the United States. OCS uses RECS data to furnish Congress and the Administration with important national and regional descriptive data on the energy needs of low-income households. Specific data elements OCS is seeking to collect are detailed below.

State LIHEAP grantees will be asked to furnish data for LIHEAP recipient households that reside in areas included in the RECS sample.

For each household, report the following:

- Name
- Address (including ZIP code)
- Household or Client ID
- Telephone Number
- Household Size
- Gross Income
- Heating assistance awarded?
- Amount of heating assistance
- Date of heating assistance
- Cooling assistance awarded?
- Amount of cooling assistance
- Date of cooling assistance
- Crisis Assistance awarded?
- Amount of crisis assistance
- Date of crisis assistance
- Other Assistance awarded?
- Amount of other assistance
- Date of other assistance
- Presence of children 5 or younger
- Presence of adult 60 or older
- Presence of disabled

The following are additional optional data items that grantees can provide if the data are available in your database:

- Tenancy (*i.e.,* own or rent)
- Type(s) of fuel used
- Heat included in rent

This data will help ACF to analyze specific information for the LIHEAP recipient population, including information related to benefits targeting, energy usage, and energy insecurity, and it will support analysis of LIHEAP data for the annual Report to Congress and the annual LIHEAP Home Energy Notebook.

Respondents: ACF published a **Federal Register** notice on December 23, 2015 soliciting 60 days of public comment on requiring State grantees to provide household-level data for this effort. ACF didn't receive comments on this notice.

Annual Burden Estimates

The table below shows the estimated reporting burden for the RECS LIHEAP administrative data matching effort. These estimates are based on a small number of interviews with grantees.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Administrative data request	49	1	24	1,176

Estimated Total Annual Burden Hours: 1,176.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201. Attention Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Email: OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2016–06915 Filed 3–25–16; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Seventh Annual Predictive Safety Testing Consortium/Food and Drug Administration Scientific Workshop; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration's (FDA's) Center for Drug Evaluation and Research (CDER), in cosponsorship with the Critical Path Institute (C-Path), is announcing a public scientific workshop to discuss the impact of safety biomarkers on drug development. The purpose of the workshop is to discuss the following issues: Application of toxicometrics as a translational safety strategy that integrates nonclinical and clinical safety approaches; uses of rodent and non-rodent nonclinical species in biomarker qualification; and assay validation aspects during biomarker development and qualification.

DATES: The public workshop will be held on April 25, 2016, from 8:30 a.m. to 5 p.m.

ADDRESSES: The public workshop will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503 A/B), Silver Spring, MD 20993–0002.

The FDA Conference Center is a federal facility and is located on the White Oak campus and like all federal facilities employs security procedures. Entrance for scientific workshop participants (non-FDA employees) is through Building 1, where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

FOR FURTHER INFORMATION CONTACT: Jacqueline Brooks-Leighton, Food and Drug Administration, Center for Drug Evaluation and Research, 10903 New Hampshire Ave., Bldg. 21, Rm. 4521, Silver Spring, MD 20993, 240–402–5292, FAX: 301–796–9907, email: *jacqueline.brooks-leighton,@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA and C-Path have expressed a willingness to leverage their combined strengths to develop and apply predictive safety testing biomarkers in drug development. This annual public workshop is intended to bring together leading academic experts, interested pharmaceutical companies, regulatory agencies, patient advocacy groups, and non-profit organizations.

This meeting will offer the opportunity to provide updates on the progress made in various biomarker development areas by the Predictive Safety Testing Consortium, and to discuss issues related to the regulatory aspects of qualification and uptake of biomarkers in drug development, as well as roadblocks to the sharing of biomarker data by the scientific community.

II. Attendance, Registration, and Accommodations

There is no fee to attend the meeting, but attendees must register in advance. Space is limited, and registration will be on a first-come, first-served basis. Onsite registration on the day of the workshop is not guaranteed but may be possible if space is available. For questions regarding registration, please contact Stephanie Codd Anderson, 520–647–8376, email: *scanderson@gmail.com,* at the Critical Path Institute.

Persons interested in attending this meeting in person must register online by April 11, 2016 at *http://www.cvent.com/d/2fqzl2/4W.*

FDA has verified the Web address, but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**. Interested persons without Internet access should contact Stephanie Codd Anderson at 520–647–8376 to register.

The public workshop will also be available to be viewed online via webcast at *https://collaboration.fda.gov/pstc0416/.*

Workshop attendees with special needs due to a disability should contact Stephanie Codd Anderson, 520–647–8376, email: *scanderson@gmail.com,* at the Critical Path Institute at least 7 days before the scientific workshop.

Attendees are responsible for their own hotel accommodations.

There will not be a transcript for this meeting.

Dated: March 22, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–06889 Filed 3–25–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0969]

Authorization of Emergency Use of an In Vitro Diagnostic Device for Diagnosis of Zika Virus Infection; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of an Emergency Use Authorization (EUA) (the Authorization) for an in vitro diagnostic device for diagnosis of Zika virus infection in response to the Zika virus outbreak in the Americas. FDA issued this Authorization under the Federal Food, Drug, and Cosmetic Act (the FD&C Act), as requested by the U.S. Centers for Disease Control and Prevention (CDC). The Authorization contains, among other things, conditions on the emergency use of the authorized in vitro diagnostic device. The Authorization follows the February 26, 2016, determination by the Department of Health and Human Services (HHS) Secretary that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves Zika virus. On the basis of such determination, the HHS Secretary declared on February 26, 2016, that circumstances exist justifying the authorization of emergency use of in vitro diagnostic tests for detection of Zika virus and/or diagnosis of Zika virus infection subject to the terms of any authorization issued under the FD&C Act. The Authorization, which includes an explanation of the reasons for issuance, is reprinted in this document.

DATES: The Authorization is effective as of February 26, 2016.

ADDRESSES: Submit written requests for single copies of the EUA to the Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4338, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the Authorization may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the Authorization.

FOR FURTHER INFORMATION CONTACT: Carmen Maher, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4347, Silver Spring, MD 20993–0002, 301–796–8510.

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb–3) as amended by the Project BioShield Act of 2004 (Pub. L. 108–276) and the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (Pub. L. 113–5) allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. With this EUA authority, FDA can help assure that medical countermeasures may be used in emergencies to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by biological, chemical, nuclear, or radiological agents; when there are no adequate, approved, and available alternatives.

Section 564(b)(1) of the FD&C Act provides that, before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of the following grounds: (1) A determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents; (2) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to U.S. military forces of attack with a biological, chemical, radiological, or nuclear agent or agents; (3) a determination by the Secretary of HHS that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; or (4) the identification of a material threat by the Secretary of Homeland Security under section 319F–2 of the Public Health Service (PHS) Act (42 U.S.C. 247d–6b) sufficient to affect national security or the health and security of U.S. citizens living abroad.

Once the Secretary of HHS has declared that circumstances exist justifying an authorization under section 564 of the FD&C Act, FDA may authorize the emergency use of a drug, device, or biological product if the Agency concludes that the statutory criteria are satisfied. Under section 564(h)(1) of the FD&C Act, FDA is required to publish in the **Federal Register** a notice of each authorization, and each termination or revocation of an authorization, and an explanation of the reasons for the action. Section 564 of the FD&C Act permits FDA to authorize the introduction into interstate commerce of a drug, device, or biological product intended for use when the Secretary of HHS has declared that circumstances exist justifying the authorization of emergency use. Products appropriate for emergency use may include products and uses that are not approved, cleared, or licensed under sections 505, 510(k), or 515 of the FD&C Act (21 U.S.C. 355, 360(k), and 360e) or section 351 of the PHS Act (42 U.S.C. 262). FDA may issue an EUA only if, after consultation with the HHS Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of the CDC (to the extent feasible and appropriate given the applicable circumstances), FDA [1] concludes: (1) That an agent referred to in a declaration of emergency or threat can cause a serious or life-threatening disease or condition; (2) that, based on the totality of scientific evidence available to FDA, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that: (A) The product may be effective in diagnosing, treating, or preventing (i) such disease or condition; or (ii) a serious or life-threatening disease or condition caused by a product authorized under section 564, approved or cleared under the FD&C Act, or licensed under section 351 of the PHS Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and (B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product, taking into consideration the material threat posed by the agent or agents identified in a declaration under section 564(b)(1)(D) of the FD&C Act, if

[1] The Secretary of HHS has delegated the authority to issue an EUA under section 564 of the FD&C Act to the Commissioner of Food and Drugs.

applicable; (3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; and (4) that such other criteria as may be prescribed by regulation are satisfied.

No other criteria for issuance have been prescribed by regulation under section 564(c)(4) of the FD&C Act. Because the statute is self-executing, regulations or guidance are not required for FDA to implement the EUA authority.

II. EUA Request for an In Vitro Diagnostic Device for Diagnosis of Zika Virus Infection

On February 26, 2016, the Secretary of HHS determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves Zika virus. On February 26, 2016, under section 564(b)(1) of the FD&C Act, and on the basis of such determination, the Secretary of HHS declared that circumstances exist justifying the authorization of emergency use of in vitro diagnostic tests for detection of Zika virus and/or diagnosis of Zika virus infection, subject to the terms of any authorization issued under section 564 of the FD&C Act. Notice of the determination and declaration of the Secretary was published in the **Federal Register** on March 2, 2016 (81 FR 10878). On February 22, 2016, CDC requested, and on February 26, 2016, FDA issued, an EUA for the CDC Zika Immunoglobulin M (IgM) Antibody Capture Enzyme-Linked Immunosorbent Assay (Zika MAC–ELISA), subject to the terms of the Authorization.

III. Electronic Access

An electronic version of this document and the full text of the Authorization are available on the Internet at *http://www.regulations.gov.*

IV. The Authorization

Having concluded that the criteria for issuance of the Authorization under section 564(c) of the FD&C Act are met, FDA has authorized the emergency use of an in vitro diagnostic device for diagnosis of Zika virus infection subject to the terms of the Authorization. The Authorization in its entirety (not including the authorized versions of the fact sheets and other written materials) follows and provides an explanation of the reasons for its issuance, as required by section 564(h)(1) of the FD&C Act:

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Silver Spring, MD 20993

February 26, 2016

Thomas R. Frieden, M.D., M.P.H.
Director
Centers for Disease Control and Prevention
1600 Clifton Rd, MS D-14
Atlanta, GA 30333

Dear Dr. Frieden:

This letter is in response to your request that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for emergency use of the Centers for Disease Control and Prevention's (CDC) Zika Immunoglobulin M (IgM) Antibody Capture Enzyme-Linked Immunosorbent Assay (Zika MAC-ELISA) for the presumptive detection of Zika virus-specific IgM in human sera or cerebrospinal fluid (CSF) that is submitted alongside a patient-matched serum specimen from individuals meeting CDC Zika virus clinical criteria (e.g., a history of clinical signs and symptoms associated with Zika virus infection) and/or CDC Zika virus epidemiological criteria (e.g., recent history of travel to geographic regions during a period of active Zika virus transmissions at the time of travel, or other epidemiologic criteria for which Zika virus testing may be indicated as part of a public health response), by qualified laboratories designated by CDC and, in the United States, certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. § 263a, to perform high complexity tests,[1] pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. § 360bbb-3). Where there are positive or equivocal results from the Zika MAC-ELISA, confirmation of the presence of anti-Zika IgM antibodies requires additional testing by CDC, or by authorized laboratories in consultation with CDC, using the CDC-issued algorithm.

On February 26, 2016, pursuant to section 564(b)(1)(C) of the Act (21 U.S.C. § 360bbb-3(b)(1)(C), the Secretary of Health and Human Services (HHS) determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad and that involves Zika virus.[2] Pursuant to section 564(b)(1) of the Act (21 U.S.C. § 360bbb-3(b)(1)), and on the basis of such determination, the Secretary of HHS then declared that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostic tests for detection

[1] For ease of reference, this letter will refer to "qualified laboratories designated by CDC and, in the United States, certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. § 263a, to perform high complexity tests" as "authorized laboratories."

[2] As amended by the Pandemic and All Hazards Preparedness Reauthorization Act, Pub. L. No. 113-5, under section 564(b)(1)(C) of the Act, the Secretary may make a determination of a public health emergency, or of a significant potential for a public health emergency.

of Zika virus and/or diagnosis of Zika virus infection, subject to the terms of any authorization issued under 21 U.S.C. § 360bbb-3(a).[3]

Having concluded that the criteria for issuance of this authorization under section 564(c) of the Act (21 U.S.C. § 360bbb-3(c)) are met, I am authorizing the emergency use of the Zika MAC-ELISA (as described in the Scope of Authorization section of this letter (Section II)) in individuals meeting CDC Zika virus clinical criteria (e.g., a history of clinical signs and symptoms associated with Zika virus infection) and/or CDC Zika virus epidemiological criteria (e.g., recent history of travel to geographic regions during a period of active Zika virus transmissions at the time of travel, or other epidemiologic criteria for which Zika virus testing may be indicated as part of a public health response) (as described in the Scope of Authorization section of this letter (Section II)) for the presumptive detection of Zika virus infection by authorized laboratories, subject to the terms of this authorization.

I. Criteria for Issuance of Authorization

I have concluded that the emergency use of the Zika MAC-ELISA for the presumptive detection of Zika virus-specific IgM antibodies in the specified population meets the criteria for issuance of an authorization under section 564(c) of the Act, because I have concluded that:

1. The Zika virus can cause Zika virus infection, a serious or life-threatening disease or condition to humans infected with the virus;

2. Based on the totality of scientific evidence available to FDA, it is reasonable to believe that the Zika MAC-ELISA may be effective in diagnosing Zika virus infection when positive or equivocal results are further tested by CDC or by authorized laboratories in consultation with CDC, using the CDC-issued algorithm, and that the known and potential benefits of the Zika MAC-ELISA for diagnosing Zika virus infection outweigh the known and potential risks of such product when positive or equivocal results are further tested by CDC or by authorized laboratories in consultation with CDC, using the CDC-issued algorithm; and

3. There is no adequate, approved, and available alternative to the emergency use of the Zika MAC-ELISA for diagnosing Zika virus infection.[4]

II. Scope of Authorization

I have concluded, pursuant to section 564(d)(1) of the Act, that the scope of this authorization is limited to the use of the authorized Zika MAC-ELISA by authorized laboratories for the

[3] HHS. *Determination of a Significant Potential for a Public Health Emergency and Declaration that Circumstances Exist Justifying an Authorization Pursuant to Section 564 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 360bbb-3(b).* February 26, 2016.

[4] No other criteria of issuance have been prescribed by regulation under section 564(c)(4) of the Act.

presumptive detection of Zika virus-specific IgM antibodies in individuals meeting CDC Zika virus clinical criteria (e.g., a history of clinical signs and symptoms associated with Zika virus infection) and/or CDC Zika virus epidemiological criteria (e.g., recent history of travel to geographic regions during a period of active Zika virus transmissions at the time of travel, or other epidemiologic criteria for which Zika virus testing may be indicated as part of a public health response) by authorized laboratories where positive or equivocal results are further tested by CDC or by authorized laboratories in consultation with CDC, using the CDC-issued algorithm.

The Authorized Zika MAC-ELISA

The Zika MAC-ELISA is an IgM antibody capture enzyme-linked immunosorbent assay for the *in vitro* qualitative detection of Zika virus-specific IgM antibodies in human sera and other authorized specimen types from individuals meeting CDC Zika virus clinical criteria (e.g., a history of clinical signs and symptoms associated with Zika virus infection) and/or CDC Zika virus epidemiological criteria (e.g., recent history of travel to geographic regions during a period of active Zika virus transmissions at the time of travel, or other epidemiologic criteria for which Zika virus testing may be indicated as part of a public health response). The Zika MAC-ELISA can also be used with CSF specimens that are submitted alongside a patient-matched serum specimen and other authorized specimen types. The test procedure is based on capturing human IgM antibodies from the patient specimen on a microtiter plate using anti-human-IgM antibody followed by the addition of Zika virus specific antigen and detector conjugate.

One of the limitations of this test is the possibility of false positive results in patients with a history of infection with other flaviviruses. Additional testing of equivocal and positive specimens as specified in the CDC-issued algorithm is therefore required to confirm the presence of IgM antibodies to Zika virus.

The assay uses a purified antibody specific for human IgM that is immobilized on a test plate to capture IgM antibodies from a human specimen. A serum or CSF specimen from a patient is added to the test plate, and IgM antibodies from the specimen bind to the immobilized antibody. After washing, cultured Zika virus antigen is added and binds to any Zika virus-specific IgM antibodies captured on the plate. A flavivirus specific monoclonal antibody conjugated to horseradish peroxidase is then added. Upon addition of substrate, conjugate that is bound to any immobilized Zika antigen will catalyze a colorimetric reaction that can be measured by a spectrophotometer.

The Zika MAC-ELISA includes the following materials:

- Lyophilized Normal Vero E6 Antigen (CDC catalog #AV0001)
- Lyophilized Zika Vero E6 Tissue Culture Antigen (CDC catalog #AV002 or AV003) consisting of Zika antigen prepared specifically for use in the Zika MAC-ELISA
- Lyophilized Flavivirus IgM Positive Control (CDC catalog #AV004), a chimeric monoclonal antibody specific for flaviviruses

The Zika MAC-ELISA requires the following control materials:

- Positive Control:

  Flavivirus IgM Positive Control: This product is a flavivirus group reactive humanized IgM antibody used to establish the Positive Control P/N ratio, which validates the plate run. This control is included in the Zika MAC-ELISA.

- Negative Controls:

  Normal Vero E6 Antigen: This control is used to measure the background signal generated by each specimen. This control is included in the Zika MAC-ELISA.

  Negative control serum: The negative control serum (tested negative for Zika virus) is non-reactive with viral antigen and is used to establish the Specimen P/N ratio, which also validates the plate run. This control is not included in the Zika MAC-ELISA.

Controls listed above must be included on each 96-well plate. Controls must generate expected results in order for a plate to be considered valid.

The Zika MAC-ELISA also requires the use of the following additional materials as described in the Instructions for Use:

- 96-well plate
- Detecting antibody conjugate: Horseradish peroxidase conjugated monoclonal antibody 6B6C-1, specific for human IgM
- Goat anti-human IgM
- Negative control serum
- Enhanced K-Blue TMB substrate (3,3', 5, 5' tetramethylbenzidine base)

The above described Zika MAC-ELISA, when labeled consistently with the labeling authorized by FDA entitled "Zika MAC-ELISA Instructions for Use" (available at http://www.fda.gov/MedicalDevices/%20Safety/EmergencySituations/ucm161496.htm), which may be revised by CDC in consultation with FDA, is authorized to be distributed to and used by authorized laboratories under this EUA, despite the fact that it does not meet certain requirements otherwise required by federal law.

The above described Zika MAC-ELISA is authorized to be accompanied by the following information pertaining to the emergency use, which is authorized to be made available to health care providers, pregnant women, and other patients:

- Fact Sheet for Health Care Providers: Interpreting Zika MAC-ELISA Results

- Fact Sheet for Pregnant Women: Understanding Results from the Zika MAC-ELISA
- Fact Sheet for Patients: Understanding Results from the Zika MAC-ELISA

As described in Section IV below, CDC is also authorized to make available additional information relating to the emergency use of the authorized Zika MAC-ELISA that is consistent with, and does not exceed, the terms of this letter of authorization.

I have concluded, pursuant to section 564(d)(2) of the Act, that it is reasonable to believe that the known and potential benefits of the authorized Zika MAC-ELISA in the specified population, when used for presumptive detection of Zika virus-specific IgM antibodies and used consistently with the Scope of Authorization of this letter (Section II), outweigh the known and potential risks of such a product.

I have concluded, pursuant to section 564(d)(3) of the Act, based on the totality of scientific evidence available to FDA, that it is reasonable to believe that the authorized Zika MAC-ELISA may be effective in the diagnosis of Zika virus infection, when used consistently with the Scope of Authorization of this letter (Section II), pursuant to section 564(c)(2)(A) of the Act.

FDA has reviewed the scientific information available to FDA, including the information supporting the conclusions described in Section I above, and concludes that the authorized Zika MAC-ELISA, when used to diagnose Zika virus infection in the specified population (as described in the Scope of Authorization of this letter (Section II)), meets the criteria set forth in section 564(c) of the Act concerning safety and potential effectiveness.

The emergency use of the authorized Zika MAC-ELISA under this EUA must be consistent with, and may not exceed, the terms of this letter, including the Scope of Authorization (Section II) and the Conditions of Authorization (Section IV). Subject to the terms of this EUA and under the circumstances set forth in the Secretary of HHS's determination described above and the Secretary of HHS's corresponding declaration under section 564(b)(1), the Zika MAC-ELISA described above is authorized to diagnose Zika virus infection in individuals meeting CDC Zika virus clinical criteria (e.g., a history of clinical signs and symptoms associated with Zika virus infection) and/or CDC Zika virus epidemiological criteria (e.g., recent history of travel to geographic regions during a period of active Zika virus transmissions at the time of travel, or other epidemiologic criteria for which Zika virus testing may be indicated as part of a public health response).

This EUA will cease to be effective when the HHS declaration that circumstances exist to justify the EUA is terminated under section 564(b)(2) of the Act or when the EUA is revoked under section 564(g) of the Act.

III. Waiver of Certain Requirements

I am waiving the following requirements for the Zika MAC-ELISA during the duration of this EUA:

- Current good manufacturing practice requirements, including the quality system requirements under 21 CFR Part 820 with respect to the design, manufacture, packaging, labeling, storage, and distribution of the Zika MAC-ELISA.

- Labeling requirements for cleared, approved, or investigational devices, including labeling requirements under 21 CFR 809.10 and 21 CFR 809.30, except for the intended use statement (21 CFR 809.10(a)(2), (b)(2)), adequate directions for use (21 U.S.C. 352(f)), (21 CFR 809.10(b)(5), (7), and (8)), any appropriate limitations on the use of the device including information required under 21 CFR 809.10(a)(4), and any available information regarding performance of the device, including requirements under 21 CFR 809.10(b)(12).

IV. Conditions of Authorization

Pursuant to section 564 of the Act, I am establishing the following conditions on this authorization:

Centers for Disease Control and Prevention (CDC)

A. CDC will distribute the authorized Zika MAC-ELISA with the authorized labeling, as may be revised by CDC in consultation with FDA, only to authorized laboratories.[5]

B. CDC will provide to authorized laboratories the authorized Zika MAC-ELISA Fact Sheet for Health Care Providers, the authorized Zika MAC-ELISA Fact Sheet for Pregnant Women, and the authorized Zika MAC-ELISA Fact Sheet for Patients.

C. CDC will make available on its website the authorized Zika MAC-ELISA Fact Sheet for Health Care Providers, the authorized Zika MAC-ELISA Fact Sheet for Pregnant Women, and the authorized Zika MAC-ELISA Fact Sheet for Patients.

D. CDC will inform authorized laboratories and relevant public health authority(ies) of this EUA, including the terms and conditions herein.

E. CDC will ensure that authorized laboratories using the authorized Zika MAC-ELISA have a process in place for reporting test results to health care providers and relevant public health authorities, as appropriate.

F. CDC will track adverse events and report to FDA under 21 CFR Part 803.

[5] Current stocks of CDC Zika MAC-ELISA products previously distributed to authorized laboratories and labeled as "Research Use Only (RUO)" may be used by such laboratories for research use and/or diagnostic purposes under this authorization in accordance with the authorized Instructions for Use for the CDC Zika MAC-ELISA. Such stocks used for diagnostic purposes must be used in accordance with the conditions of this authorization.

G. Through a process of inventory control, CDC will maintain records of device usage.

H. CDC will collect information on the performance of the assay. CDC will report to FDA any suspected occurrence of false negative results and significant deviations from the established performance characteristics of the assay of which CDC becomes aware.

I. CDC is authorized to make available additional information relating to the emergency use of the authorized Zika MAC-ELISA that is consistent with, and does not exceed, the terms of this letter of authorization.

J. CDC may request changes to the authorized Zika MAC-ELISA Fact Sheet for Health Care Providers, the authorized Zika MAC-ELISA Fact Sheet for Pregnant Women, and the authorized Zika MAC-ELISA Fact Sheet for Patients. Such requests will be made by CDC in consultation with FDA.

K. CDC may request the addition of other specimen types for use with the authorized Zika MAC-ELISA. Such requests will be made by CDC in consultation with, and require concurrence of FDA.

L. CDC may request change of the CDC-issued algorithm used for confirmatory testing of Zika MAC-ELISA equivocal and presumptive positive results. Such requests will be made by CDC in consultation with, and require concurrence of FDA.

M. CDC may request the change of the Zika Vero E6 Tissue Culture Antigen that is used in the detection process of the human anti-Zika IgM in the specimen. Such request will be made by CDC in consultation with, and require concurrence of FDA.

Authorized Laboratories

N. Authorized laboratories will include with reports of the results of the Zika MAC-ELISA, the authorized Fact Sheet for Health Care Providers, the authorized Fact Sheet for Pregnant Women, and the authorized Fact Sheet for Patients. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.

O. Within the United States and its territories, authorized laboratories will report all equivocal and presumptive positive results to CDC.

P. Authorized laboratories will have a process in place to assure that positive or equivocal results are further tested by CDC or by authorized laboratories in consultation with CDC, in accordance with the CDC-issued algorithm.

Q. Authorized laboratories will have a process in place for reporting test results to health care providers and relevant public health authorities, as appropriate.

R. Authorized laboratories will collect information on the performance of the assay and

report to CDC any suspected occurrence of false positive or false negative results of which they become aware.

S. All laboratory personnel using the assay should be appropriately trained in performing and interpreting immunoassays techniques and use appropriate laboratory and personal protective equipment when handling this kit.

CDC and Authorized Laboratories

T. CDC and authorized laboratories will ensure that any records associated with this EUA are maintained until notified by FDA. Such records will be made available to FDA for inspection upon request.

Conditions Related to Advertising and Promotion

U. All advertising and promotional descriptive printed matter relating to the use of the authorized Zika MAC-ELISA shall be consistent with the Fact Sheets and authorized labeling, as well as the terms set forth in this EUA and the applicable requirements set forth in the Act and FDA regulations.

V. All advertising and promotional descriptive printed matter relating to the use of the authorized Zika MAC-ELISA shall clearly and conspicuously state that:

- This test has not been FDA cleared or approved;
- This test has been authorized by FDA under an EUA for use by authorized laboratories;
- This test has been authorized only for the diagnosis of Zika virus infection and not for any other viruses or pathogens; and
- This test is only authorized for the duration of the declaration that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostic tests for detection of Zika virus and/or diagnosis of Zika virus infection under section 564(b)(1) of the Act, 21 U.S.C. § 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.

No advertising or promotional descriptive printed matter relating to the use of the authorized Zika MAC-ELISA may represent or suggest that this test is safe or effective for the diagnosis of Zika virus infection.

The emergency use of the authorized Zika MAC-ELISA as described in this letter of authorization must comply with the conditions and all other terms of this authorization.

Page 9 – Dr. Frieden, Centers for Disease Control and Prevention

V. Duration of Authorization

This EUA will be effective until the declaration that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostic tests for detection of Zika virus and/or diagnosis of Zika virus infection is terminated under section 564(b)(2) of the Act or the EUA is revoked under section 564(g) of the Act.

Sincerely,

Robert M. Califf, M.D.
Commissioner of Food and Drugs

Enclosures

BILLING CODE 4164–01–C

Dated: March 22, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–06888 Filed 3–25–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 81 FR 10874–10875 dated March 2, 2016).

This notice reflects organizational changes in the Health Resources and Services Administration (HRSA), Office of Operations (RB), Office of Information Technology (RB5). Specifically, this notice: (1) Updates the functional statement for the Office of the Director, Office of Information Technology (RB5); and (2) updates the functional statement for the Division of Enterprise Solutions and Applications Management (RB56) within the Office of Information Technology (RB5).

Chapter RB5—Office of Information Technology

Section RQ–20, Function

Delete the functional statement for the Office of the Director (RB5) and for the Division of Enterprise Solutions and Applications Management (RB56) and replace in their entirety.

This notice reflects organizational changes in the Health Resources and Services Administration (HRSA), Office of Operations (RB), Office of Information Technology (RB5). Specifically, this notice: (1) Updates the functional statement for the Office of the Director (RB5); and (2) updates the functional statement for the Division of Enterprise Solutions and Applications Management (RB56) within the Office of Information Technology (RB5).

Office of the Director and Chief Information Officer (RB5)

The Office of Information Technology is responsible for the organization, management, and administrative functions necessary to carry out responsibilities including: (1) Architects, deploys, and supports IT infrastructure; (2) provides IT end user support; (3) develops enterprise and custom applications; (4) provides investment control, budget formulation and execution, policy development, strategic and tactical planning, and performance monitoring; (5) provides leadership in the development, review, and implementation of policies and procedures to promote improved information technology (IT) management capabilities and best practices throughout HRSA; (6) coordinates IT workforce issues and works closely with the Office of Administrative Services on IT recruitment and training issues; and (7) oversees HRSA security operations and management program.

The Office of the Director is also responsible for the IT business function including: (1) Provides oversight and management of IT budget formulation and execution; (2) serves as the focal point to OIT's contracts; (3) provides centralized procurement services for the Office of Information Technology; and (4) serves as the coordinator for OIT's Inter-agency and Service Level Agreements.

Chief Information Security Officer

The Chief Information Security Officer, reporting to the Chief Information Officer, provides leadership for and collaborates with Agency staff to oversee the implementation of security and privacy policy in the management of their IT systems, and plans all activities associated with the Federal Information Security Management Act or other Agency security and privacy initiatives including: (1) Implements, coordinates, and administers security and privacy programs to protect the information resources of HRSA in compliance with legislation, Executive Orders, directives of the Office of Management and Budget, or other mandated requirements; (2) executes the Agency's Risk Management Program, and evaluates and assists with the implementation of safeguards to protect major information systems and IT infrastructure; and (3) manages the development, implementation, and evaluation of HRSA's information technology security and privacy training programs to meet requirements mandated by the Office of Management and Budget.

Division of Enterprise Solutions and Applications Management (RB56)

The Division of Enterprise Solutions and Applications Management (DESAM) develops the HRSA grants

program Electronic Handbook System (EHB) and other customized software applications to meet customer and mission needs. DESAM evaluates business processes, develops and integrates systems, and functional and data architectures based on requirements. DESAM develops, maintains and supports software applications including Commercial-Off-The-Shelf (COTS) applications, and collaboration tools. DESAM manages the systems development lifecycle by facilitating business process engineering efforts, systems requirements definition, and provides oversight for application change management control. DESAM provides enterprise application user training, and application customer support, and is responsible for end-to-end application building, deployment, and maintenance and data security assurance.

Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: March 21, 2016.

James Macrae,

Acting Administrator.

[FR Doc. 2016–06971 Filed 3–25–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

American Indians Into Nursing; Nursing Program

Announcement Type: New and Competing Continuation Limited Competition.

Funding Announcement Number: HHS–2016–IHS–NU–0001.

Catalog of Federal Domestic Assistance Number: 93.970.

Key Dates

Application Deadline Date: June 1, 2016.

Review Date: June 15, 2016.

Earliest Anticipated Start Date: August 1, 2016.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) is accepting competitive cooperative agreement applications for American Indians into Nursing. This program is authorized under section 1616e of the Indian Health Care Improvement Act, Public Law 94–437, as amended (IHCIA). This program is described in the Catalog of Federal Domestic Assistance (CFDA) under 93.970.

Background

The IHS, an agency within the Department of Health and Human Services (HHS), is responsible for providing Federal health services to American Indians and Alaska Natives (AI/AN). The mission of the IHS is to raise the physical, mental, social, and spiritual health of AI/AN. The IHCIA authorizes the IHS to provide grants and cooperative agreements to colleges, universities, and other entities to develop and maintain nursing education programs and recruit individuals to become registered nurses, certified nurse midwives, and nurse practitioners who will provide services to AI/AN people. The programs administered are designed to attract and recruit qualified AI/AN individuals into nursing and advance practice nursing professions. The American Indians into Nursing program cooperative agreements or grant is used by the educational institution to provide IHS scholarships to students enrolled in nursing education programs.

Purpose

The purpose of this IHS cooperative agreement is to recruit, retain, graduate and increase the number of registered nurses, certified nurse midwives and nurse practitioners who deliver health care services to AI/AN communities. The primary objectives of this cooperative agreement grant award are to: (1) Recruit and train AI/AN individuals to be registered nurses; (2) facilitate associate degree registered nurses becoming baccalaureate prepared registered nurses; (3) provide a program that prepares practicing registered nurses for advance nursing education; (4) provide a program that encourages registered nurses and advance practice nurses to provide or continue to provide, health care services to AI/NA communities; and (5) provide scholarships to individuals that will cover tuition, books, fees, room and board, stipend for living expenses, or other expenses incurred in connection with nursing or advance practice nursing programs.

The funding opportunity announcement solicits applications that provide a preference to AI/AN students and a curriculum with a rural health and public health focus.

Limited Competition Justification

The limitation is based on IHS geographically high need areas: Navajo Area (NM, AZ) Billings Area (MT, WY), Great Plains Area (SD, ND, NE., IA), Albuquerque Area (CO, NM NV), and Phoenix Area (NV, UT, AZ). Historically and currently, these IHS areas have a high need for both registered nurses and advance practice nurses. These IHS areas are designated by the Health Resource and Service Administration (HRSA) as Health Professions Shortage Areas (HPSA). Additionally, many of these states have American Indian Serving Institutions (Tribal colleges and universities) that feed into universities with nursing programs.

II. Award Information

Type of Award

Cooperative Agreement.

Estimated Funds Available

The total amount of funding identified for the current fiscal year (FY) 2016 is approximately $1,669,697. Individual award amounts are anticipated to be between $300,000 and $400,000. The amount of funding available for competing and continuation awards issued under this announcement are subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately five awards will be issued under this program announcement.

Project Period

The project period is for three years and will run consecutively from August 1, 2016 to July 31, 2019.

Cooperative Agreement

Cooperative agreements awarded by the HHS are administered under the same policies as a grant. The funding agency, IHS, is required to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for both IHS and the grantee. IHS will be responsible for activities listed under section A and the grantee will be responsible for activities listed under section B as stated:

Substantial Involvement Description for Cooperative Agreement

A. IHS Programmatic Involvement

(1) IHS assigned program official will work with project director to ensure timely receipt of progress and audit reports and to ensure program compliance.

(2) IHS program official will provide programmatic technical assistance to grantees as needed.

(3) IHS program official will coordinate and conduct site visits as needed, if funds are available for travel.

(4) IHS program official will conduct semi-annual conference calls with grantees and students.

(5) IHS program official will work with the Division of Grants Management (DGM) to ensure all goals and objectives of the program are met.

(6) IHS program official will provide American Indians into Nursing programs and scholarship recipients with an online handbook for IHS scholarship service obligation requirements.

(7) IHS program official will initiate default proceedings within 90 days after receiving notification from the program director that a student has been dismissed from the nursing program, withdrawn from school, failed to graduate with a nursing degree, or failed to get licensed and begin obligated service time within 90 days of graduation.

B. Grantee Cooperative Agreement Award Activities

(1) Awardee must designate a program director to manage the project being supported by the grant. The program director is responsible for the day-to-day management of the program and accountability for the proper conduct of grant-related activities.

(2) The program director must have a current curriculum vitae on file with DGM and the IHS program official.

(3) Notification in writing must be provided to the IHS program official and the DGM for changes or replacement of the program director.

(4) Awardee must provide scholarships, stipends, room and board and other expenses incurred in connection with the program to individuals enrolled in the nursing program as stated in 25 U.S.C. 1616e(b)(2).

(5) Awardee will become familiar with the IHS service obligation policy and will thoroughly review the IHS service obligation contract with the IHS scholarship recipients.

(6) Awardee is required to maintain program records for IHS scholarship recipients using a secure web based system during the awarded project of performance.

(7) Awardee will assist IHS program official in monitoring fulfillment of all contractual obligations incurred by the nursing program and IHS scholarship recipient.

(8) Awardee is expected to collaborate with other American Indians into Nursing grant programs to share best practices, successes, and challenges of the program.

(9) Awardee will complete an audit report at the end of each academic year.

(10) Awardee will adhere to the terms and conditions of the IHS nursing scholarship program, scholarship awards are for a 1-year period; additional scholarship support may be awarded to each eligible student for up to four years (maximum).

(11) Awardee will ensure that IHS scholarship recipients review the American Indians into Nursing and INPSYCH Scholarship Recipients IHS Grants Handbook 2015–2016 and carry out their IHS service obligation after successful completion of their nursing program.

(12) Awardee will ensure that IHS scholarship recipient will notify the program director and IHS program official of academic status, change in information, notice of graduation, preferred assignment, and placement update.

(13) Awardee will ensure that IHS scholarship recipient maintains communication with IHS program official by submitting status reports every six months from time of hire at IHS or Tribal health care facility until service obligation is complete.

III. Eligibility Information

I.

1. Eligibility

The following entities are eligible:

(a) Accredited public or private schools of nursing,

(b) accredited Tribally controlled community colleges and Tribally controlled post-secondary vocational institutions, and

(c) nurse midwife programs and nurse practitioners programs, that are provided by any public or private institution.

All schools of nursing must be fully accredited without restrictions by a national nurse educational accrediting body or state approval body recognized by the Secretary of the U.S. Department of Education for the purposes of nursing education. The schools offering a degree in nurse midwifery must provide verification of accreditation by the American College of Nurse Midwives. Tribally-controlled community colleges nursing programs and post-secondary vocational institutions must be fully accredited by an appropriate recognized nursing accrediting body without restrictions.

(a) *In accordance with the IHCIA, funding preference will be given to applicants who have:* (1) Programs that provide a preference to AI/AN; (2) programs that train nurse midwives or nurse practitioners; and (3) programs that are interdisciplinary, *i.e.* with medicine, pharmacy, dental and behavioral health students.

(b) *Priorities:* All complete, eligible applications will be considered. If more than one university and college application is received from an IHS area, only one award will be made to that particular area providing a DNP, MSN, BSN, or ADN program.

1. *Priority I:* At least two awards to public or private college or university, school of nursing which provides DNP, MSN, BSN, ADN (registered nurse, nurse practitioner, nurse midwife) degrees, not to exceed $400,000 per year up to a project period of five years.

2. *Priority II:* At least three awards to a Tribally-controlled community college, school of nursing which provides BSN and ADN (registered nurse) degrees, not to exceed $400,000 per year up to a project period of five years.

(c) *Other preferences:* Schools of nursing that have transcultural, cultural competency, and rural and public health care focus.

Current American Indians into Nursing grantees are eligible to apply for competing continuation funding under this announcement and must demonstrate that they have complied with previous terms and conditions of the American Indians into Nursing cooperative agreement in order to receive funding under this announcement.

Note: Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as Tribal resolutions, proof of non-profit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the ''*Estimated Funds Available*'' section within this funding

announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the DGM of this decision.

Proof of Non-Profit Status

Organizations claiming non-profit status must submit proof. A copy of the 501(c)(3) Certificate must be received with the application submission by the Application Deadline Date listed under the Key Dates section on page one of this announcement.

An applicant submitting any of the above additional documentation after the initial application submission due date is required to ensure the information was received by the IHS by obtaining documentation confirming delivery (*i.e.,* FedEx tracking, postal return receipt, etc.).

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *http://www.ihs.gov/dgm/funding/.*

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–2114 or (301) 443–5204.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single spaced and not exceed five pages).
- Project Narrative (must be single spaced and not exceed 30 pages).
  - Background information on the organization.
  - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Tribal resolution(s).
- 501(c)(3) Certificate (if applicable).
- Biographical sketches for all key personnel.
- Contractor/consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost (IDC) rate agreement (required) in order to receive IDC.
- Organizational Chart (optional).
- Documentation of current Office of Management and Budget Audit, as required by 45 CFR part 75, subpart F or other required Financial Audit (if applicable).

Acceptable forms of documentation include:

- Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
- Face sheets from audit reports. These can be found on the FAC Web site: *http://harvester.census.gov/sac/dissem/accessoptions.html?submit=Go+To+Database.*

Public Policy Requirements

All Federal-wide public policies apply to IHS grants and cooperative agreements with exception of the discrimination policy.

Requirements for Project and Budget Narratives

A. Project Narrative: This narrative should be a separate Word document that is no longer than 30 pages and must: Be single-spaced, be type written, have consecutively numbered pages, use black type not smaller than 12 characters per one inch, and be printed on one side only of standard size 8½″ × 11″ paper.

Be sure to succinctly address and answer all questions listed under the narrative and place them under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section (noted below), or they shall not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming familiar with the applicant's activities and accomplishments prior to this cooperative agreement award. If the narrative exceeds the page limit, only the first 30 pages will be reviewed. The 30 page limit for the narrative does not include the work plan, standard forms, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

Part A: Program Information (10 page limitation)

Section 1: Needs

Present the comprehensive framework of the proposed American Indians into Nursing program. Clearly describe the unmet AI/AN nursing workforce needs in AI/AN communities. Describe the social determinants and health disparities that impact AI/AN communities and how the proposed program will serve the IHS and Tribal health care programs as well as support to IHS scholarship recipients. Discuss how these social determinants have historically effected access to AI/AN health care and have impacted AI/AN student's access to education specifically nursing education. Include the purpose and background of the program and prior experience with nurse recruitment programs.

Part B: Program Planning and Evaluation (10 page limitation)

Section 1: Program Plans

American Indians into Nursing program applicants must develop a comprehensive, succinct, well organized work plan to address the proposed project. The information should include the elements below but is not limited to the following: (1) Describe the administration of the program-strategies, activities, methods, techniques, or steps that will be use to achieve objectives in proposed project; (2) describe the strategy to attract pre-nursing students and recruit, retain, and graduate AI/AN nursing students and identify actions to monitor IHS scholarship recipients post-graduation for IHS service obligation; (3) describe how the activities of the project are defined by objectives and how the project will achieve the desired outcomes; (4) include a plan to achieve sustainability after the cooperative agreement is complete; (5) describe how the program will incorporate support to AI/AN nursing students who have experienced the social determinants in AI/AN communities; and (6) describe how the program will support AI/AN students in meeting their social, physical, spiritual and academic needs.

Section 2: Program Evaluation

Applicant must provide a complete program evaluation plan that describes the projects methodology and strategies for assessing the progress of the objectives and outcomes of their program. The evaluation should address the successes, failures, and continuing improvements.

Part C: Program Report (10 page limitation)

Section 1: Describe major accomplishments over the last project period for previous awardees.

Previous awardees shall include objectives, strategies, and a brief description of the following for program function and or activity involved: (1) Compare actual accomplishments to the goals established for the period; (2) provide description of internal and external collaboration, new resources secured, interventions, successes, barriers identified and plans for the next quarter (academic year); (3) indicate reasons for slippage where established goals were not met and plan of action to overcome slippages; (4) indicate the number of current AI/AN recipients in the program and their academic status; and (5) indicate the number of AI/AN recipients placed in IHS and Tribal facilities and whom have completed their service obligations.

Section 2: Describe major activities over the last 24 months. Please identify and summarize recent major project activities of the work done during the project period. Program activities shall include: recruitment, retention and support activities to student, graduate and evaluation demonstrating performance measures.

B. Budget Narrative: This narrative must include a line item budget with a narrative justification for all expenditures identifying reasonable and allowable costs necessary to accomplish the goals and objectives as outlined in the project narrative. Budget should match the scope of work described in the project narrative. The page limitation should not exceed five pages.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by 11:59 p.m. Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. Grants.gov will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the electronic application process, contact Grants.gov Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Paul Gettys (*Paul.Gettys@ihs.gov*), DGM Grant Systems Coordinator, by telephone at (301) 443–2114 or (301) 443–5204. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a Grants.gov tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

If the applicant needs to submit a paper application instead of submitting electronically through Grants.gov, a waiver must be requested. Prior approval must be requested and obtained from Mr. Robert Tarwater, Director, DGM, (see Section IV.6 below for additional information). The waiver must: (1) Be documented in writing (emails are acceptable), *before* submitting a paper application, and (2) include clear justification for the need to deviate from the required electronic grants submission process. A written waiver request must be sent to *GrantsPolicy@ihs.gov* with a copy to *Robert.Tarwater@ihs.gov.* Once the waiver request has been approved, the applicant will receive a confirmation of approval email containing submission instructions and the mailing address to submit the application. A copy of the written approval *must* be submitted along with the hardcopy of the application that is mailed to DGM. Paper applications that are submitted without a copy of the signed waiver from the Director of the DGM will not be reviewed or considered for funding. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant/cooperative agreement will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the ''Find Grant Opportunities'' link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the *http://www.Grants.gov* Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If the applicant receives a waiver to submit paper application documents, they must follow the rules and timelines that are noted below. The applicant must seek assistance at least ten days prior to the Application Deadline Date listed in the Key Dates section on page one of this announcement.

Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact Grants.gov Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- If it is determined that a waiver is needed, the applicant must submit a request in writing (emails are acceptable) to *GrantsPolicy@ihs.gov* with a copy to *Robert.Tarwater@ihs.gov.* Please include a clear justification for the need to deviate from the standard electronic submission process.
- If the waiver is approved, the application should be sent directly to the DGM by the Application Deadline Date listed in the Key Dates section on page one of this announcement.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through Grants.gov as the registration process for SAM and Grants.gov could take up to fifteen working days.
- Please use the optional attachment feature in Grants.gov to attach

additional documentation that may be requested by the DGM.

- All applicants must comply with any page limitation requirements described in this funding announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGM will download the application from Grants.gov and provide necessary copies to the appropriate agency officials. Neither the DGM nor the American Indian into Nursing program will notify the applicant that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, please access it through *http://fedgov.dnb.com/webform,* or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), to report information on sub-awards. Accordingly, all IHS grantees must notify potential first-tier sub-recipients that no entity may receive a first-tier sub-award unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: *http://www.ihs.gov/dgm/policytopics/.*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 30 page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See ''Multi-year Project Requirements'' at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 70 points is required for funding. Points are assigned as follows:

1. Criteria

A. Introduction and Need for Assistance (10 points)

(1) Applications must justify overall need of the program and clearly demonstrate the administration of the cooperative agreement, and indicate prior experience with similar programs.

(2) Describe the target population receiving IHS scholarships (preference will be given to schools of nursing that recruit, retain and graduate AI/AN veterans and veterans who have medical military experience).

(3) Describe how the program will increase the number of registered nurses, nurse midwives and nurse practitioners in IHS.

(4) Describe relevance of the program relating the objectives to the purposes of the cooperative agreement.

(5) Describe the differences between the current and proposed activities (previous awardees).

B. Project Objective(s), Work Plan and Approach (40 points)

Applications must clearly state specific, time-framed, measurable objectives for the goals related to the purpose of the IHS nursing cooperative agreement.

(1) Objectives:

(a) Describe how the program will increase the number of AI/AN nursing students that are recruited, retained and graduated from school of nursing.

(b) Describe how the program will recruit AI/AN students who are veterans and veterans who have experience as an emergency medical technician (EMT), hospital corpsman, paramedic/military medic, license vocational/practical nurse and nurses (associate or diploma nurse).

(c) Describe how the program will offer or establish formal bridge program agreements between Tribal colleges, universities.

(d) Describe how the program will provide a program that increases the skills of, and provide continuing education to registered nurses, nurse practitioners and nurse midwives.

(e) Describe how the program will assist IHS program official with job placement and track the IHS scholarship recipient's service obligation.

(2) Methodology:

(a) Describe strategies, activities, steps, timelines, and staff for implementation of proposal of projects.

(b) Describe the methodology of how IHS scholarships will be awarded to nursing students.

(c) Provide evidence supporting the proposed methodologies using historical data and prior experiences.

(3) Approach:

(a) Describes how the program will establish or collaborate with existing IHS and Tribal programs and colleges.

(i) To establish an agreement for clinical rotations.

(ii) To establish a faculty exchange program to enhance cultural competency and faculty strength.

(iii) Offer formal bridge programs agreements between Tribal colleges and universities so as to provide a program that increases the skills of, and provide continuing education to nurses, nurse practitioners, and nurse midwives.

(b) Include challenges that are likely to be encountered or have been a challenge in designing and implementing the activities in the work plan and approaches that will be used to resolve challenges.

(c) Describe how the program will sustain the project after the period of performance ends. Include in the sustainability plan the barriers to achieving self-sufficiency.

C. Program Evaluation (30 points)

Applicant must include an evaluation plan that describes strategies for

assessing the progress and outcomes of their projects. The evaluation plan should be linked to the objectives and purpose of the cooperative agreement. The proposed project shall have evaluation measures that demonstrate how the program is meeting identified goals and objectives where programs can collect, track, and report performance measures on a semi-annual basis and for periodic audit reports. Applicants must include how the program will collect and manage student scholarship data. Applicants must describe any potential obstacles for implementing the program performance evaluation and how those obstacles will be addressed.

D. Organizational Capabilities, Key Personnel and Qualifications (15 points)

Provide information on applicant's organization, philosophy, and practice methods. Describe how all will contribute to the ability to conduct program requirements and meet American Indians into Nursing program/cooperative agreement purpose, objectives, and expectations. Include nursing accreditation documentation. All schools of nursing that are associated with the project and have conferring degrees must be accredited.

E. Categorical Budget and Budget Justification (5 points)

(1) Personnel costs: Applicants shall identify one program director. Program director must be a licensed registered nurse.

(2) Key support personnel: Provide names, title, position description, salary, and fringe benefits. Administrative cost is limited to 25% of the award.

(3) Consultants: Provide names, affiliations and qualifications of each consultant, including expected rate of compensation, travel, per diem and other related costs.

(4) Travel: Name conferences or other recruitment events, airline tickets, lodging, per diem, booth, public transportation, or other related costs.

(5) Equipment: Must be related to the objectives of the project, retained by awardee, use in accordance with the terms of the cooperative agreement award, and must comply with procurement requirements for Federal grant and cooperative agreements.

(6) Scholarships: Must cover tuition, fees, books, stipend, and other related educational expenses. The proposed project must use IHS scholarship funds in a manner that will meet the needs of eligible AI/AN students. The budget narrative must indicate the number of students to receive scholarship for each year of the cooperative agreement and the amount of each scholarship per student.

Multi-Year Project Requirements

Projects requiring a second and/or third year must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project.

Additional Documents can be Uploaded as Appendix Items in Grants.gov

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart.
- Map of area identifying project location(s).
- Additional documents to support narrative (*i.e.* data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria in this funding announcement. The ORC could be composed of both Tribal and Federal reviewers appointed by the IHS program to review and make recommendations on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Applicants will be notified by DGM, via email, to outline minor missing components (*i.e.,* budget narratives, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval, 70 points, and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application submitted. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved but Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved,'' but were not funded due to lack of funding, will have their applications held by DGM for a period of one year. If additional funding becomes available during the course of FY 2016, the approved but unfunded application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS grants management official announcing to the project director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations, policies, and OMB cost principles:

A. The criteria as outlined in this Program Announcement.

B. Administrative Regulations for Grants:

• Uniform Administrative Requirements for HHS Awards, located at 45 CFR part 75.

C. Grants Policy:

• HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

• Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' located at 45 CFR part 75, subpart E.

E. Audit Requirements:

• Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' located at 45 CFR part 75, subpart F.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of IDC in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *https://www.doi.gov/ibc/services/finance/indirect-Cost-Services/indian-tribes.* For questions regarding the IDC policy, please call the Grants Management Specialist listed under ''Agency Contacts'' or the main DGM office at (301) 443–5204.

4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports are required to be submitted electronically by attaching them as a ''Grant Note'' in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Federal Financial Report FFR (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Payment Management Services, HHS at: *http://www.dpm.psc.gov.* It is recommended that the applicant also send a copy of the FFR (SF–425) report to the grants management specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: (1) The project period start date was October 1, 2010 or after and (2) the primary awardee will have a $25,000 sub-award obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting. For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Policy Web site at: *http://www.ihs.gov/dgm/policytopics/.*

D. Compliance With Executive Order 13166 Implementation of Services Accessibility Provisions for All Grant Application Packages and Funding Opportunity Announcements

Recipients of federal financial assistance (FFA) from HHS must administer their programs in compliance with federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age and, in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see *http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/.*

The HHS Office for Civil Rights also provides guidance on complying with civil rights laws enforced by HHS. Please see *http://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html* and *http://www.hhs.gov/civil-rights/index.html.* Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see *http://www.hhs.gov/civil-rights/for-individuals/disability/index.html.* Please contact the HHS Office for Civil Rights for more information about obligations and prohibitions under federal civil rights laws at *http://www.hhs.gov/civil-rights/for-individuals/disability/index.html* or call 1–800–368–1019 or TDD 1–800–537–7697. Also note it is an HHS Departmental goal to ensure access to

quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at *http://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53*.

Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of his/her exclusion from benefits limited by federal law to individuals eligible for benefits and services from the IHS.

Recipients will be required to sign the HHS–690 Assurance of Compliance form which can be obtained from the following Web site: *http://www.hhs.gov/sites/default/files/forms/hhs-690.pdf,* and send it directly to the: U.S. Department of Health and Human Services, Office of Civil Rights, 200 Independence Ave. SW., Washington, DC 20201.

E. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS) before making any award in excess of the simplified acquisition threshold (currently $150,000) over the period of performance. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. IHS will consider any comments by the applicant, in addition to other information in FAPIIS in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive Federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10,000,000 for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, effective January 1, 2016, the IHS must require a non-federal entity or an applicant for a Federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Submission is required for all applicants and recipients, in writing, to the IHS and to the HHS Office of Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. 45 CFR 75.113

Disclosures must be sent in writing to: U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Robert Tarwater, Director, 5600 Fishers Lane, Mail Stop 09E70, Rockville, Maryland 20857, (Include ''Mandatory Grant Disclosures'' in subject line), Ofc: (301) 443–5204, Fax: (301) 594–0899, Email: *Robert.Tarwater@ihs.gov.*

AND

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW, Cohen Building, Room 5527, Washington, DC 20201, URL: *http://oig.hhs.gov/fraud/report-fraud/index.asp*, (Include ''Mandatory Grant Disclosures'' in subject line), Fax: (202) 205–0604 (Include ''Mandatory Grant Disclosures'' in subject line) or, Email: *MandatoryGranteeDisclosures@oig.hhs.gov.*

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371. Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Naomi Aspaas, BSN, RN, Program Official, Office of Human Resource, Division of Health Professions Support, 5600 Fishers Lane, Mail Stop: OHR 11E53A, Rockville, MD 20857, Phone: (301) 443–5710, Fax: (301) 443–1071, Email: *naomi.aspaas@ihs.gov.*

2. Questions on grants management and fiscal matters may be directed to: Vanietta Armstrong, Senior Grants Management Specialist, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–4792, Fax: (301) 594–0899, Email: *Vanietta.Armstrong@ihs.gov.*

3. Questions on systems matters may be directed to: Paul Gettys, Grant Systems Coordinator, Mail Stop: 09E70, 5600 Fishers Lane, Rockville, MD 20857, Phone: (301) 443–2114; or the DGM main line (301) 443–5204, Fax: (301) 443–9602, E-Mail: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: March 21, 2016.

Elizabeth Fowler,

Deputy Director for Management Operations, Indian Health Service.

[FR Doc. 2016–06969 Filed 3–25–16; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; IGNITE Coordinating Center.

Date: April 18, 2016.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications

Place: National Human Genome Research Institute, 5635 Fishers Lane, 3rd Floor Conference Room, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Rudy O. Pozzatti, Ph.D., Scientific Review Officer, Scientific Review

Branch, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, (301) 402–0838, *pozzattr@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: March 21, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–06869 Filed 3–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Water Contaminants and Exposure Risks.

Date: April 12, 2016.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Key Stone Building, 530 Davis Drive, Research Triangle Park, NC 27713.

Contact Person: Janice B. Allen, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, 919/541–7556.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: March 22, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–06872 Filed 3–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (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: Center for Scientific Review Special Emphasis Panel Member Conflict: Medical Imaging Investigations.

Date: February 18, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mehrdad Mohseni, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7854, Bethesda, MD 20892, 301–435–0484, *mohsenim@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group—Diseases and Pathophysiology of the Visual System Study Section.

Date: February 25–26, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bahia Resort Hotel, 998 West Mission Bay Drive, San Diego, CA 92109.

Contact Person: Nataliya Gordiyenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301.435.1265, *gordiyenkon@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group: Cancer Immunopathology and Immunotherapy Study Section.

Date: February 25–26, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Hotel, 1500 New Hampshire Avenue NW., Washington, DC 20036.

Contact Person: Denise R Shaw, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–0198, *shawdeni@csr.nih.gov.*

Name of Committee: Oncology 1–Basic Translational Integrated Review Group—Tumor Progression and Metastasis Study Section.

Date: March 2–3, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Rolf Jakobi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, 301–495–1718, *jakobir@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Alcohol, Drugs and Neurotoxicology.

Date: March 2–3, 2016.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, 301–435–1119, *selmanom@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR–13–327: Innovative Molecular Analysis Technology Development for Cancer Research and Clinical Care.

Date: March 2, 2016.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Zhang-Zhi Hu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892, (301) 594–2414, *huzhuang@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306; Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 22, 2016

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–06868 Filed 3–25–16; 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 Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of an Interagency Autism Coordinating Committee (IACC or Committee) meeting.

The purpose of the IACC meeting is to discuss committee business, agency updates and issues related to autism spectrum disorder (ASD) research and services activities. The meeting will highlight National Autism Awareness Month activities and the committee will discuss the 2016 update of the IACC Strategic Plan. The meeting will be open to the public and will be accessible by webcast and conference call.

Name of Committee: Interagency Autism Coordinating Committee (IACC).

Type of Meeting: Open Meeting.

Date: April 19, 2016.

Time: 9:00 a.m. to 5:00 p.m.* Eastern Time

* Approximate end time.

Agenda: To discuss committee business, updates and issues related to ASD research and services activities. The committee will discuss the 2016 update of the IACC Strategic Plan.

Place: National Institutes of Health, 31 Center Drive, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Webcast Live: http://videocast.nih.gov/.

Conference Call Access: Dial: 888–606–5948, Access code: 5993307.

Cost: The meeting is free and open to the public.

Registration: Pre-registration is recommended to expedite check-in. Seating in the meeting room is limited to room capacity and on a first come, first served basis. To register, please visit: *www.iacc.hhs.gov.*

Deadlines: Notification of intent to present oral comments: Thursday, April 7, 2016 by 5:00 p.m. ET. Submission of written/electronic statement for oral comments: Thursday, April 12, 2016 by 5:00 p.m. ET.

Submission of written comments: Tuesday, April 12, 2016 by 5:00 p.m. ET.

For IACC Public Comment guidelines please see: *http://iacc.hhs.gov/public-comment/index.shtml.*

Access: Medical Center Metro Station (Red Line).

Contact Person: Ms. Lina Perez, Office of Autism Research Coordination, National Institute of Mental Health, NIH, 6001 Executive Boulevard, Room 6182A, Bethesda, MD 20892–9669, Phone: 301–443–6040, Email: *IACCPublicInquiries@mail.nih.gov.*

Public Comments: Any member of the public interested in presenting oral comments to the Committee must notify the Contact Person listed on this notice by 5:00 p.m. ET on Thursday, April 7, 2016, with their request to present oral comments at the meeting. Interested individuals and representatives of organizations must submit a written/electronic copy of the oral presentation/statement including a brief description of the organization represented by 5:00 p.m. ET on Tuesday, April 12, 2016. Statements submitted will become a part of the public record. Only one representative of an organization will be allowed to present oral comments and presentations will be limited to three to five minutes per speaker, depending on the number of speakers to be accommodated within the allotted time. Speakers will be assigned a time to speak in the order of the date and time when their request to speak is received, along with the required submission of the written/electronic statement by the specified deadline.

In addition, any interested person may submit written public comments to the IACC prior to the meeting by sending the comments to the Contact Person listed on this notice by 5:00 p.m. ET on Tuesday, April 12, 2016. The comments should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. NIMH anticipates written public comments received by 5:00 p.m. ET, Thursday, April 12, 2016 will be presented to the Committee prior to the meeting for the Committee's consideration. Any written comments received after the 5:00 p.m. EST, April 12, 2016 deadline through April 18, 2016 will be provided to the Committee either before or after the meeting, depending on the volume of comments received and the time required to process them in accordance with privacy regulations and other applicable Federal policies. All written public comments and oral public comment statements received by the deadlines for both oral and written public comments will be provided to the IACC for their consideration and will become part of the public record.

In the 2009 IACC Strategic Plan, the IACC listed the ''Spirit of Collaboration'' as one of its core values, stating that, ''We will treat others with respect, listen to diverse views with open minds, discuss submitted public comments, and foster discussions where participants can comfortably offer opposing opinions.'' In keeping with this core value, the IACC and the NIMH Office of Autism Research Coordination (OARC) ask that members of the public who provide public comments or participate in meetings of the IACC also seek to treat others with respect and consideration in their communications and actions, even when discussing issues of genuine concern or disagreement.

Remote Access: The meeting will be open to the public through a conference call phone number and webcast live on the Internet. Members of the public who participate using the conference call phone number will be able to listen to the meeting but will not be heard. If you experience any technical problems with the webcast or conference call, please send an email to *iaccpublicinquiries@mail.nih.gov* or by phone at (240) 485–1998.

Individuals who participate in person or by using these electronic services and who need special assistance, such as captioning of the conference call or other reasonable accommodations, should submit a request to the Contact Person listed on this notice at least 5 days prior to the meeting.

Security: In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. Also as a part of security procedures, attendees should be prepared to present a photo ID at the meeting registration desk during the check-in process. Pre-registration is recommended. Seating will be limited to the room capacity and seats will be on a first come, first served basis, with expedited check-in for those who are pre-registered.

Meeting schedule subject to change.

Information about the IACC is available on the Web site: *http://www.iacc.hhs.gov.*

Dated: March 22, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–06873 Filed 3–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Investigating Factors That Influence Career Choice Among Neuroscience Trainees (NINDS)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Neurological Disorders and Stroke (NINDS), the National Institutes of Health, has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on Tuesday, January 12, 2016 on pages 1436–1437 and allowed 60-days for public comment. (No public comments were received.) The purpose of this notice is to allow an additional 30 days for public comment. The National Institute of Neurological Disorders and Stroke (NINDS), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, or request more information on the proposed project, contact: Paul A. Scott, Ph.D., Director, Office of Science Policy and Planning, National Institute of Neurological Disorders and Stroke, 31 Center Drive, Room 8A03, Bethesda, MD 20892–2540 or call non-toll-free number (301) 451–7964 or Email your request, including your address to: *NINDSWorkforceSurvey@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Proposed Collection: Investigating Factors that Influence Career Choice Among Neuroscience Trainees NINDS, 0925—NEW, National Institute of Neurological Disorders and Stroke (NINDS), National Institutes of Health (NIH).

Need and Use of Information Collection: In order to create and administer effective training programs for a diverse research workforce, NINDS needs information about the factors influencing career choice among different populations, particularly those underrepresented in the neuroscience workforce. Few studies have looked into factors influencing career choice among biomedical science trainees and how those career choices are influenced by social identity (race/ethnicity, gender, disability, disadvantaged background, and their intersection); none, to our knowledge, has reported this data specifically for neuroscientists. In pursuit of the training mission of NINDS, the Office of Training, Career Development, and Workforce Diversity (OTCDWD) administers programs to train the next generation of neuroscientists and to increase diversity of the neuroscience workforce. The information collected from this survey will help give NINDS a clearer picture of the environment and experiences of our trainee and potential trainee community. We are seeking a more accurate understanding of the career choices neuroscience trainees are making, and how well NINDS supports our trainees' needs and facilitates successful career trajectories. The survey will help improve our current programs, develop training opportunities, and provide programmatic support for current and future NINDS trainees.

OMB approval is requested for 18 months. There are no costs to respondents other than their time. The total estimated annualized burden hours are 205.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
Predoctoral	314	1	20/60	105
Postdoctoral	200	1	20/60	67
Professional	100	1	20/60	33

Dated: March 18, 2016.

Walter Koroshetz,

Director, National Institute of Neurological Disorders and Stroke.

[FR Doc. 2016–06961 Filed 3–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Investigator Initiated Extended Clinical Trial (R01).

Date: April 22, 2016.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 5F100, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Andrea L. Wurster, Ph.D., Scientific Review Officer Scientific Review Program, Division of Extramural Activities, Room 3G33B National Institutes of Health, NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20899823, (240) 669–5062, *wurstera@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 22, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–06871 Filed 3–25–16; 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 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 on Aging Special Emphasis Panel: Vascular Dysfunction in AD and Genetic Risk Factors.

Date: May 6, 2016.

Time: 11:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, 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.

Name of Committee: National Institute on Aging Special Emphasis Panel: 2016 Beeson Review

Date: May 26, 2016

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications

Place: DoubleTree by Hilton, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alexander Parsadanian, Ph.D., Scientific Review Office, 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: March 22, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–06870 Filed 3–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; U.S. Nuclear Medicine Technologists Study (NCI)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute, the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; 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; The quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and For Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact*: Michele M. Doody, Radiation Epidemiology Branch, National Cancer Institute, 9609 Medical Center Drive, Room 7E566, Rockville, MD 20850, or call non-toll-free at 301–414–0308. Or Email your request, including your address to: *doodym@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: US Nuclear Medicine Technologists Study, 0925–0656, Expiration Date 04/30/2015—REINSTATEMENT WITH CHANGE, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: We propose to collect, from U.S. nuclear medicine technologists (USNMT) certified after 1980, historical information about nuclear medicine procedures performed, radioisotopes used, related work and safety practices, and places of employment. The primary objectives of the current feasibility effort are: (a) To identify a cohort of nuclear medicine technologists certified after 1980 by the American Registry of Radiologic Technologists (ARRT) and/or the Nuclear Medicine Technologist Certification Board (NMTCB); and (b) to characterize individual organ-specific occupational radiation doses from radioisotope procedures. More recently certified technologists, who specialized in nuclear medicine, are expected to have greater exposures to radioisotopes than the general radiologic technologists in the U.S. Radiologic Technologist (USRT) cohort owing to performing such procedures with greater frequency. The proposed USNMT study would be a direct follow-on to the USRT Study to assess health risks associated with occupational exposure to these much higher-energy radiopharmaceuticals.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 125.

TABLE 1—ESTIMATES OF ANNUAL BURDEN HOURS

Type of respondent	Instrument	Number of respondents	Frequency of response	Average time per response (hours)	Annual hour burden
Nuclear Medicine Technologists	Nuclear Medicine Questionnaire	250	1	20/60	83
	Consent	250	1	10/60	42
Total		250	250		125

Dated: March 21, 2016.

Karla Bailey,

Project Clearance Liaison, National Cancer Institute, NIH.

[FR Doc. 2016–06867 Filed 3–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. 16–07]

Tuna-Tariff Rate Quota; the Tariff-Rate Quota for Calendar Year 2016 Tuna Classifiable Under Subheading 1604.14.22, Harmonized Tariff Schedule of the United States (HTSUS)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Announcement of the quota quantity of tuna in airtight containers for Calendar Year 2016.

SUMMARY: Each year, the tariff-rate quota for tuna described in subheading 1604.14.22, Harmonized Tariff Schedule of the United States (HTSUS), is calculated as a percentage of the tuna in airtight containers entered, or withdrawn from warehouse, for consumption during the preceding Calendar Year. This document sets forth the tariff-rate quota for Calendar Year 2016.

DATES: *Effective Dates:* The 2016 tariff-rate quota is applicable to tuna in airtight containers entered, or withdrawn from warehouse, for consumption during the period January 1, 2016 through December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Headquarters Quota Branch, Interagency Collaboration Division, Trade Policy and Programs, Office of International Trade, U.S. Customs and Border Protection, Washington, DC 20229–1155, (202) 863–6560.

Background

It has been determined that 15,350,636 kilograms of tuna in airtight containers may be entered, or withdrawn from warehouse, for consumption at the rate of 6.0 percent *ad valorem* under subheading 1604.14.22, Harmonized Tariff Schedule of the United States (HTSUS) during the Calendar Year 2016. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 percent *ad valorem* under subheading 1604.14.30 HTSUS.

Dated: March 23, 2016.

Brenda B. Smith,

Assistant Commissioner, Office of International Trade.

[FR Doc. 2016–06944 Filed 3–25–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2015–0068]

National Protection and Programs Directorate; National Protection and Programs Directorate Seeks Comments on Cyber Incident Data Repository White Papers

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security's (DHS's) National Protection and Programs Directorate (NPPD) announces that it is seeking comments on three white papers prepared by NPPD staff from any interested party, including, but not limited to: members of the cybersecurity and insurance communities; chief information security officers (CISOs); chief security officers (CSOs); academia; Federal, State, and local governments; industry; and professional organizations/societies. Links to the white papers are posted on the cybersecurity insurance section of DHS.gov: *http://www.dhs.gov/publication/cyber-incident-data-and-analysis-working-group-white-papers.* Comments will assist NPPD further refine the content of the white papers to address the critical need for information sharing as a means to create a more robust cybersecurity insurance marketplace and improve enterprise cyber hygiene practices across the public and private sectors.

DATES: The suggested dates for submission of comments on the white papers are: March 24, 2016 through May 24, 2016.

ADDRESSES: Comments on the white papers must be submitted to NPPD via email to the following address: *cyber.security.insurance@hq.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Matt Shabat, Director, Performance Management, Office of Cybersecurity and Communications at 703–235–5338 or by email at *Matthew.Shabat@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background: Cybersecurity insurance is designed to mitigate losses from a variety of cyber incidents, including data breaches, business interruption, and network damage. A robust cybersecurity insurance market could help reduce the number of successful cyber attacks by: (1) Promoting the adoption of preventative measures in return for more coverage; and (2) encouraging the implementation of best practices by basing premiums on an insured's level of self-protection. Many companies forego available policies; however, citing as rationales the perceived high cost of those policies, confusion about what they cover, and uncertainty that their organizations will suffer a cyber attack. In recent years, NPPD has engaged key stakeholders to address this emerging cyber risk area.

Between October 2012 and April 2014, DHS NPPD conducted several workshops, which brought together a diverse group of private and public sector stakeholders—including insurers, risk managers, CISOs, critical infrastructure owners, and social scientists. Workshop participants examined the current state of the cybersecurity insurance market and how to best advance its capacity to incentivize better cyber risk management.

During those workshops, participants expressed strong support for the creation of a trusted cyber incident data repository. As envisioned, the repository would store, aggregate, and

analyze cyber incident data relevant to the cyber risk management community, including risk mitigation experts (CISOs, CSOs, cybersecurity solutions providers); risk transfer experts (insurers); and other cybersecurity subject matter experts (the academic and scientific communities). As further envisioned, DHS or other Federal departments or agencies would not build or manage such a repository. A resulting repository could potentially be managed by a private organization.

In February 2015, as a follow-on to the workshops, NPPD established a Cyber Incident Data and Analysis Working Group (CIDAWG), comprised of CISOs and CSOs from various critical infrastructure sectors, insurers, and other cybersecurity professionals. The CIDAWG is currently exploring how anonymous cyber incident data sharing could help grow the cybersecurity insurance marketplace through a legally compliant, privacy respecting, and trusted cyber incident data repository and repository data supported analyses. In turn, this would work to improve cybersecurity for U.S. public sector agencies and private sector companies. To accomplish this, the CIDAWG has worked to develop key findings about:

1. The value proposition of a cyber incident data repository;
2. The cyber incident data points that should be shared into a repository to support needed analysis;
3. Overcoming perceived obstacles to sharing into a Cyber Incident data Repository; and
4. A potential repository's structure and functions.

The findings of this effort to date are summarized in a series of three white papers.

This announcement explains the process for submitting comments on the white papers. Comments on the white papers are valued and will enable NPPD to incorporate input from a wide audience. Each white paper is briefly detailed below, followed by questions on which NPPD seeks comments.

(1) *The Value Proposition.* Details how a cyber incident data repository could help advance the cause of cyber risk management and, with the right repository data, the kinds of analysis that would be useful to CISOs, CSOs, insurers, and other cybersecurity professionals. NPPD seeks comments on the following:

a. What value would an anonymized and trusted cyber incident data repository, as described in the white paper, have in terms of informing and improving cyber risk management practices?

b. Do you agree with the potential benefits of an anonymized and trusted repository, as outlined in the white paper, that enterprise risk owners and insurers could use to share, store, aggregate, and analyze sensitive cyber incident data?

c. Are there additional benefits of an anonymized and trusted repository that are not mentioned in the white paper? Please explain them briefly.

d. What kinds of analysis from an anonymized and trusted repository would be most useful to your organization?

(2) *Cyber Incident Data Points and Repository-Supported Analysis.* Addresses the kinds of prioritized data categories and associated data points that should be shared among repository users to promote new kinds of needed cyber risk analysis. NPPD seeks comments on the following:

a. Could specific data points within the 16 data categories effectively inform analysis to bolster cyber risk management activities?

b. Are the 16 data categories accurately defined?

c. What additional data categories could inform useful analysis to improve cyber risk management practices?

d. What do these additional data categories mean from a CISO or other cybersecurity professional perspective?

e. Please rank the level of importance for each data category, including any additional data categories that you have identified.

f. What value does each data category and associated data points bring to a better understanding of cyber incidents and their impacts?

g. What does each data point actually mean (and to whom); and which ones are the greatest priority, to which stakeholders, and why?

h. How easy/difficult would it be to access data associated with these categories in your organization and then share it into a repository and why?

(3) *Overcoming perceived obstacles to sharing into a Cyber Incident data Repository.* Identifies perceived obstacles to voluntary cyber incident data sharing and offers potential approaches to overcoming those obstacles. NPPD seeks comments on the following:

a. Would your organization be interested in contributing to a cyber incident data repository and using repository-supported analysis to improve your organization's risk management practices?

b. What obstacles do you anticipate—both internal and external to your organization—that might prevent the sharing of cyber incident data into a repository?

i. Who might say 'no' to sharing and why?

c. What mechanisms, policies, and procedures could help overcome these obstacles to sharing?

In this call for comments on the white papers, NPPD is seeking input on any or all of the above listed questions. NPPD may use comments to further develop the content of each white paper as appropriate. Do not include ideas for specific proposals in your comments on the white papers (*i.e.,* do not discuss your specific solution to the repository concept). This solicitation for comments on white papers is neither a Request for Proposals (RFPs) nor should it be viewed as a request for pre-proposals. Rather, it is a way to include ideas from the public to enhance the research and findings of the CIDAWG to better understand the potential of an anonymized and trusted cyber incident data repository to address the cybersecurity needs of the public and private sectors.

Comments on white papers must not contain proprietary information. Submission of comments on any of the white papers means that the author(s) agrees that all the information in the comments on the white papers can be made available to the public. Information contained in these comments on the white papers will be considered and combined with information from other resources, including NPPD, the CIDAWG, other government agencies, cybersecurity and insurance communities, and other stakeholders to refine the focus of the white papers and are part of NPPD's collaborative outreach. Comments on the white papers are a valuable resource that adds to NPPD's understanding of the significance and scope of national cybersecurity and critical infrastructure needs. NPPD's statutory authority is the Critical Infrastructure Partnership Advisory Council, which is consistent with sec. 201 of the Homeland Security Act of 2002 (the ''Act''), 6 U.S.C. 121, and pursuant to sec. 871(a) of the Act, 6 U.S.C. 451(a).

Dated: March 16, 2016.

Matthew Shabat,

Director, Performance Management, Office of Cybersecurity and Communications, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2016–06856 Filed 3–25–16; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0047]

Agency Information Collection Activities: Employment Eligibility Verification, Form I–9; Revision of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on November 24, 2015, at 80 FR 73200, allowing for a 60-day public comment period. USCIS received comments from 133 commenters in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until April 27, 2016. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* Comments may also be submitted via fax at (202) 395–5806 (This is not a toll-free number). All submissions received must include the agency name and the OMB Control Number 1615–0047.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Acting Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2006–0068 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Employment Eligibility Verification.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–9; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Employers, employees, recruiters and referrers for a fee (limited to agricultural associations, agricultural employers, or farm labor contractors), and state employment agencies. This form was developed to facilitate compliance with section 274A of the Immigration and Nationality Act, which prohibits the knowing employment of unauthorized aliens. This information collection is necessary for employers, agricultural recruiters and referrers for a fee, and state employment agencies to verify the identity and employment authorization of individuals hired (or recruited or referred for a fee, if applicable) for employment in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* estimated total number of respondents for the information collection I–9 is 55,400,000 for employers and recruiters and referrers with an estimated hour burden per response is .33 hours; 55,400,000 for individuals/households with an estimated hour burden response of .17 hour; and 20,000,000 for record keepers with an estimated hour burden response of .08 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 29,300,000 hours.

(7) An estimate of the total public burden (in cost) associated with the collection: $0.

Dated: March 22, 2016.

Samantha Deshommes,

Acting Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2016–06883 Filed 3–25–16; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–22]

30-Day Notice of Proposed Information Collection: ''Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally-Owned Residential Properties and Housing Receiving Federal Assistance''

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: April 27, 2016.*

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: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5533. 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. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on January 27, 2016 at 81 FR 4636.

A. Overview of Information Collection

Title of Information Collection: Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally-Owned Residential Properties and Housing Receiving Federal Assistance''.

OMB Control Number: 2539–0009.

Type of Request: Revision of a currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: Provision of a pamphlet on lead poisoning prevention to tenants and purchasers, provision of a notice to occupants on the results of hazard evaluation and hazard reduction activities, special reporting requirements for a child with an environmental intervention blood lead level residing in the unit, and record keeping and periodic summary reporting requirements.

Respondents: Residential property owners, housing agencies, Federal grantees, tribally designated housing entities or participating jurisdictions.

The revised hour burden estimates are presented in the table below. In that table, the $15.36 hourly cost per response reflects the weighted average of cases, first, in which the respondent is simply giving someone a pamphlet, putting something in a file, or retrieving something from a file, and sending summary information from it to the Department, valued at $10.61 per hour; and second, processing notices as above as well as providing information in cases of lead-poisoned children, valued at $16.97 per hour. (These labor rates have been escalated by 3% from 2013 based on the Census Bureau's constant quality housing construction price index, since the work is in the housing trades.)

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	62,295	as needed ...	Various	2.3	142,487	$15.36	$2,188,600

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 23, 2016.

Anna P. Guido,

Department Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 2016–06904 Filed 3–25–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167A2100DD/AAKC001030/A0A501010.999900]

Proclaiming Certain Lands as Reservation for the Shakopee Mdewakanton Sioux Community of Minnesota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 0.92 acres, more or less, an addition to the reservation of the Shakopee Mdewakanton Sioux Community of Minnesota on March 22, 2016.

FOR FURTHER INFORMATION CONTACT: Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS–4642–MIB, 1849 C Street NW., Washington, DC 20240, at (202) 208–3615.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), for the land described below. The land was proclaimed to be Shakopee Mdewakanton Sioux Community Reservation for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

Reservation of the Shakopee Mdewakanton Sioux Community, Township of Prior Lake, County of Scott and State of Minnesota

Former Eagle Creek Circle Property

Legal Description Containing 0.92 Acres, More or Less

Commencing at Northeast corner of said Section 34; thence on an assumed bearing of North 89 degrees 49 minutes 15 seconds West along the North line of

said Section 34, a distance of 88.24 feet to its intersection with the westerly right-of-way line for a county highway known as County State Aid Highway No. 21 (Said right-of-way is described in an Order dated April 18, 2000 and filed on October 5, 2001 as Document No. A 520970 in the Office of county Recorder in and for Scott County, Minnesota); thence southerly along said westerly right-of-way line along a curve, concave to the east, a radius of 22978.31 feet, a central angle of 00 degrees 21 minutes 46 seconds, a distance of 145.47 feet to the point of beginning of the land to be described; thence South 88 degrees 01 minutes 50 seconds West, a distance of 100.00 feet; thence southerly along a curve, concave to the east, a radius of 23078.31 feet, a central angle of 00 degrees 21 minutes 32 seconds, a distance of 144.56 feet; thence South 02 degrees 19 minutes 42 seconds East, a distance of 256.67 feet; thence South 89 degrees 49 minutes 15 seconds East, a distance of 100.10 feet to its intersection with said westerly right-of-way line, thence North 02 degrees 19 minutes 42 seconds West along said westerly right-of-way line, a distance of 261.05 feet; thence northerly along a curve, concave to the east, a radius of 22978.31 feet, a central angle of 00 degrees 21 minutes 32 seconds, a distance of 143.93 feet along said westerly line to the point of beginning.

This proclamation does not affect title to the land described above, nor does it affect any valid existing easements for public roads and highways, for public utilities and for railroads or pipelines and any other rights-of-way or reservations of record.

Dated: March 22, 2016.

Lawrence S. Roberts,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2016–06965 Filed 3–25–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167A2100DD/AAKC001030/A0A501010.999900 253G]

Proclaiming Certain Lands as Reservation for the Shakopee Mdewakanton Sioux Community of Minnesota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 2.79 acres, more or less, an addition to the reservation of the Shakopee Mdewakanton Sioux Community of Minnesota on March 22, 2016.

FOR FURTHER INFORMATION CONTACT: Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS–4642–MIB, 1849 C Street NW., Washington, DC 20240, at (202) 208–3615.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), for the land described below. The land was proclaimed to be Shakopee Mdewakanton Sioux Community Reservation for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

Reservation of the Shakopee Mdewakanton Sioux Community, Township of Shakopee, County of Scott and State of Minnesota

Stemmer

Legal Description Containing 2.79 Acres, More or Less

The North 363.00 feet of the East 300.00 feet of the Southwest ¼ of the Northeast ¼ of Section 29, Township 115 North, Range 22 West of the Fifth Principal Meridian according to the United States Government Survey thereof.

This proclamation does not affect title to the land described above, nor does it affect any valid existing easements for public roads and highways, for public utilities and for railroads or pipelines and any other rights-of-way or reservations of record.

Dated: March 22, 2016.

Lawrence S. Roberts,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2016–06976 Filed 3–25–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AAKC001030/A0A501010.999900]

Proclaiming Certain Lands as Reservation for the Shakopee Mdewakanton Sioux Community of Minnesota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 80.00 acres, more or less, an addition to the reservation of the Shakopee Mdewakanton Sioux Community of Minnesota on March 22, 2016.

FOR FURTHER INFORMATION CONTACT: Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS–4642–MIB, 1849 C Street NW., Washington, DC 20240, at (202) 208–3615.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), for the land described below. The land was proclaimed to be an addition to the Shakopee Mdewakanton Sioux Community Reservation for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or Tribal membership.

Reservation of the Shakopee Mdewakanton Sioux Community, Township of Prior Lake, County of Scott and State of Minnesota

Dolan Parcel

Legal Description Containing 80.00 Acres, More or Less

The South Half of the Southwest Quarter of Section 28, Township 115 North, Range 22 West of the 5th Principal Meridian, according to the United States Government Survey thereof and situated in Scott County, Minnesota.

This proclamation does not affect title to the land described above, nor does it affect any valid existing easements for public roads and highways, for public utilities and for railroads or pipelines and any other rights-of-way or reservations of record.

Dated: March 22, 2016.

Lawrence S. Roberts,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2016–06974 Filed 3–25–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AAKC001030/ A0A501010.999900]

Proclaiming Certain Lands as Reservation for the Shakopee Mdewakanton Sioux Community of Minnesota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 80.00 acres, more or less, an addition to the reservation of the Shakopee Mdewakanton Sioux Community of Minnesota on March 22, 2016.

FOR FURTHER INFORMATION CONTACT: Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS–4642–MIB, 1849 C Street NW., Washington, DC 20240, telephone: (202) 208–3615.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), for the land described below. The land was proclaimed to be an addition to the Shakopee Mdewakanton Sioux Community Reservation for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or Tribal membership.

Reservation of the Shakopee Mdewakanton Sioux Community, Township of Shakopee, County of Scott and State of Minnesota

Former McKenna Property

Legal Description Containing 80.00 Acres More or Less

West Half of the Northeast Quarter, Section 22, Township 115 North, Range 22 West, 5th Principal Meridian, Scott County, Minnesota.

This proclamation does not affect title to the land described above, nor does it affect any valid existing easements for public roads and highways, for public utilities and for railroads or pipelines and any other rights-of-way or reservations of record.

Dated: March 22, 2016.

Lawrence S. Roberts,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2016–06963 Filed 3–25–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167A2100DD/AAKC001030/ A0A501010.999900]

Proclaiming Certain Lands as Reservation for the Shakopee Mdewakanton Sioux Community of Minnesota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 77.00 acres, more or less, an addition to the reservation of the Shakopee Mdewakanton Sioux Community of Minnesota on March 22, 2016.

FOR FURTHER INFORMATION CONTACT: Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS–4642–MIB, 1849 C Street NW., Washington, DC 20240, at (202) 208–3615.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), for the land described below. The land was proclaimed to be Shakopee Mdewakanton Sioux Community Reservation for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

Reservation of the Shakopee Mdewakanton Sioux Community, Township of Shakopee, County of Scott and State of Minnesota

MWCC (Parcel 2) Petsch

Legal Description Containing 77.00 Acres, More or Less

The East Half of the Northeast Quarter (E ½ of NE ¼) of Section 22, Township 115 North, Range 22 West of the 5th Principal Meridian, according to the United States Government Survey thereof and situated in Scott County, Minnesota. TPN: 279220020.

This proclamation does not affect title to the land described above, nor does it affect any valid existing easements for public roads and highways, for public utilities and for railroads or pipelines and any other rights-of-way or reservations of record.

Dated: March 22, 2016.

Lawrence S. Roberts,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2016–06964 Filed 3–25–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NRSS–GRD–20166; PPWONRADG0, PPMRSNR1Y.NG0000 (166)]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Mining and Mining Claims and Non-Federal Oil and Gas Rights

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service, NPS) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on March 31, 2016. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before April 27, 2016.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to Madonna L. Baucum, Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive (Mail Stop 242, Room 2C114), Reston, VA 20192 (mail); or *madonna_baucum@nps.gov* (email). Please reference OMB Control Number 1024–0064 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Edward O. Kassman,

Jr., Regulatory Specialist, Energy and Minerals Branch, Geologic Resources Division, National Park Service, P.O. Box 25287, Lakewood, Colorado 80225 (mail); (303) 987–6792 (fax); or *Edward_Kassman@nps.gov* (email). You may review the ICR online at *http://www.reginfo.gov*. Follow the instructions to review Department of the Interior collections under review by OMB.

I. Abstract

The Organic Act of 1916 (NPS Organic Act) (54 U.S.C. 100101) authorizes the Secretary of the Interior to develop regulations for national park units under the Department's jurisdiction. The Mining in the Parks Act (54 U.S.C. 100731 *et seq.*) directs the Secretary of the Interior to regulate all operations in park units in connection with the exercise of mineral rights on patented and unpatented mining claims.

The regulations at 36 CFR part 9, subparts A and B, ensure that mining and non-Federal oil and gas activities on units of the National Park System are conducted in a manner consistent with preserving each unit for the benefit of present and future generations. The information required by Subpart A identifies the claim, claimant, and operator (the claimant and operator are often the same) and details how the operator intends to access and develop the minerals associated with the claim. It also identifies the steps the operator intends to take to minimize any adverse impacts of the mining operations on park resource and values. No information, except claim ownership information, is submitted unless the claimant wishes to conduct mining operations. The information required by Subpart B identifies the owner and operator (the owner and operator are often the same) and details how the operator intends to access and develop the oil and gas rights. It also identifies the steps the operator intends to take to minimize any adverse impacts on park resources and values. No information is submitted unless the owner wishes to conduct oil and gas operations.

II. Data

OMB Control Number: 1024–0064.

Title: Mining and Mining Claims and Non-Federal Oil and Gas Rights, 36 CFR part 9, subparts A and B.

Service Form Number: None.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Businesses.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of respondents	Number of responses	Completion time per response	Total annual burden hours
Mining and Mining Claims	1	1	176	176
Non-Federal Oil and Gas Rights	20	20	176	3,520
Totals	21	21	.....	3,696

Estimated Annual Nonhour Burden Cost: None.

III. Request for Comments

On December 16, 2015, we published in the **Federal Register** (80 FR 78250) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited public comments for 60 days, ending on February 16, 2016. We did not receive any comments.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB or us in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: March 22, 2016.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2016–06918 Filed 3–25–16; 8:45 am]

BILLING CODE 4310–EH–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS #20494; 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 [insert date for this batch], for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by April 12, 2016.

ADDRESSES: Comments may be sent via U.S. Postal Service to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447.

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 [insert date for this batch]. 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.

CALIFORNIA

Alameda County

Alameda County Building and Loan Association Building, 1601—1605 Clay St., Oakland, 16000152

Yolo County

TB—9, SW corner of Old Davis Rd. and Hutchinson Dr., University of California, Davis, Davis, 16000153

COLORADO

Larimer County

Warren Livestock Company, Graves Camp Rural Historic District, Five miles west of I–25 just south of the Colorado-Wyoming state line, in far northeastern Larimer County, Wellington, 16000155

Park County

Guiraud—McDowell Ranch, Highway 9, Garo, 16000154

MASSACHUSETTS

Bristol County

Lowney Chocolate Factory, 150 Oakland St., Mansfield, 16000156

Worcester County

First Baptist Church of Northborough, 52 Main St., Northborough, 16000157

MINNESOTA

Todd County

Bridge No. L7075, 290th St. over Turtle Creek, 0.1 mi. east of CSAH 25 in Hartford Township, Browerville, 16000158

NEBRASKA

Douglas County

North 24th and Lake Streets Historic District, North 24th St. between Ohio St. and Patrick Ave., Lake St. between 26th and 22th Sts., Omaha, 16000159

NEW MEXICO

Bernalillo County

Vista Larga Residential Historic District, Roughly bounded by Indian School Rd., Columbia Dr., Hannett Ave., and University of New Mexico North Golf Course, Albuquerque, 16000160

Dona Ana County

Mesilla Park Historic District, Bounded by Bowman St., Union and University Aves., and Park Drain, Las Cruces, 16000161

Socorro County

San Miguel Church, (El Camino Real de Tierra Adentro MPS (AD)) 403 El Camino Real St., NW., Socorro, 16000162

NEW YORK

Monroe County

Pittsford Village Historic District (Boundary Increase), High, Church, Grove, Line, Locust, Maple, N. & S. Main, State, Sutherland, Wood Sts., Boughton, E. Jefferson, Golf, Rand Rds., Pittsford, 16000163

Warren County

Caldwell Presbyterian Church, 71 Montcalm St., Lake George, 16000164

TENNESSEE

Anderson County

Norris Hydroelectric Project, 300 Powerhouse Way, Norris, 16000165

VIRGINIA

Charles City County

Dancing Point, Address Restricted, Charles City, 16000166

A request to move has been received for the following resource:

KENTUCKY,

Fayette County

Peoples Federal Savings and Loan, 343 S. Broadway, Lexington, 15000650

Authority: 60.13 of 36 CFR part 60

Dated: March 3, 2016.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

[FR Doc. 2016–06931 Filed 3–25–16; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[USITC SE-16-010]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: March 31, 2016 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–531–533 and 731–TA–1270–1273 (Final)(Polyethylene Terephthalate (PET) Resin from Canada, China, India, and Oman). The Commission is currently scheduled to complete and file its determinations and views of the Commission on April 12, 2016.
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.

Dated: Issued: March 23, 2016.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2016–07075 Filed 3–24–16; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Summary of Commission Practice Relating to Administrative Protective Orders

AGENCY: U.S. International Trade Commission.

ACTION: Summary of Commission practice relating to administrative protective orders.

SUMMARY: Since February 1991, the U.S. International Trade Commission (''Commission'') has issued an annual report on the status of its practice with respect to violations of its administrative protective orders (''APOs'') under title VII of the Tariff Act of 1930, in response to a direction contained in the Conference Report to the Customs and Trade Act of 1990. Over time, the Commission has added to its report discussions of APO breaches in Commission proceedings other than under title VII and violations of the Commission's rules including the rule on bracketing business proprietary information (''BPI'') (the ''24-hour rule''), 19 CFR 207.3(c). This notice provides a summary of breach investigations completed during calendar year 2014. This summary addresses one proceeding under title VII of the Tariff Act of 1930 and four proceedings under section 337 of the Tariff Act of 1930. There were no rules violation investigations completed in 2014. The Commission intends that this report inform representatives of parties to Commission proceedings as to some specific types of APO breaches encountered by the Commission and the corresponding types of actions the Commission has taken.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3088. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810. General information concerning the Commission can also be obtained by accessing its Web site (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION: Representatives of parties to investigations or other proceedings

conducted under title VII of the Tariff Act of 1930, section 337 of the Tariff Act of 1930, the North American Free Trade Agreement (NAFTA) Article 1904.13, and safeguard-related provisions such as sections 202 of the Trade Act of 1974, may enter into APOs that permit them, under strict conditions, to obtain access to BPI (title VII) and confidential business information (''CBI'') (safeguard-related provisions and section 337) of other parties or non-parties. *See, e.g.,* 19 U.S.C. 1677f; 19 CFR 207.7; 19 U.S.C. 1337(n); 19 CFR 210.5, 210.34; 19 U.S.C. 2252(i); 19 CFR 206.17; 19 U.S.C. 1516a(g)(7)(A); and 19 CFR 207.100, *et. seq.* The discussion below describes APO breach investigations that the Commission has completed during calendar year 2014, including a description of actions taken in response to these breaches.

Since 1991, the Commission has published annually a summary of its actions in response to violations of Commission APOs and the 24-hour rule. *See* 56 FR 4846 (February 6, 1991); 57 FR 12335 (April 9, 1992); 58 FR 21991 (April 26, 1993); 59 FR 16834 (April 8, 1994); 60 FR 24880 (May 10, 1995); 61 FR 21203 (May 9, 1996); 62 FR 13164 (March 19, 1997); 63 FR 25064 (May 6, 1998); 64 FR 23355 (April 30, 1999); 65 FR 30434 (May 11, 2000); 66 FR 27685 (May 18, 2001); 67 FR 39425 (June 7, 2002); 68 FR 28256 (May 23, 2003); 69 FR 29972 (May 26, 2004); 70 FR 42382 (July 25, 2005); 71 FR 39355 (July 12, 2006); 72 FR 50119 (August 30, 2007); 73 FR 51843 (September 5, 2008); 74 FR 54071 (October 21, 2009); 75 FR 54071 (October 27, 2010), 76 FR 78945 (December 20, 2011), 77 FR 76518 (December 28, 2012), 78 FR 79481 (December 30, 2013) and 80 FR 1664 (January 13, 2015). This report does not provide an exhaustive list of conduct that will be deemed to be a breach of the Commission's APOs. APO breach inquiries are considered on a case-by-case basis.

As part of the effort to educate practitioners about the Commission's current APO practice, the Commission Secretary issued in March 2005 a fourth edition of *An Introduction to Administrative Protective Order Practice in Import Injury Investigations* (Pub. No. 3755). This document is available upon request from the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, tel. (202) 205–2000 and on the Commission's Web site at *http://www.usitc.gov.*

I. In General

A. Antidumping and Countervailing Duty Investigations

The current APO form for antidumping and countervailing duty investigations, which was revised in March 2005, requires the applicant to swear that he or she will:

(1) Not divulge any of the BPI disclosed under this APO or otherwise obtained in this investigation and not otherwise available to him or her, to any person other than—

(i) Personnel of the Commission concerned with the investigation,

(ii) The person or agency from whom the BPI was obtained,

(iii) A person whose application for disclosure of BPI under this APO has been granted by the Secretary, and

(iv) Other persons, such as paralegals and clerical staff, who (a) are employed or supervised by and under the direction and control of the authorized applicant or another authorized applicant in the same firm whose application has been granted; (b) have a need thereof in connection with the investigation; (c) are not involved in competitive decision making for an interested party which is a party to the investigation; and (d) have signed the acknowledgment for clerical personnel in the form attached hereto (the authorized applicant shall also sign such acknowledgment and will be deemed responsible for such persons' compliance with this APO);

(2) Use such BPI solely for the purposes of the above-captioned Commission investigation or for judicial or binational panel review of such Commission investigation;

(3) Not consult with any person not described in paragraph (1) concerning BPI disclosed under this APO or otherwise obtained in this investigation without first having received the written consent of the Secretary and the party or the representative of the party from whom such BPI was obtained;

(4) Whenever materials *e.g.,* documents, computer disks, etc. containing such BPI are not being used, store such material in a locked file cabinet, vault, safe, or other suitable container (N.B.: storage of BPI on so-called hard disk computer media is to be avoided, because mere erasure of data from such media may not irrecoverably destroy the BPI and may result in violation of paragraph C of this APO);

(5) Serve all materials containing BPI disclosed under this APO as directed by the Secretary and pursuant to section 207.7(f) of the Commission's rules;

(6) Transmit each document containing BPI disclosed under this APO:

(i) with a cover sheet identifying the document as containing BPI,

(ii) with all BPI enclosed in brackets and each page warning that the document contains BPI,

(iii) if the document is to be filed by a deadline, with each page marked ''Bracketing of BPI not final for one business day after date of filing,'' and

(iv) if by mail, within two envelopes, the inner one sealed and marked ''Business Proprietary Information—To be opened only by [name of recipient]'', and the outer one sealed and not marked as containing BPI;

(7) Comply with the provision of this APO and section 207.7 of the Commission's rules;

(8) Make true and accurate representations in the authorized applicant's application and promptly notify the Secretary of any changes that occur after the submission of the application and that affect the representations made in the application (*e.g.,* change in personnel assigned to the investigation);

(9) Report promptly and confirm in writing to the Secretary any possible breach of this APO; and

(10) Acknowledge that breach of this APO may subject the authorized applicant and other persons to such sanctions or other actions as the Commission deems appropriate, including the administrative sanctions and actions set out in this APO.

The APO further provides that breach of an APO may subject an applicant to:

(1) Disbarment from practice in any capacity before the Commission along with such person's partners, associates, employer, and employees, for up to seven years following publication of a determination that the order has been breached;

(2) Referral to the United States Attorney;

(3) In the case of an attorney, accountant, or other professional, referral to the ethics panel of the appropriate professional association;

(4) Such other administrative sanctions as the Commission determines to be appropriate, including public release of, or striking from the record any information or briefs submitted by, or on behalf of, such person or the party he represents; denial of further access to business proprietary information in the current or any future investigations before the Commission, and issuance of a public or private letter of reprimand; and

(5) Such other actions, including but not limited to, a warning letter, as the

Commission determines to be appropriate.

APOs in safeguard investigations contain similar though not identical provisions.

B. Section 337 Investigations

The APOs in section 337 investigations differ from those in title VII investigations as there is no set form and provisions may differ depending on the investigation and the presiding administrative law judge. However, in practice, the provisions are often quite similar. Any person seeking access to CBI during a section 337 investigation including outside counsel for parties to the investigation, secretarial and support personnel assisting such counsel, and technical experts and their staff who are employed for the purposes of the investigation is required to read the APO, agree to its terms by letter filed with the Secretary of the Commission indicating that he agrees to be bound by the terms of the Order, agree not to reveal CBI to anyone other than another person permitted access by the Order, and agree to utilize the CBI solely for the purposes of that investigation.

In general, an APO in a section 337 investigation will define what kind of information is CBI and direct how CBI is to be designated and protected. The APO will state what persons will have access to the CBI and which of those persons must sign onto the APO. The APO will provide instructions on how CBI is to be maintained and protected by labeling documents and filing transcripts under seal. It will provide protections for the suppliers of CBI by notifying them of a Freedom of Information Act request for the CBI and providing a procedure for the supplier to take action to prevent the release of the information. There are provisions for disputing the designation of CBI and a procedure for resolving such disputes. Under the APO, suppliers of CBI are given the opportunity to object to the release of the CBI to a proposed expert. The APO requires a person who discloses CBI, other than in a manner authorized by the APO, to provide all pertinent facts to the supplier of the CBI and to the administrative law judge and to make every effort to prevent further disclosure. The APO requires all parties to the APO to either return to the suppliers or destroy the originals and all copies of the CBI obtained during the investigation.

The Commission's regulations provide for certain sanctions to be imposed if the APO is violated by a person subject to its restrictions. The names of the persons being investigated for violating an APO are kept confidential unless the sanction imposed is a public letter of reprimand. 19 CFR 210.34(c)(1). The possible sanctions are:

(1) An official reprimand by the Commission.

(2) Disqualification from or limitation of further participation in a pending investigation.

(3) Temporary or permanent disqualification from practicing in any capacity before the Commission pursuant to 19 CFR 201.15(a).

(4) Referral of the facts underlying the violation to the appropriate licensing authority in the jurisdiction in which the individual is licensed to practice.

(5) Making adverse inferences and rulings against a party involved in the violation of the APO or such other action that may be appropriate. 19 CFR 210.34(c)(3).

Commission employees are not signatories to the Commission's APOs and do not obtain access to BPI through APO procedures. Consequently, they are not subject to the requirements of the APO with respect to the handling of CBI and BPI. However, Commission employees are subject to strict statutory and regulatory constraints concerning BPI and CBI, and face potentially severe penalties for noncompliance. *See* 18 U.S.C. 1905; title 5, U.S. Code; and Commission personnel policies implementing the statutes. Although the Privacy Act (5 U.S.C. 552a) limits the Commission's authority to disclose any personnel action against agency employees, this should not lead the public to conclude that no such actions have been taken.

II. Investigations of Alleged APO Breaches

Upon finding evidence of an APO breach or receiving information that there is a reason to believe one has occurred, the Commission Secretary notifies relevant offices in the agency that an APO breach investigation has commenced and that an APO breach investigation file has been opened. Upon receiving notification from the Secretary, the Office of the General Counsel (''OGC'') prepares a letter of inquiry to be sent to the possible breacher over the Secretary's signature to ascertain the facts and obtain the possible breacher's views on whether a breach has occurred.[1] If, after reviewing the response and other relevant information, the Commission determines that a breach has occurred, the Commission often issues a second letter asking the breacher to address the questions of mitigating circumstances and possible sanctions or other actions. The Commission then determines what action to take in response to the breach. In some cases, the Commission determines that, although a breach has occurred, sanctions are not warranted, and therefore finds it unnecessary to issue a second letter concerning what sanctions might be appropriate. Instead, it issues a warning letter to the individual. A warning letter is not considered to be a sanction. However, a warning letter is considered in a subsequent APO breach investigation.

Sanctions for APO violations serve three basic interests: (a) Preserving the confidence of submitters of BPI/CBI that the Commission is a reliable protector of BPI/CBI; (b) disciplining breachers; and (c) deterring future violations. As the Conference Report to the Omnibus Trade and Competitiveness Act of 1988 observed, ''[T]he effective enforcement of limited disclosure under administrative protective order depends in part on the extent to which private parties have confidence that there are effective sanctions against violation.'' H.R. Conf. Rep. No. 576, 100th Cong., 1st Sess. 623 (1988).

The Commission has worked to develop consistent jurisprudence, not only in determining whether a breach has occurred, but also in selecting an appropriate response. In determining the appropriate response, the Commission generally considers mitigating factors such as the unintentional nature of the breach, the lack of prior breaches committed by the breaching party, the corrective measures taken by the breaching party, and the promptness with which the breaching party reported the violation to the Commission. The Commission also considers aggravating circumstances, especially whether persons not under the APO actually read the BPI/CBI. The Commission considers whether there have been prior breaches by the same person or persons in other investigations and multiple breaches by the same person or persons in the same investigation.

The Commission's rules permit an economist or consultant to obtain access to BPI/CBI under the APO in a title VII or safeguard investigation if the economist or consultant is under the direction and control of an attorney under the APO, or if the economist or consultant appears regularly before the Commission and represents an

[1] Procedures for inquiries to determine whether a prohibited act such as a breach has occurred and for imposing sanctions for violation of the provisions of a protective order issued during NAFTA panel or committee proceedings are set out in 19 CFR 207.100–207.120. Those investigations are initially conducted by the Commission's Office of Unfair Import Investigations.

interested party who is a party to the investigation. 19 CFR 207.7(a)(3)(B) and (C); 19 CFR 206.17(a)(3)(B) and (C). Economists and consultants who obtain access to BPI/CBI under the APO under the direction and control of an attorney nonetheless remain individually responsible for complying with the APO. In appropriate circumstances, for example, an economist under the direction and control of an attorney may be held responsible for a breach of the APO by failing to redact APO information from a document that is subsequently filed with the Commission and served as a public document. This is so even though the attorney exercising direction or control over the economist or consultant may also be held responsible for the breach of the APO. In section 337 investigations, technical experts and their staff who are employed for the purposes of the investigation are required to sign onto the APO and agree to comply with its provisions.

The records of Commission investigations of alleged APO breaches in antidumping and countervailing duty cases, section 337 investigations, and safeguard investigations are not publicly available and are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552. *See* 19 U.S.C. 1677f(g), 19 U.S.C. 1333(h), 19 CFR 210.34(c).

The two types of breaches most frequently investigated by the Commission involve the APO's prohibition on the dissemination of BPI or CBI to unauthorized persons and the APO's requirement that the materials received under the APO be returned or destroyed and that a certificate be filed indicating which action was taken after the termination of the investigation or any subsequent appeals of the Commission's determination. The dissemination of BPI/CBI usually occurs as the result of failure to delete BPI/CBI from public versions of documents filed with the Commission or transmission of proprietary versions of documents to unauthorized recipients. Other breaches have included the failure to bracket properly BPI/CBI in proprietary documents filed with the Commission, the failure to report immediately known violations of an APO, and the failure to adequately supervise non-lawyers in the handling of BPI/CBI.

Occasionally, the Commission conducts APOB investigations that involve members of a law firm or consultants working with a firm who were granted access to APO materials by the firm although they were not APO signatories. In many of these cases, the firm and the person using the BPI/CBI mistakenly believed an APO application had been filed for that person. The Commission determined in all of these cases that the person who was a non-signatory, and therefore did not agree to be bound by the APO, could not be found to have breached the APO. Action could be taken against these persons, however, under Commission rule 201.15 (19 CFR 201.15) for good cause shown. In all cases in which action was taken, the Commission decided that the non-signatory was a person who appeared regularly before the Commission and was aware of the requirements and limitations related to APO access and should have verified his or her APO status before obtaining access to and using the BPI/CBI. The Commission notes that section 201.15 may also be available to issue sanctions to attorneys or agents in different factual circumstances in which they did not technically breach the APO, but when their actions or inactions did not demonstrate diligent care of the APO materials even though they appeared regularly before the Commission and were aware of the importance the Commission placed on the care of APO materials.

Counsel participating in Commission investigations have reported to the Commission potential breaches involving the electronic transmission of public versions of documents. In these cases, the document transmitted appears to be a public document with BPI or CBI omitted from brackets. However, the confidential information is actually retrievable by manipulating codes in software. The Commission has found that the electronic transmission of a public document containing BPI or CBI in a recoverable form was a breach of the APO.

Counsel have been cautioned to be certain that each authorized applicant files within 60 days of the completion of an import injury investigation or at the conclusion of judicial or binational review of the Commission's determination a certificate that to his or her knowledge and belief all copies of BPI/CBI have been returned or destroyed and no copies of such material have been made available to any person to whom disclosure was not specifically authorized. This requirement applies to each attorney, consultant, or expert in a firm who has been granted access to BPI/CBI. One firm-wide certificate is insufficient.

Attorneys who are signatories to the APO representing clients in a section 337 investigation should inform the administrative law judge and the Commission's secretary if there are any changes to the information that was provided in the application for access to the CBI. This is similar to the requirement to update an applicant's information in title VII investigations.

In addition, attorneys who are signatories to the APO representing clients in a section 337 investigation should send a notice to the Commission if they stop participating in the investigation or the subsequent appeal of the Commission's determination. The notice should inform the Commission about the disposition of CBI obtained under the APO that was in their possession or they could be held responsible for any failure of their former firm to return or destroy the CBI in an appropriate manner.

III. Specific APO Breach Investigations

Case 1. A law firm filed a public response to a petition for review of a final determination in a section 337 investigation. Although CBI was visibly redacted in the response, the CBI could be accessed by electronically manipulating the document. A paralegal in the firm maintained two versions of the document, one with the recoverable CBI and one without. When he filed the response with the Commission he mistakenly filed the version that contained the redacted CBI. The Commission found that the paralegal and an attorney who was responsible for reviewing the document before it was filed violated the APO. The Commission decided not to sanction them and issued warning letters.

Although the filing of the improperly redacted document made CBI available to unauthorized persons, the Commission decided to issue warning letters because of several mitigating circumstances. There was no proof that an unauthorized person had viewed the CBI. Initially, the Commission's staff notified the law firm's lead attorney that another law firm and a research firm had accessed the document through EDIS. The lead attorney immediately contacted these firms, asked that they destroy the document, and learned that no unauthorized person had read the document. Almost a year later the Commission's staff notified the lead attorney that another research firm had accessed the document at the time the breach occurred. The lead attorney immediately contacted the second research firm. He learned that the firm had gone out of business and had destroyed any information that could show whether or not an unauthorized person had read the document. Although the Commission has a practice of assuming that an unauthorized person had read CBI if a document containing CBI is made available for a

significant period of time, in this case there was no evidence that an unauthorized person had read the document and the law firm was unable to confirm this because of the lag in the notification about the second research firm. Thus, the Commission did not find this to be an aggravating circumstance.

The Commission also noted that neither the attorney nor the paralegal had ever been found in violation of an APO. In addition, they quickly discovered the error and acted promptly to remedy the unintentional disclosure, contacted superiors in their firm who then notified the Commission of the breach, took the necessary steps to have the document removed from public EDIS, and insured that the document was not viewed by unauthorized persons. The Commission also noted that the attorney and the paralegal generally followed the procedures established by their firm for creating redacted versions of documents containing CBI. The Commission noted that the firm has established revised procedures that are meant to verify that public documents have been properly redacted before filing.

Case 2. The Commission determined that three attorneys breached an APO when their firm retained a file copy of documents containing CBI beyond the termination of a Commission section 337 investigation. As required under the APO, upon termination of the investigation, the firm certified that CBI belonging to respondents had been destroyed or returned. However, files containing CBI were inadvertently sent to an off-site storage facility.

The Commission became aware of the breach when it received a letter from an attorney with the firm who had discovered the files when he responded to a district court discovery order compelling the firm's client to produce discovery related to ITC proceedings. The attorney was unable to explain why the files were retained and not destroyed since nearly all of the attorneys and support staff who worked on the investigation had left the firm. The lawyer was able to determine that no one accessed the CBI files while they were in off-site storage.

Warning letters were issued to the three remaining attorneys at the firm who had been subject to the APO in the section 337 investigation. The Commission considered the mitigating circumstances that the breach was unintentional, the CBI was not read by any person not subject to the APO, that the firm discovered and reported the breach, and that this is the only breach in which the attorneys were involved in the two-year period generally examined by the Commission for the purpose of determining sanctions. The attorneys were also instructed to destroy the CBI and certify that destruction had been completed.

Case 3. The Commission determined that a law firm breached an APO in a section 337 investigation when it retained three boxes of documents containing CBI that should have been returned or destroyed upon termination of an investigation. The firm also violated the APO by keeping an electronic copy of its work product files which contained CBI. For two years the three boxes along with other boxes of the case files from the investigation had been transferred to another firm (the second firm) which was representing the same client in other proceedings. The attorneys in that firm were not signatories to the APO. The boxes were returned to the original law firm because attorneys at the second firm became aware that there may be documents in the case file that should have been returned or destroyed at the end of the investigation. Attorneys at the second firm informed the first firm that no one had reviewed the documents within the boxes. The first firm did not immediately review the contents of the case file upon its return.

A year later the firm investigated the case file after it received a subpoena in a new Commission investigation seeking to compel production of portions of the same case file. In response to a request from the ALJ, the firm investigated the case file. It found three boxes with third party production documents containing CBI that should have been destroyed.

Also in response to the subpoena, the firm disclosed that it possessed a computer file created as part of its litigation efforts which contained opposing party documents containing CBI and which was work product material. Although this computer file was not subject to discovery, it should have been destroyed pursuant to the APO. A copy made by the second firm was removed from the server and returned to the first firm. Again, the second firm indicated that no one had read the information from the file.

The Commission determined to send a warning letter to the one attorney who had been involved in the original Commission investigation and who was receiving the letter on behalf of the law firm. The Commission considered the mitigating factors that the breach was unintentional, the attorney and other attorneys at the firm had not breached an APO within the last two years, and a partner in the firm alerted the Commission as soon as the potential breach involving the three boxes was discovered. The Commission noted the firm's delay in ascertaining what confidential materials improperly remained at the firm, but also noted that the firm was able to demonstrate that no unauthorized person had accessed the CBI at issue.

Although the three boxes of files had been destroyed shortly after the investigation into the APO breach had begun, the letter directed the attorney to retrieve and destroy the work product computer file. The attorney was further directed to send an affidavit certifying the destruction within 60 days of the receipt of the warning letter.

Case 4. A lead attorney and an associate were employed by a law firm representing a party in a title VII investigation. The lead attorney was the signatory to the APO. During the investigation he filed a motion to amend the APO and add the associate to it. The application was filed late under the Commission's rules and was subsequently rejected by the Commission Secretary. In the meantime, the lead attorney had directed the associate to review the confidential version of the post hearing brief which contained BPI from the confidential staff report and other parties to the investigation.

The Commission found that the lead attorney had violated the APO. It determined that the associate did not breach the APO nor was there good cause to sanction him under Commission rule 201.15. The Commission determined to issue a warning letter to the lead attorney and a letter to the associate indicating that he would not be sanctioned under rule 201.15.

For the associate, the Commission considered the facts that he was not subject to the APO, that he reasonably did not know that he was not permitted to view BPI, and that he acted entirely under the direction of the lead attorney. The letter to the associate did caution him to ensure independently in future investigations that he is properly subject to the APO before accessing BPI obtained under that APO.

The Commission determined not to sanction the lead attorney. In reaching this decision the Commission considered several mitigating circumstances. The lead attorney had no prior breaches within the two-year period generally examined by the Commission for purposes of determining sanctions; the breach was unintentional; and the person who viewed the BPI acted as if bound by the APO. The Commission also considered the aggravating circumstance that the law firm failed to notice the breach until

agency staff contacted the lead attorney almost two months after the breach occurred.

Case 5. A law firm filed a public version of its complaint containing CBI in a section 337 investigation. The Commission found that the law firm did not violate the APO since the CBI that was disclosed and made publicly accessible was not obtained under an APO related to a Commission investigation. In addition, the disclosure of the CBI occurred before an APO was issued in the Commission investigation. The letter to the firm advised it to practice better procedures in the future to ensure that no CBI is disclosed.

By order of the Commission.

Issued: March 22, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–06875 Filed 3–25–16; 8:45 am]

BILLING CODE 7020–02–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a closed meeting of the Advisory Committee on Actuarial Examinations.

DATES: The meeting will be held on April 18, 2016, from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at Mercer, 4440 Comerica Bank Tower, 1717 Main Street, Dallas, TX 75201.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Executive Director of the Joint Board for the Enrollment of Actuaries, 703–414–2173.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at Mercer, 4400 Comerica Bank Tower, 1717 Main Street, Dallas, TX 75201, on April 18, 2016, from 8:30 a.m. to 5:00 p.m.

The purpose of the meeting is to discuss topics and questions that may be recommended for inclusion on future Joint Board examinations in actuarial mathematics, pension law and methodology referred to in 29 U.S.C. 1242(a)(1)(B).

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the subject of the meeting falls within the exception to the open meeting requirement set forth in title 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: March 15, 2016.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 2016–06941 Filed 3–25–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0011]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection: ViCAP Case Submission Form

AGENCY: Department of Justice, Federal Bureau of Investigation.

ACTION: 30-day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Critical Incident Response Group has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** at 81 *FR* 3159, on January 20, 2016, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until April 27, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lesa Marcolini, Program Manager, Federal Bureau of Investigation, Critical Incident Response Group, ViCAP, FBI Academy, Quantico, Virginia 22135; facsimile (703) 632–4239. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* ViCAP Case Submission Form.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is FD–676. The applicable component within the Department of Justice is the Federal Bureau of Investigation.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal, state, local, and tribal government law enforcement agencies charged with the responsibility of investigating violent crimes. Abstract: Established by the Department of Justice in 1985, ViCAP serves as the national repository for violent crimes; specifically; Homicides (and attempts) that are known or suspected to be part of a series and/or are apparently random, motiveless, or sexually oriented. Sexual assaults that are known or suspected to be part of a series and/or are committed by a stranger. Missing persons where the circumstances indicate a strong possibility of foul play and the victim is still missing. Unidentified human remains where the manner of death is known or suspected to be homicide.

Comprehensive case information submitted to ViCAP is maintained in the ViCAP Web National Crime Database and is automatically compared to all other cases in the databases to identify potentially related cases.

5. *An estimate of the total number of respondents and the amount of time*

estimated for an average respondent to respond: Of the approximately 18,000 government law enforcement agencies that are eligible to submit cases, it is estimated that thirty to fifty percent will actually submit cases to ViCAP. The time burden of the respondents is less than 60 minutes per form.

6. *An estimate of the total public burden (in hours) associated with the collection:* 5,000 annual burden hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: March 23, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–06900 Filed 3–25–16; 8:45 am]

BILLING CODE 4410–02–P

LIBRARY OF CONGRESS

Copyright Office

[Docket Nos. 2015–6, 2015–8]

Software-Enabled Consumer Products Study and Section 1201 Study: Announcement of Public Roundtables

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notice of public roundtables.

SUMMARY: The United States Copyright Office has issued Notices of Inquiry (''NOIs'') announcing separate public studies on software-enabled consumer products and section 1201 of title 17. In addition to soliciting written comments on these issues, the Office is now announcing public roundtables for these studies to provide forums for interested members of the public to address the issues set forth in the NOIs.

DATES AND ADDRESSES: Public roundtables for the above-referenced Copyright Office studies will be held on the dates and at the locations provided below. The roundtables for the two studies are being held on consecutive dates in each location to accommodate parties who may have an interest in attending both.

Software-Enabled Consumer Products Study: For its study on software-enabled consumer products, the Office will hold public roundtables in Washington, DC and San Francisco, CA. The roundtable in Washington will take place on May 18, 2016, at the Library of Congress's Madison Building, 101 Independence Avenue SE., Washington, DC 20540, from 9:00 a.m. to approximately 5:00 p.m. The roundtable in San Francisco will take place on May 24, 2016, at Hastings School of Law, 200 McAllister Street, San Francisco, CA 94102, from 9:00 a.m. to approximately 5:00 p.m.

Section 1201 Study: Likewise, for its study on section 1201, the Office will hold public roundtables in Washington, DC and San Francisco, CA. The roundtable in Washington will take place on May 19 and May 20, 2016, at the Library of Congress's Madison Building, 101 Independence Avenue SE., Washington, DC 20540, from 9:00 a.m. to approximately 5:00 p.m. on the first day, and from 9:00 a.m. to approximately 1:00 p.m. on the second day. The roundtable in San Francisco will take place on May 25 and May 26, 2016, at Hastings School of Law, 200 McAllister Street, San Francisco, CA 94102, from 9:00 a.m. to approximately 5:00 p.m. on the first day, and from 9:00 a.m. to approximately 1:00 p.m. on the second day.

Additional information, including instructions for submitting requests to participate in the roundtables, is available on the Copyright Office Web site at *http://copyright.gov/policy/software/* (software-enabled consumer products) and *http://copyright.gov/policy/1201/* (section 1201). Requests to participate in the roundtables must be received by the Copyright Office by April 18, 2016. If you are unable to access a computer or the internet, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: *Software-Enabled Consumer Products Study:* Sarang V. Damle, Deputy General Counsel, *sdam@loc.gov;* Catherine Rowland, Senior Advisor to the Register of Copyrights, *crowland@loc.gov;* or Erik Bertin, Deputy Director of Registration Policy and Practice, *ebertin@loc.gov.*

Section 1201 Study: Regan A. Smith, Associate General Counsel, *resm@loc.gov;* or Kevin Amer, Senior Counsel for Policy and International Affairs, *kamer@loc.gov.*

Each of these persons can be reached by telephone at (202) 707–8350.

SUPPLEMENTARY INFORMATION: The Copyright Office is conducting separate studies concerning software-enabled consumer products and section 1201 of title 17.

Software-Enabled Consumer Products Study

On December 15, 2015, the Copyright Office issued an NOI announcing a study on the role of copyright law with respect to the design, distribution, and use of consumer products that include embedded software. 80 FR 77668. This study is being done at the request of the United States Senate Committee on the Judiciary. Consistent with the Committee's request, the focus of the study is on software contained in consumer products; it is not intended to address more general questions about software and copyright.

Section 1201 Study

Enacted in 1998 as part of the Digital Millennium Copyright Act (''DMCA''), section 1201 prohibits the circumvention of technological measures employed by or on behalf of copyright owners to control access to their works (also known as ''access controls''), as well as the trafficking in technologies or services that facilitate such circumvention. In addition, section 1201 codifies a triennial rulemaking process through which the Librarian of Congress, upon the recommendation of the Register of Copyrights, can grant exemptions to the prohibition on the circumvention of access controls. The Copyright Office issued an NOI soliciting comments on the operation and effectiveness of section 1201 on December 29, 2015. 80 FR 81369.

Roundtable Subjects of Inquiry

At this time, the Copyright Office is providing notice of its intention to seek further input for these studies through public roundtables to be held on the dates and at the addresses set forth above. The public roundtables will offer an opportunity for interested parties to comment on topics set forth in the NOIs.

For the software-enabled consumer products study, the roundtables at each location will consist of sessions on the following topics: (1) The proper role of copyright in protecting software-enabled consumer products; (2) ownership and contractual issues; (3) fair use; and (4) the first sale doctrine, section 117, and other limitations and exceptions. After the final session, the Office will also provide participants and observers with an opportunity to offer additional comments for the record.

For the section 1201 study, roundtables at each location will consist of sessions on the following topics: (1) The relationship of section 1201 to copyright infringement, consumer issues, and competition; (2) the rulemaking process—evidentiary and procedural issues; (3) the rulemaking process—renewal of previously granted exemptions; (4) the anti-trafficking prohibitions and third-party assistance for permitted circumvention of technological measures; and (5)

permanent exemptions to the prohibition on circumvention. After the final session, the Office will also provide participants and observers with an opportunity to offer additional comments for the record.

Each of the roundtable hearing rooms will have a limited number of seats for participants and observers. Public seating for observers will be provided on a first-come, first-served basis on the days of the roundtables.

Dated: March 23, 2016.

Maria A. Pallante,

Register of Copyrights, U.S. Copyright Office.

[FR Doc. 2016–06925 Filed 3–25–16; 8:45 am]

BILLING CODE 1410–30–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 2008–2 CRB CD 2000–2003 (Phase II)]

Distribution of the 2000, 2001, 2002 and 2003 Cable Royalty Funds

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final distribution order.

SUMMARY: The Copyright Royalty Judges announce the final Phase II distribution of cable royalty funds for the years 2000, 2001, 2002 and 2003 for the Program Suppliers programming category.

DATES: Effective March 28, 2016.

ADDRESSES: The final distribution order also is posted on the Copyright Royalty Board Web site at *http://www.loc.gov/crb.*

FOR FURTHER INFORMATION CONTACT: Kimberly Whittle, Attorney Advisor. Telephone: (202) 707–7658; Email: *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: The captioned consolidated royalty distribution proceeding concluded on August 14, 2015, when the United States Court of Appeals for the DC Circuit issued a mandate relating to their June 30, 2015, order affirming the distribution shares for claimants in the Program Suppliers category as determined by the Copyright Royalty Judges (Judges). After the mandate, the Judges received filings from Worldwide Subsidy Group dba Independent Producers Group (IPG) and the Motion Picture Association of America (MPAA) contesting the appropriate methodology for distribution of the remaining royalty funds on deposit.

By order dated November 25, 2015, the Judges directed MPAA to provide historical context from which the Judges and the Licensing Division of the Copyright Office could distribute accurately the funds, taking into account prior partial distributions, fund growth through accrued interest, and deductions for Licensing Division costs. MPAA provided the necessary information on December 7, 2015. The Licensing Division staff provided accounting services to assure accurate distribution in accordance with the Judges' orders.

The Licensing Division calculated that, as of February 17, 2016, the total distribution to IPG for each royalty year should be:

2000	$617,719
2001	164,203
2002	197,725
2003	125,884
Total	1,105,531

Now, therefore, the Judges hereby *order* that the Licensing Division make final distribution to IPG from the Program Suppliers category for the years 2000 through 2003, inclusive, in the amounts listed, adjusted if necessary to reflect interest accrued or costs incurred from and after February 17, 2016, to the date of distribution.

The Judges *further order* that the Licensing Division distribute simultaneously the remaining funds in the Program Suppliers category for royalty years 2000 through 2003, inclusive, to MPAA, adjusted if necessary to reflect interest accrued or costs incurred from and after February 17, 2016.

The Judges *further order* that IPG and MPAA provide to the Licensing Division all necessary and pertinent information to facilitate the transfer by March 31, 2016.

Dated: March 23, 2016.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2016–06923 Filed 3–25–16; 8:45 am]

BILLING CODE 1410–72–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0001]

Sunshine Act Meeting Notice

DATE: March 28, April 4, 11, 18, 25, May 2, 2016.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of March 28, 2016

Tuesday, March 29, 2016

9:30 a.m. Briefing on Project Aim (Public Meeting); (Contact: Janelle Jessie: 301–415–6775).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Wednesday, March 30, 2016

9:30 a.m. Briefing on Security Issues (Closed Ex. 1).

Week of April 4, 2016—Tentative

Tuesday, April 5, 2016

9:30 a.m. Briefing on Threat Environment Assessment (Closed Ex. 1).

Week of April 11, 2016—Tentative

There are no meetings scheduled for the week of April 11, 2016.

Week of April 18, 2016—Tentative

Tuesday, April 19, 2016

9:30 a.m. Meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting); (Contact: Paul Michalak: 301–415–5804).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of April 25, 2016—Tentative

There are no meetings scheduled for the week of April 25, 2016.

Week of May 2, 2016—Tentative

There are no meetings scheduled for the week of May 2, 2016.

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@*

nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: March 23, 2016.

Glenn Ellmers,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2016–07042 Filed 3–24–16; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Project No. 753; NRC–2016–0063]

TS Inservice Testing Program Removal & Clarify SR Usage Rule Application to Section 5.5 Testing

AGENCY: Nuclear Regulatory Commission.

ACTION: Technical specifications task force; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Technical Specifications (TS) Task Force (TSTF) Traveler TSTF–545, Revision 3, ''TS Inservice Testing [(IST)] Program Removal & Clarify [Surveillance Requirement] SR Usage Rule Application to Section 5.5 Testing,'' for plant-specific adoption using the Consolidated Line Item Improvement Process (CLIIP).

DATES: March 28, 2016.

ADDRESSES: Please refer to Docket ID NRC–2016–0063 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0063. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals 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 available in ADAMS) is provided the first time that a document is referenced. Traveler, TSTF–545, Revision 3, includes a model application and is available in ADAMS under Accession No. ML15294A555. The final model safety evaluation (SE) for plant-specific adoption of TSTF–545, Revision 3, is available in ADAMS under Accession No. ML15314A305.

• *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: Michelle C. Honcharik, telephone: 301–415–1774; email: *Michelle.Honcharik@nrc.gov.* For technical questions please contact Caroline Tilton, telephone: 301–415–0990; email: *Caroline.Tilton@nrc.gov.* Both are staff of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: Traveler, TSTF–545, Revision 3, is applicable to all nuclear power plants. The proposed change revises the Standard TS (STS), NUREG–1430, ''Standard Technical Specifications Babcock and Wilcox Plants,'' NUREG–1431, ''Standard Technical Specifications Westinghouse Plants,'' NUREG–1432, ''Standard Technical Specifications Combustion Engineering Plants,'' NUREG–1433, ''Standard Technical Specifications General Electric Plants BWR/4,'' and NUREG–1434, ''Standard Technical Specifications General Electric Plants, BWR/6.'' This STS improvement is part of the CLIIP. NUREG–1430 through NUREG–1434, Volume 1, can be accessed in ADAMS under Accession Nos. ML12100A177, ML12100A222, ML12102A165, ML12104A192, and ML12104A195, respectively. NUREG–1430 through NUREG–1434, Volume 2, can be accessed in ADAMS under Accession Nos. ML12100A178, ML12100A228, ML12102A169, ML12104A193, and ML12104A196, respectively.

Specifically, the proposed change modifies the STS to eliminate the Chapter 5.0, ''Administrative Controls,'' specification Section 5.5, ''Inservice Testing Program,'' to remove requirements duplicated in American Society of Mechanical Engineers (ASME) Code for Operation and Maintenance of Nuclear Power Plants (OM Code), Case OMN–20, ''Inservice Test Frequency.'' The ASME Code Case, OMN–20, provides similar definitions and allowances as in the current STS Inservice Testing Program. A new defined term, ''Inservice Testing Program (IST),'' is added to STS Section 1.1, ''Definitions.'' The STS Section 3.0, ''Surveillance Requirement (SR) Applicability,'' Bases are revised to explain the application of the usage rules to the Section 5.5 testing requirements. Existing uses of the term ''Inservice Testing Program'' in the STS and STS Bases are capitalized to indicate that it is now a defined term.

The NRC staff has reviewed the model application for TSTF–545, Revision 3, and has found it acceptable for use by licensees. Licensees opting to apply for this TS change are responsible for reviewing the NRC's staff SE and the applicable technical bases, providing any necessary plant-specific information, and assessing the completeness and accuracy of their license amendment request (LAR). The NRC will process each amendment application responding to the Notice of Availability according to applicable NRC rules and procedures.

The proposed change does not prevent licensees from requesting an alternate approach or proposing changes other than those proposed in TSTF–545, Revision 3. However, significant deviations from the approach recommended in this notice or the inclusion of additional changes to the license will require additional NRC staff review. This may increase the time and resources needed for the review and/or result in NRC staff rejection of the LAR. Licensees desiring significant deviations or additional changes should instead submit an LAR that does not claim to adopt TSTF–545, Revision 3.

Dated at Rockville, Maryland, this 18th day of March 2016.

For the Nuclear Regulatory Commission.

Kevin Hsueh,

Chief, Licensing Processes Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–06945 Filed 3–25–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–09083; NRC–2015–0209]

U.S. Army Installation Management Command, Multiple Locations

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued Amendment No. 1 to Source Materials License No. SUC–1593 to the U.S. Army, Installation Management Command (Army), for possession of Depleted Uranium (DU) from the Davy Crockett M101 spotting rounds at the following Army installations: Donnelly Training Area, Fort Wainwright, AK (Alaska); Fort Benning, GA (Georgia); Fort Bragg, NC (North Carolina); Fort Campbell, KY (Kentucky); Fort Carson, CO (Colorado); Fort Gordon, GA (Georgia); Fort Hood, TX (Texas); Fort Hunter Liggett, CA (California); Fort Jackson, SC (South Carolina); Fort Knox, KY (Kentucky); Fort Polk, LA (Louisiana); Fort Riley, KS (Kentucky); Fort Sill, OK (Oklahoma); Joint Base Lewis-McChord/Yakima Training Center, WA (Washington); Joint Base McGuire-Dix-Lakehurst, NJ (New Jersey); and Schofield Barracks/Pohakuloa Training Area, HI (Hawaii).

This license amendment allows the Army to possess DU at the specified Army Installation sites where testing of Davy Crockett M101 spotting rounds occurred.

DATES: March 28, 2016.

ADDRESSES: Please refer to Docket ID NRC–2015–0209 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0209. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@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 available in ADAMS) is provided the first time that a document is referenced.
- *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: Amy M. Snyder, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone: 301–415–6822, email: *Amy.Snyder@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC has issued Amendment No. 1 to Source Materials License No. SUC–1593 to the Army for possession of DU from Davy Crockett M101 spotting rounds. This license amendment authorizes possession only of existing DU from Davy Crockett M101 spotting rounds at the following Army installations: Donnelly Training Area, Fort Wainwright, AK; Fort Benning, GA; Fort Bragg, NC; Fort Campbell, KY; Fort Carson, CO; Fort Gordon, GA; Fort Hood, TX; Fort Hunter Liggett, CA; Fort Jackson, SC; Fort Knox, KY; Fort Polk, LA; Fort Riley, KS; Fort Sill, OK; Joint Base Lewis-McChord/Yakima Training Center, WA; Joint Base McGuire-Dix-Lakehurst, NJ; and Schofield Barracks/Pohakuloa Training Area, HI.

This license amendment allows the Army to conduct activities necessary for the possession and management of DU from Davy Crockett M101 spotting rounds and fragments as a result of previous use of DU at the specified installations. The license amendment does not authorize the Army to place additional DU on the specified installations. This license amendment approves the Army's programmatic Radiation Safety Plan, programmatic Physical Security Plan, and programmatic Environmental Radiation Monitoring Plan (ERMP), which apply to all the sites (ranges) with DU from Davy Crockett M101 spotting rounds at the specified installations.

In addition, the Army is required to conduct its operations at these installations in accordance with the conditions listed in Amendment No. 1 of Source Materials License No. SUC–1593. This license amendment prohibits the Army from performing decommissioning or ground disturbing activities to collect or remove DU fragments or contaminated soil that is identified during routine range activities without prior authorization from the NRC. Also, this license amendment requires that the Army develop a site-specific ERMP for each specified installation, using the criteria contained in the approved programmatic ERMP, and submit them to the NRC within 6 months of the effective date of this license amendment. The Army is required to fully implement the site-specific ERMPs within 6 months of their approval.

Documents related to this license amendment application carry NRC docket ID NRC–2015–0209. The documents for this license amendment include the license amendment application (ADAMS Accession Nos. ML15161A454; ML15294A276; ML16004A369; and ML16048A358), the Safety Evaluation Report (SER) (ADAMS Accession No. ML16039A230), and the license (ADAMS Accession No. ML16039A234). Note that a complete listing of documents associated with the NRC staff's review of the Army's license amendment application is included in the SER.

The Army's request for this license amendment was previously noticed in the **Federal Register** on September 4, 2015 (80 FR 53586), with a notice of an opportunity to request a hearing and to petition for leave to intervene. No requests for a hearing or petition for leave to intervene were filed on this proceeding.

Dated at Rockville, Maryland, this 21st day of March, 2016.

For the Nuclear Regulatory Commission.

John R. Tappert,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2016–06947 Filed 3–25–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–09; NRC–2016–0036]

Department of Energy; Fort St. Vrain Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) reviewed an application by the Department of Energy (DOE) for an amendment to License No. SNM–2504 that was renewed in 2011.

Under this license, DOE is authorized to receive, possess, store, and transfer spent nuclear fuel and associated radioactive materials at the Fort St. Vrain (FSV) independent spent fuel storage installation (ISFSI). The DOE requested approval to revise response times stated in the license's technical specifications that are associated with fuel storage container leak tests, and to make an editorial change to the technical specifications table of contents.

ADDRESSES: Please refer to Docket ID NRC–2016–0036 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site*: Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0036. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@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 available in ADAMS) is provided the first time that a document is referenced. The DOE License Amendment Request is available electronically in ADAMS under Accession No. ML15068A009.

• *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: Chris Allen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6877; email: *William.Allen@nrc.gov.*

SUPPLEMENTARY INFORMATION:

By application dated February 17, 2015, as supplemented March 9, and 18, 2015, DOE submitted to the NRC, in accordance with part 72 of title 10 of the Code of **Federal Register** (CFR), a request to amend License No. SNM–2504 for its FSV ISFSI located in Platteville, Colorado. This ISFSI contains spent fuel that was generated at the now- decommissioned FSV Nuclear Generating Station. License No. SNM–2504 authorizes DOE to receive, possess, store, and transfer spent nuclear fuel and associated radioactive materials at the FSV ISFSI. Specifically, DOE requested approval to revise response times stated in the license's technical specifications that are associated with fuel storage container leak tests, and to make an editorial change to the technical specifications table of contents.

The NRC issued a letter dated March 9, 2015 (ADAMS Accession No. ML15069A008), notifying DOE that the application was acceptable for review. In accordance with 10 CFR 72.46(a), a notice of proposed action and opportunity for hearing was published in the **Federal Register** on April 20, 2015 (80 *FR* 21772). No requests for a hearing or for leave to intervene were submitted. Accordingly, pursuant to 10 CFR 72.46(d), the NRC is publishing this notice that the action proposed by DOE in its license amendment request has been taken.

The NRC prepared a safety evaluation report (SER) that documents its review and evaluation of the amendment request. Also in connection with this action, the NRC prepared an Environmental Assessment (EA) (ADAMS Accession No. ML16028A407) containing a Finding of No Significant Impact (FONSI). The Notice of Availability of the EA and FONSI for the FSV ISFSI was published in the **Federal Register** on February 23, 2016 (81 FR 9002).

Upon completing its review, the staff determined that the amendment request complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), as well as the NRC's applicable regulations. As required by the Act and such regulations, the staff made the appropriate findings which are contained in the SER (ADAMS Accession No. ML15258A235) and the EA. Based on these findings, the NRC approved DOE's amendment request and accordingly issued Amendment No. 10 to License No. SNM–2504. Amendment No. 10 was effective as of its date of issuance on March 17, 2016.

Dated at Rockville, Maryland, this 17th day of March, 2016.

For the Nuclear Regulatory Commission.

Steve Ruffin,

Acting Chief, Licensing Branch, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2016–06946 Filed 3–25–16; 8:45 am]

BILLING CODE 7590–01–P

PRESIDIO TRUST

Notice of Public Meeting

AGENCY: The Presidio Trust.

ACTION: Notice of public meeting.

SUMMARY: In accordance with § 103(c)(6) of the Presidio Trust Act, 16 U.S.C. 460bb appendix, and in accordance with the Presidio Trust's bylaws, notice is hereby given that a public meeting of the Presidio Trust Board of Directors will be held commencing 6:30 p.m. on Thursday, April 21, 2016, at the Observation Post, 211 Lincoln Boulevard, Presidio of San Francisco, California. The Presidio Trust was created by Congress in 1996 to manage approximately eighty percent of the former U.S. Army base known as the Presidio, in San Francisco, California.

The purposes of this meeting are to take action on the minutes of a previous Board meeting; to provide the Chairperson's report; to provide the Interim Leadership Team's report; to provide partners' reports; to provide committee reports; to take action on the revised fiscal year 2016 budget forecast and revised five-year construction plan; and to receive public comment in accordance with the Trust's Public Outreach Policy.

Individuals requiring special accommodation at this meeting, such as needing a sign language interpreter, should contact Mollie Matull at 415.561.5300 prior to April 14, 2016.

DATES: The meeting will begin at 6:30 p.m. on Thursday, April 21, 2016.

ADDRESSES: The meeting will be held at the Observation Post, 211 Lincoln Boulevard, Presidio of San Francisco.

FOR FURTHER INFORMATION CONTACT: Andrea Andersen, Acting General Counsel, the Presidio Trust, 103 Montgomery Street, P.O. Box 29052, San Francisco, California 94129–0052, Telephone: 415.561.5300.

Dated: March 22, 2016.

Andrea M. Andersen,

Acting General Counsel.

[FR Doc. 2016–06905 Filed 3–25–16; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77419; File No. SR–NASDAQ–2016–041]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Listing and Trading of the Shares of the Eaton Vance Global Income Builder NextShares of the Eaton Vance ETMF Trust

March 22, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 18, 2016, The Nasdaq Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in in Items I and II below, which Items have been prepared by Nasdaq. 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

Nasdaq proposes a proposed rule change with respect to the Eaton Vance Global Dividend Income NextShares (the ''Fund''), a series of Eaton Vance ETMF Trust (the ''Trust'').

The proposed rule change is being filed to reflect a proposed revision to the Fund's name and to modify its investment objective and proposed investments (which are set forth in an order previously granted by the Commission).[3]

Except for the changes discussed below, all other facts presented and representations made in the Prior Release remain unchanged and in full effect. All capitalized terms referenced but not defined herein have the same meaning as in the Prior Release.

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at Nasdaq's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74797 (Apr. 23, 2015), 80 FR 23831 (Apr. 29, 2015) (SR–NASDAQ–2015–036) (the ''Prior Notice''); *see also* Securities Exchange Act Release No. 75499 (Jul. 21, 2015), 80 FR 44406 (Jul. 27, 2015) (SR–NASDAQ–2015–036) (the ''Prior Order,'' and, together with the Prior Notice, the ''Prior Release'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The shares of the Fund will be offered by the Trust. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission.[4] The Fund is a series of the Trust.

The Commission previously approved the listing and trading on the Exchange of the shares of the Fund under Nasdaq Rule 5745, which governs the listing and trading of NextShares on the Exchange.[5] The shares of the Fund have not commenced trading on the Exchange.

In this proposed rule change, the Exchange proposes to change its name and modify its investment objective and proposed investments.[6] As stated in the Prior Release, the Fund is named the Eaton Vance Global Dividend Income NextShares and its investment objective of the Fund is to provide current income and long-term growth of capital. As stated in the Prior Release, the Fund normally will invest primarily in common stocks and, in Eaton Vance Management's (the ''Adviser'') discretion, preferred stocks of U.S. and foreign companies that pay dividends.

As proposed, the Fund will be renamed the Eaton Vance Global Income Builder NextShares and the investment objective will be total return. Under normal market conditions, the Fund will invest primarily in common stocks, preferred stocks and other hybrid securities, and in income instruments including cash or cash equivalents.[7]

Beyond the changes described above, there are no changes to any other information included in the Prior Release; and all other facts presented and representations made in the Prior Release remain true and in effect. The Trust confirms that the Fund will continue to comply with all initial listing requirements under Nasdaq Rule 5745.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[8] in general, and Section 6(b)(5) of the Act[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change to change the Fund's name and modify the Fund's investment objective and proposed investments does not alter any of the arguments contained in the Prior Release in support of the original approval order that permitted the listing and trading of shares of the Fund. The Exchange believes that the mechanisms supporting efficient trading of NextShares are equally applicable across different asset classes and investment strategies.

As described in the Prior Release, the Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the NextShares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5745. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of NextShares on Nasdaq and to deter and detect

[4] *See* Registration Statement on Form N–1A for the Eaton Vance NextShares Trust dated Dec. 10, 2015 (File Nos. 333–197733 and 811–22982).

[5] The Commission approved Nasdaq Rule 5745 in Securities Exchange Act Release No. 73562 (Nov. 7, 2014), 79 FR 68309 (Nov. 14, 2014) (SR–NASDAQ–2014–020).

[6] The changes described herein will be effective contingent upon effectiveness of a post-effective amendment to the Registration Statement of the Trust, on behalf of the Fund. The changes described herein will not be implemented until such proposed rule change is declared operative.

[7] Hybrid securities generally possess characteristics common to both equity and debt securities. Preferred stocks, convertible securities, and certain debt obligations are types of hybrid securities. Income instruments include all types of fixed and floating-rate bonds and notes; corporate commercial paper; mortgage-backed and other asset-backed securities; inflation-indexed bonds issued by both governments and corporations; structured notes; loans; loan participations and assignments; delayed funding loans and revolving credit facilities; and bank certificates of deposit, fixed time deposits, and bank deposits.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

violations of Exchange rules and the applicable federal securities laws. The Adviser is affiliated with a broker-dealer and has implemented a ''fire wall'' between the investment adviser and the broker-dealer affiliate with respect to access to information concerning the composition and/or changes to the Fund's portfolio holdings. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement, to the extent necessary.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest. The Exchange will obtain a representation from the Trust that the NAV per Share will be calculated on each business day that the New York Stock Exchange is open for trading and that the NAV will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the NextShares, thereby promoting market transparency.

Prior to the commencement of market trading in NextShares, the Fund will be required to establish and maintain a public Web site through which its current prospectus may be downloaded. The Web site will display additional Fund information updated on a daily basis, including the prior business day's NAV, and the following trading information for such business day expressed as premiums/discounts to NAV: (a) Intraday high, low, average and closing prices of NextShares in Exchange trading; (b) the Closing Bid/Ask Midpoint; and (c) the Closing Bid/Ask Spread. The Web site will also contain charts showing the frequency distribution and range of values of trading prices, Closing Bid/Ask Midpoints and Closing Bid/Ask Spreads over time. The Composition File will be disseminated through the NSCC before the open of trading in NextShares on each business day and also will be made available to the public each day on a free Web site. The Exchange will obtain a representation from the Trust that the IIV will be calculated and disseminated on an intraday basis at intervals of not more than 15 minutes during trading on the Exchange and provided to Nasdaq for dissemination. A complete list of current portfolio positions for the Fund will be made available at least once each calendar quarter, with a reporting lag of not more than 60 days. The Fund may provide more frequent disclosures of portfolio positions at their discretion.

Transactions in NextShares will be reported to the Consolidated Tape at the time of execution in proxy price format and will be disseminated to member firms and market data services through Nasdaq's trading service and market data interfaces, as described in the Prior Release. Once the Fund's daily NAV has been calculated and the final price of its intraday NextShares trades has been determined, Nasdaq will deliver a confirmation with final pricing to the transacting parties. At the end of the day, Nasdaq will also post a newly created FTP file with the final transaction data for the trading and market data services.

The Exchange expects that information regarding NAV-based trading prices and volumes of NextShares traded will be continuously available on a real-time basis throughout each trading day on brokers' computer screens and other electronic services. Because NextShares will trade at prices based on the next-determined NAV, investors will be able to buy and sell individual NextShares at a known premium or discount to NAV that they can limit by transacting using limit orders at the time of order entry.

Trading in NextShares will be subject to Nasdaq Rules 5745(d)(2)(B) and (C), which provide for the suspension of trading or trading halts under certain circumstances, including if, in the view of the Exchange, trading in NextShares becomes inadvisable.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of the Fund, which seeks to provide investors with access to an actively managed investment strategy in a structure that offers the cost and tax efficiencies and shareholder protections of ETFs, while removing the requirement for daily portfolio holdings disclosure to ensure a tight relationship between market trading prices and NAV.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange believes that the introduction of the Fund will promote competition by making available to investors an actively managed investment strategy in a structure that offers the cost and tax efficiencies and shareholder protections of ETFs, while removing the requirement for daily portfolio holdings disclosure to ensure a tight relationship between market trading prices and NAV.

Moreover, the Exchange believes that the proposed method of trading in NextShares will provide investors with transparency of trading costs, and the ability to control trading costs using limit orders, that is not available for conventionally traded ETFs.

These developments could significantly enhance competition to the benefit of the markets and investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange argues that waiver of this requirement is consistent with the protection of investors and the public interest because the proposed changes to the Fund are consistent with the Exchange arguments and Commission findings made in the Prior Release for the listing and trading of NextShares on the Exchange. In the context of the unique pricing and trading mechanisms of NextShares, the Commission believes that waiver of the 30-day operative delay with respect to these proposed changes to the Fund is

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

consistent with the protection of investors and the public interest and hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2016–041 on the subject line.

Paper comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2016–041. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of this filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2016–041 and should be submitted on or before April 18, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Brent J. Fields,

Secretary.

[FR Doc. 2016–06866 Filed 3–25–16; 8:45 am]

BILLING CODE 8011–01–P

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77418; File No. SR–BatsBYX–2016–01]

Self-Regulatory Organizations; Bats BYX Exchange, Inc. f/k/a BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Exchange Rule 11.27 to Implement the Regulation NMS Plan To Implement a Tick Size Pilot Program

March 22, 2016.

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 March 15, 2016, Bats BYX Exchange, Inc. f/k/a BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to adopt Exchange Rule 11.27 to implement the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan''). Specifically, the Exchange proposed Rule 11.27(b) to set forth the requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan. The proposed rule change is substantially similar to proposed rule changes recently approved or published by the Commission by the Bats BZX Exchange, Inc. f/k/a BATS Exchange, Inc. (''BZX'') to adopt BZX Rule 11.27(b) which also sets forth requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan.[5]

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 25, 2014, NYSE Group, Inc., on behalf of the Exchange, BZX, Chicago Stock Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, the Nasdaq Stock Market LLC, New York Stock Exchange LLC (''NYSE''), NYSE MKT LLC, and NYSE Arca, Inc. (collectively ''Participants''), filed with the Commission, pursuant to Section 11A of

[5] *See* Securities Exchange Act Release Nos. 77105 (February 10, 2016), 81 FR 8112 (February 17, 2016) (order approving SR–BATS–2015–102); and 77310 (March 7, 2016) (notice for comment and immediate effectiveness of SR–BATS–2016–27).

the Act[6] and Rule 608 of Regulation NMS thereunder,[7] the Plan to Implement a Tick Size Pilot Program (''Pilot'').[8] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014.[9] The Plan[10] was published for comment in the **Federal Register** on November 7, 2014, and approved by the Commission, as modified, on May 6, 2015.[11]

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small-capitalization companies. Each Participant is required to comply, and to enforce compliance by its member organizations, as applicable, with the provisions of the Plan. As is described more fully below, the proposed rules would require Members[12] to comply with the applicable data collection requirements of the Plan.[13]

The Pilot will include stocks of companies with $3 billion or less in market capitalization, an average daily trading volume of one million shares or less, and a volume weighted average price of at least $2.00 for every trading day. The Pilot will consist of a control group of approximately 1400 Pilot Securities and three test groups with 400 Pilot Securities in each (selected by a stratified random sampling process).[14] During the pilot, Pilot Securities in the control group will be quoted at the current tick size increment of $0.01 per share and will trade at the currently permitted increments. Pilot Securities in the first test group (''Test Group One'') will be quoted in $0.05 minimum increments but will continue to trade at any price increment that is currently permitted.[15] Pilot Securities in the second test group (''Test Group Two'') will be quoted in $0.05 minimum increments and will trade at $0.05 minimum increments subject to a midpoint exception, a retail investor order exception, and a negotiated trade exception.[16] Pilot Securities in the third test group (''Test Group Three'') will be subject to the same quoting and trading increments as Test Group Two and also will be subject to the ''Trade-at'' requirement to prevent price matching by a market participant that is not displaying at a Trading Center's ''Best Protected Bid'' or ''Best Protected Offer,'' unless an enumerated exception applies.[17] In addition to the exceptions provided under Test Group Two, an exception for Block Size orders and exceptions that mirror those under Rule 611 of Regulation NMS[18] will apply to the Trade-at requirement.

In approving the Plan, the Commission noted that the Trading Center data reporting requirements would facilitate an analysis of the effects of the Pilot on liquidity (*e.g.,* transaction costs by order size), execution quality (*e.g.,* speed of order executions), market maker activity, competition between trading venues (*e.g.,* routing frequency of market orders), transparency (*e.g.,* choice between displayed and hidden orders), and market dynamics (*e.g.,* rates and speed of order cancellations).[19] The Commission noted that Market Maker profitability data would assist the Commission in evaluating the effect, if any, of a widened tick increment on market marker profits and any corresponding changes in the liquidity of small-capitalization securities.[20]

Compliance With the Data Collection Requirements of the Plan

The Plan contains requirements for collecting and transmitting data to the Commission and to the public.[21] Specifically, Appendix B.I of the Plan (Market Quality Statistics) requires Trading Centers[22] to submit variety of market quality statistics, including information about an order's original size, whether the order was displayable or not, the cumulative number of orders, the cumulative number of shares of orders, and the cumulative number of shares executed within specific time increments, *e.g.,* from 30 seconds to less than 60 seconds after the time of order receipt. This information shall be categorized by security, order type, original order size, hidden status, and coverage under Rule 605.[23] Appendix B.I of the Plan also contains additional requirements for market orders and marketable limit orders, including the share-weighted average effective spread for executions of orders; the cumulative number of shares of orders executed with price improvement; and, for shares executed with price improvement, the share-weighted average amount per share that prices were improved.

Appendix B.II of the Plan (Market and Marketable Limit Order Data) requires Trading Centers to submit information relating to market orders and marketable limit orders, including the time of order receipt, order type, the order size, the National Best Bid and National Best Offer (''NBBO'') quoted price, the NBBO quoted depth, the average execution price-share-weighted average, and the average execution time-share-weighted average.

The Plan requires Appendix B.I and B.II data to be submitted by Participants that operate a Trading Center, and by members of the Participants that operate Trading Centers. The Plan provides that each Participant that is the Designated Examining Authority (''DEA'') for a member of the Participant that operates a Trading Center shall collect such data in a pipe delimited format, beginning six months prior to the Pilot Period and ending six months after the end of the Pilot Period. The Plan also requires the Participant, operating as DEA, to transmit this information to the SEC within 30 calendar days following month end.

The Exchange is therefore proposing Rule 11.27(b) to set forth the requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan. Proposed Rule 11.27(b) is substantially similar to proposed rule changes by BZX that were recently approved or published by the Commission to adopt BZX Rule 11.27(b) which also sets forth requirements for the collection and

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014.

[9] *See* Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014).

[10] Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

[11] *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) (''Approval Order'').

[12] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[13] The Exchange proposes Interpretations and Policies .11 to Rule 11.27 to provide that the Rule shall be in effect during a pilot period to coincide with the pilot period for the Plan (including any extensions to the pilot period for the Plan).

[14] *See* Section V of the Plan for identification of Pilot Securities, including criteria for selection and grouping.

[15] *See* Section VI(B) of the Plan.

[16] *See* Section VI(C) of the Plan.

[17] *See* Section VI(D) of the Plan.

[18] 17 CFR 242.611.

[19] *See* Approval Order, 80 FR at 27543.

[20] *Id.*

[21] The Exchange is also required by the Plan to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with applicable quoting and trading requirements specified in the Plan. The Exchange intends to separately propose rules that would require compliance by its Members with the applicable quoting and trading requirements specified in the Plan, and has reserved Paragraph (a) for such rules.

[22] The Plan incorporates the definition of a ''Trading Center'' from Rule 600(b)(78) of Regulation NMS. Regulation NMS defines a ''Trading Center'' as ''a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.'' *See* 17 CFR 242.600(b).

[23] 17 CFR 242.605.

transmission of data pursuant to Appendices B and C of the Plan.[24]

Proposed Rule 11.27(b)(1) requires that a Member that operates a Trading Center shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the data collection and transmission requirements of Items I and II to Appendix B of the Plan, and a Member that is a Market Maker shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the data collection and transmission requirements of Item IV of Appendix B of the Plan and Item I of Appendix C of the Plan.

Proposed Rule 11.27(b)(2) provides that the Exchange shall collect and transmit to the SEC the data described in Items I and II of Appendix B of the Plan relating to trading activity in Pre-Pilot Securities and Pilot Securities on a Trading Center operated by the Exchange. The Exchange shall transmit such data to the SEC in a pipe delimited format, on a disaggregated basis by Trading Center, within 30 calendar days following month end for: (i) Each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period. The Exchange also shall make such data publicly available on the Exchange Web site on a monthly basis at no charge and will not identify the Member that generated the data.

Appendix B.IV (Daily Market Maker Participation Statistics) requires a Participant to collect data related to Market Maker participation from each Market Maker [25] engaging in trading activity on a Trading Center operated by the Participant. The Exchange is therefore proposing Rule 11.27(b)(3) to gather data about a Market Maker's participation in Pilot Securities and Pre-Pilot Data Collection Securities. Proposed Rule 11.27(b)(3)(A) provides that a Member that is a Market Maker shall collect and transmit to their DEA data relating to Item IV of Appendix B of the Plan with respect to activity conducted on any Trading Center in Pilot Securities and Pre-Pilot Data Collection Securities in furtherance of its status as a registered Market Maker, including a Trading Center that executes trades otherwise than on a national securities exchange, for transactions that have settled or reached settlement date. The proposed rule requires Market Makers to transmit such data in a format required by their DEA, by 12:00 p.m. EST on T+4 for: (i) Transactions in each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) for transactions in each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

The Exchange understands that some Members may utilize a DEA that is not a Participant to the Plan and that their DEA would not be subject to the Plan's data collection requirements. In such case, a DEA that is not a Participant of the Plan would not be required to collect the required data and may not establish procedures for which Members it acts a DEA for to report the data required under subparagraphs (b)(3)(A) of Rule 11.27 and in accordance with Item IV of Appendix B of the Plan. Therefore, the Exchange proposes to adopt subparagraph (b)(3)(B) to Rule 11.27 to require a Member that is a Market Maker whose DEA is not a Participant to the Plan to transmit the data collected pursuant to paragraph (3)(A) of Rule 11.27(b) to FINRA, which is a Participant to the Plan and is to collect data relating to Item IV of Appendix B of the Plan on behalf of the Participants. For Market Makers for which it is the DEA, FINRA issued a Market Maker Transaction Data Technical Specification to collect data on Pre-Pilot Data Collection Securities and Pilot Securities from Trading Centers to comply with the Plan's data collection requirements.[26]

Proposed Rule 11.27(b)(3)(C) provides that the Exchange shall transmit the data collected by the DEA or FINRA pursuant to Rule 11.27(b)(3)(A) and (B) above relating to Market Maker activity on a Trading Center operated by the Exchange to the SEC in a pipe delimited format within 30 calendar days following month end. The Exchange shall also make such data publicly available on the Exchange Web site on a monthly basis at no charge and shall not identify the Trading Center that generated the data.

Appendix C.I (Market Maker Profitability) requires a Participant to collect data related to Market Maker profitability from each Market Maker for which it is the DEA. Specifically, the Participant is required to collect the total number of shares of orders executed by the Market Maker; the raw Market Maker realized trading profits, and the raw Market Maker unrealized trading profits. Data shall be collected for dates starting six months prior to the Pilot Period through six months after the end of the Pilot Period. This data shall be collected on a monthly basis, to be provided in a pipe delimited format to the Participant, as DEA, within 30 calendar days following month end. Appendix C.II (Aggregated Market Maker Profitability) requires the Participant, as DEA, to aggregate the Appendix C.I data, and to categorize this data by security as well as by the control group and each Test Group. That aggregated data shall contain information relating to total raw Market Maker realized trading profits, volume-weighted average of raw Market Maker realized trading profits, the total raw Market Maker unrealized trading profits, and the volume-weighted average of Market Maker unrealized trading profits.

The Exchange is therefore proposing Rule 11.27(b)(4) to set forth the requirements for the collection and transmission of data pursuant to Appendix C.I of the Plan. Proposed Rule 11.27(b)(4)(A) requires that a Member that is a Market Maker shall collect and transmit to their DEA the data described in Item I of Appendix C of the Plan with respect to executions in Pilot Securities that have settled or reached settlement date that were executed on any Trading Center. The proposed rule also requires Members to provide such data in a format required by their DEA by 12 p.m. EST on T+4 for executions during and outside of Regular Trading Hours in each: (i) Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

For the same reasons set forth above for subparagraph (b)(3)(B) to Rule 11.27, the Exchange proposes to adopt subparagraph (b)(4)(B) to Rule 11.27 to require a Member that is a Market Maker whose DEA is not a Participant to the Plan to transmit the data collected pursuant to paragraph (4)(A) of Rule 11.27(b) to FINRA. As stated above, FINRA is a Participant to the Plan and is to collect data relating to Item I of Appendix C of the Plan on behalf of the Participants. For Market Makers for which it is the DEA, FINRA issued a Market Maker Transaction Data

[24] *See supra* note 5.

[25] The Plan defines a Market Maker as ''a dealer registered with any self-regulatory organization, in accordance with the rules thereof, as (i) a market maker or (ii) a liquidity provider with an obligation to maintain continuous, two-sided trading interest.''

[26] FINRA members for which FINRA is their DEA should refer to the Market Maker Transaction Data Technical Specification on the FINRA Web site at *http://www.finra.org/sites/default/files/market-maker-transaction-data-tech-specs.pdf.*

Technical Specification to collect data on Pre-Pilot Data Collection Securities and Pilot Securities from Trading Centers to comply with the Plan's data collection requirements.[27]

The Exchange is also adopting a rule setting forth the manner in which Market Maker participation will be calculated. Item III of Appendix B of the Plan requires each Participant that is a national securities exchange to collect daily Market Maker registration statistics categorized by security, including the following information: (i) Ticker symbol; (ii) the Participant exchange; (iii) number of registered market makers; and (iv) the number of other registered liquidity providers. Therefore, the Exchange proposes to adopt Rule 11.27(b)(5) providing that the Exchange shall collect and transmit to the SEC the data described in Item III of Appendix B of the Plan relating to daily Market Maker registration statistics in a pipe delimited format within 30 calendar days following month end for: (i) Transactions in each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) transactions in each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

The Exchange is also proposing, through Interpretations and Policies, to clarify other aspects of the data collection requirements.[28] Proposed Interpretations and Policies .02 relates to the use of the retail investor order flag for purposes of Appendix B.II(n) reporting. The Plan currently states that market and marketable limit orders shall include a ''yes/no'' field relating to the Retail Investor Order flag. The Exchange is proposing Interpretations and Policies .02 to clarify that, for purposes of the reporting requirement in Appendix B.II(n), a Trading Center shall report ''y'' to their DEA where it is relying upon the Retail Investor Order exception to Test Groups Two and Three, and ''n'' for all other instances.[29] The Exchange believes that requiring the identification of a Retail Investor Orders only where the exception may apply (*i.e.,* Pilot Securities in Test Groups Two and Three) is consistent with Appendix B.II(n).

Interpretations and Policies .03 requires that Members populate a field to identify to their DEA whether an order is affected by the bands in place pursuant to the National Market System Plan to Address Extraordinary Market Volatility.[30] Pursuant to the Limit-Up Limit-Down Plan, between 9:30 a.m. and 4:00 p.m., the Securities Information Processor (''SIP'') calculates a lower price band and an upper price band for each NMS stock. These price bands represent a specified percentage above or below the stock's reference price, which generally is calculated based on reported transactions in that stock over the preceding five minutes. When one side of the market for an individual security is outside the applicable price band, the SIP identifies that quotation as non-executable. When the other side of the market reaches the applicable price band (*e.g.,* the offer reaches the lower price band), the security enters a Limit State. The stock would exit a Limit State if, within 15 seconds of entering the Limit State, all Limit State Quotations were executed or canceled in their entirety. If the security does not exit a Limit State within 15 seconds, then the primary listing exchange declares a five-minute trading pause, which would be applicable to all markets trading the security.

The Exchange and the other Participants have determined that it is appropriate to create a new flag for reporting orders that are affected by the Limit-Up Limit-Down bands. Accordingly, a Trading Center shall report a value of ''Y'' to their DEA when the ability of an order to execute has been affected by the Limit-Up Limit-Down bands in effect at the time of order receipt. A Trading Center shall report a value of ''N'' to their DEA when the ability of an order to execute has not been affected by the Limit-Up Limit-Down bands in effect at the time of order receipt.

Interpretations and Policies .03 also requires, for securities that may trade in a foreign market, that the Participant indicate whether the order was handled domestically, or routed to a foreign venue. Accordingly, the Participant will indicate, for purposes of Appendix B.I, whether the order was: (1) Fully executed domestically, or (2) fully or partially executed on a foreign market. For purposes of Appendix B.II, the Participant will classify all orders in securities that may trade in a foreign market Pilot and Pre-Pilot Securities as: (1) Directed to a domestic venue for execution; (2) may only be directed to a foreign venue for execution; or (3) was fully or partially directed to a foreign venue at the discretion of the member. The Exchange believes that this proposed flag will better identify orders in securities that may trade in a foreign market, as such orders that were routed to foreign venues would not be subject to the Plan's quoting and trading requirements, and could otherwise compromise the integrity of the data.

Interpretations and Policies .04 relates to the time ranges specified in Appendix B.I.a(14), B.I.a(15), B.I.a(21) and B.I.a(22).[31] The Exchange and the other Participants have determined that it is appropriate to change the reporting times in these provisions to require more granular reporting for these categories. Accordingly, the Exchange proposes to add Appendix B.I.a(14A), which will require Trading Centers to report the cumulative number of shares of orders executed from 100 microseconds to less than 1 millisecond after the time of order receipt. Appendix B.I.a(15) will be changed to require the cumulative number of shares of orders executed from 1 millisecond to less than 100 milliseconds after the time of order receipt. The Exchange also proposes to add Appendix B.I.a(21A), which will require Trading Centers to report the cumulative number of shares of orders canceled from 100 microseconds to less than 1 millisecond after the time of order receipt. Appendix B.I.a(22) will be changed to require the cumulative number of shares of orders canceled from 1 millisecond to less than 100 milliseconds after the time of order receipt. The Exchange believes that these new reporting requirements will

[27] *Id.*

[28] The Exchange is also proposing Interpretations and Policies .01 to Rule 11.27 to clarify that certain enumerated terms used throughout Rule 11.27 shall have the same meaning as set forth in the Plan.

[29] FINRA, on behalf of the Plan Participants submitted a letter to Commission requesting exemption from certain provisions of the Plan related to data collection. *See* letter from Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA dated December 9, 2015 to Robert W. Errett, Deputy Secretary, Commission (''Exemption Request''). The Commission, pursuant to its authority under Rule 608(e) of Regulation NMS, granted BZX a limited exemption from the requirement to comply with certain provisions of the Plan as specified in the letter and noted herein. *See* letter from David Shillman, Associate Director, Division of Trading and Markets, Commission to Eric Swanson, General Counsel, BZX, dated February 10, 2016 (''Exemption Letter'').

[30] *See* National Market System Plan to Address Extraordinary Market Volatility, Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (''Limit-Up Limit-Down Plan'').

[31] Specifically, Appendix B.I.a(14) requires reporting of the cumulative number of shares of orders executed from 0 to less than 100 microseconds after the time of order receipt; Appendix B.I.a(15) requires reporting of the cumulative number of shares of orders executed from 100 microseconds to less than 100 milliseconds after the time of order receipt; Appendix B.I.a(21) requires reporting of the cumulative number of shares of orders cancelled from 0 to less than 100 microseconds after the time of order receipt; and Appendix B.I.a(22) requires reporting of the cumulative number of shares of orders cancelled from 100 microseconds to less than 100 milliseconds after the time of order receipt.

contribute to a meaningful analysis of the Pilot by producing more granular data on these points.[32]

Interpretations and Policies .05 relates to the relevant measurement for purposes of Appendix B.I.a(31)–(33) reporting. Currently, the Plan states that this data shall be reported as of the time of order execution. The Exchange and the other Participants believe that this information should more properly be captured at the time of order receipt as evaluating share-weighted average prices at the time of order receipt is more consistent with the goal of observing the effect of the Pilot on the liquidity of Pilot Securities. The Exchange is therefore proposing to make this change through Interpretations and Policies .05.[33] This change will make these provisions consistent with the remainder of the statistics in Appendix B.I.a, which are all based on order receipt.

Interpretations and Policies .06 addresses the status of not-held and auction orders for purposes of Appendix B.I reporting. Currently, Appendix B.I sets forth eight categories of orders, including market orders, marketable limit orders, and inside-the-quote resting limit orders, for which daily market quality statistics must be reported. Currently, Appendix B.I does not provide a category for not held orders, clean cross orders, auction orders, or orders received when the NBBO is crossed. The Exchange and the other Participants have determined that it is appropriate to include separate categories for these orders types for purposes of Appendix B reporting. The Exchange is therefore proposing Interpretations and Policies .06 to provide that not held orders shall be included as an order type for purposes of Appendix B reporting, and shall be assigned the number (18). Clean cross orders shall be included as an order type for purposes of Appendix B reporting, and shall be assigned the number (19); auction orders shall be included an as order type for purposes of Appendix B reporting, and shall be assigned the number (20); and orders that cannot otherwise be classified, including, for example, orders received when the NBBO is crossed shall be included as an order type for purposes of Appendix B reporting, and shall be assigned the number (21). All of these orders already are included in the scope of Appendix B; however, without this proposed change, these order types would be categorized with other orders, such as regular held orders, that should be able to be fully executed upon receipt, which would compromise the value of this data.

The Exchange is proposing Interpretations and Policies .07 to clarify the scope of the Plan as it relates to Members that only execute orders limited purposes. Specifically, The Exchange and the other Participants believe that a Member that only executes orders otherwise than on a national securities exchange for the purpose of: (1) Correcting a bona fide error related to the execution of a customer order; (2) purchasing a security from a customer at a nominal price solely for purposes of liquidating the customer's position; or (3) completing the fractional share portion of an order [34] shall not be deemed a Trading Center for purposes of Appendix B to the Plan. The Exchange is therefore proposing Supplementary Material .09 to make this clarification.

The Exchange is proposing Interpretations and Policies .08 to clarify that, for purposes of the Plan, Trading Centers must begin the data collection required pursuant to Appendix B.I.a(1) through B.II.(y) of the Plan and Item I of Appendix C of the Plan on April 4, 2016. While the Exchange or the Member's DEA will provide the information required by Appendix B and C of the Plan during the Pilot Period, the requirement that the Exchange or their DEA provide information to the SEC within 30 days following month end and make such data publicly available on its Web site pursuant to Appendix B and C shall commence six months prior to the beginning of the Pilot Period.[35]

The Exchange is proposing Interpretations and Policies .09 to address the requirement in Appendix C.I(b) of the Plan that the calculation of raw Market Maker realized trading profits utilize a last in, first out (''LIFO'')-like method to determine which share prices shall be used in that calculation. The Exchange and the other Participants believe that it is more appropriate to utilize a methodology that yields LIFO-like results, rather than utilizing a LIFO-like method, and the Exchange is therefore proposing Interpretations and Policies .09 to make this change.[36] The Exchange is proposing that, for purposes of Item I of Appendix C, the Participants shall calculate daily Market Maker realized profitability statistics for each trading day on a daily LIFO basis using reported trade price and shall include only trades executed on the subject trading day. The daily LIFO calculation shall not include any positions carried over from previous trading days. For purposes of Item I.c of Appendix C, the Participants shall calculate daily Market Maker unrealized profitability statistics for each trading day on an average price basis. Specifically, the Participants must calculate the volume weighted average price of the excess (deficit) of buy volume over sell volume for the current trading day using reported trade price. The gain (loss) of the excess (deficit) of buy volume over sell volume shall be determined by using the volume weighted average price compared to the closing price of the security as reported by the primary listing exchange. In reporting unrealized trading profits, the Participant shall also report the number of excess (deficit) shares held by the Market Maker, the volume weighted average price of that excess (deficit) and the closing price of the security as reported by the primary listing exchange used in reporting unrealized profit.[37]

Finally, the Exchange is proposing Interpretations and Policies .10 to address the securities that will be used for data collection purposes prior to the commencement of the Pilot. The Exchange and the other Participants have determined that it is appropriate to

[32] The Commission granted BZX an exemption from Rule 608(c) related to this provision. See Exemption Letter, *supra* note 29.

[33] The Commission granted BZX an exemption from Rule 608(c) related to this provision. See Exemption Letter, *supra* note 29.

[34] The Exchange notes that where a Member purchases a fractional share from a customer, the Trading Center that executes the remaining whole shares of that customer order would subject to subject to Appendix B of the Plan.

[35] In its order approving the Plan, the SEC noted that the Pilot shall be implemented within one year of the date of publication of its order, *e.g.,* by May 6, 2016. *See* Approval Order, 80 FR at 27545. However, on November 6, 2015, the SEC extended the implementation date approximately five months to October 3, 2016. *See* Securities Exchange Act Release No. 76382 (November 6, 2015), 80 FR 70284 (File No. 4–657) (Order Granting Exemption From Compliance With the National Market System Plan To Implement a Tick Size Pilot Program). *See also* Letter from Brendon J. Weiss, Co-Head, Government Affairs, Intercontinental Exchange/NYSE, to Brent J. Fields, Secretary, Commission, dated November 4, 2015 (requesting the data collection period be extended until six months after the requisite SRO rules are approved, and the implementation data of the Tick Size Pilot until six months thereafter).

[36] Appendix C.I currently requires Market Maker profitability statistics to include (1) the total number of shares of orders executed by the Market Maker; (2) raw Market Maker realized trading profits, which is the difference between the market value of Market Maker shares and the market value of Market Maker purchases, using a LIFO-like method; and (3) raw Market Maker unrealized trading profits, which is the difference between the purchase or sale price of the end-of-day inventory position of the Market Maker and the Closing Price. In the case of a short position, the Closing Price from the sale will be subtracted; in the case of a long position, the purchase price will be subtracted from the Closing Price.

[37] The Commission granted BZX an exemption from Rule 608(c) related to this provision. See Exemption Letter, *supra* note 29.

collect data for a group of securities that is larger, and using different quantitative thresholds, than the group of securities that will be Pilot Securities. The Exchange is therefore proposing Interpretations and Policies .10 to define ''Pre-Pilot Data Collection Securities'' as the securities designated by the Participants for purposes of the data collection requirements described in Items I, II and IV of Appendix B and Item I of Appendix C of the Plan for the period beginning six months prior to the Pilot Period and ending on the trading day immediately preceding the Pilot Period. The Participants shall compile the list of Pre-Pilot Data Collection Securities by selecting all NMS stocks with a market capitalization of $5 billion or less, a Consolidated Average Daily Volume (CADV) of 2 million shares or less and a closing price of $1 per share or more. The market capitalization and the closing price thresholds shall be applied to the last day of the Pre-Pilot measurement period, and the CADV threshold shall be applied to the duration of the Pre-Pilot measurement period. The Pre-Pilot measurement period shall be the three calendar months ending on the day when the Pre-Pilot Data Collection Securities are selected. The Pre-Pilot Data Collection Securities shall be selected thirty days prior to the commencement of the six-month Pre-Pilot Period. On the trading day that is the first trading day of the Pilot Period through six months after the end of the Pilot Period, the data collection requirements will become applicable to the Pilot Securities only. A Pilot Security will only be eligible to be included in a Test Group if it was a Pre-Pilot Security.

Implementation Date

The proposed rule change will be effective on April 4, 2016.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [38] in general, and furthers the objectives of Section 6(b)(5) of the Act [39] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that this proposal is consistent with the Act because it implements and clarifies the provisions of the Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant of the Plan. In approving the Plan, the SEC noted that the Pilot was an appropriate, data-driven test that was designed to evaluate the impact of a wider tick size on trading, liquidity, and the market quality of securities of smaller capitalization companies, and was therefore in furtherance of the purposes of the Act. The Exchange believes that this proposal is in furtherance of the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act because the proposal implements and clarifies the requirements of the Plan and applies specific obligations to Members in furtherance of compliance with the Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant of the Plan. The Exchange also notes that the data collection requirements for Members that operate Trading Centers will apply equally to all such Members, as will the data collection requirements for Market Makers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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 [40] and Rule 19b–4(f)(6) thereunder.[41]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [42] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [43] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to implement the proposed amendments by April 4, 2016, the date upon which the data collection requirements of the Plan become effective.[44] Therefore, the Commission hereby waives the operative delay and designates the proposal operative as of the date of this Notice.[45]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File

[38] 15 U.S.C. 78f(b).

[39] 15 U.S.C. 78f(b)(5).

[40] 15 U.S.C. 78s(b)(3)(A).

[41] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[42] 17 CFR 240.19b–4(f)(6).

[43] 17 CFR 240.19b–4(f)(6)(iii).

[44] *See* Securities Exchange Act Release No. 76382 (November 6, 2015), 80 FR 70284 (File No. 4–657) (Order Granting Exemption From Compliance With the National Market System Plan To Implement a Tick Size Pilot Program).

[45] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Number SR–BatsBYX–2016–01 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBYX–2016–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBYX–2016–01, and should be submitted on or before April 18, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Brent J. Fields,

Secretary.

[FR Doc. 2016–06865 Filed 3–25–16; 8:45 am]

BILLING CODE 8011–01–P

[46] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77417; File No. SR–BatsEDGA–2016–01]

Self-Regulatory Organizations; Bats EDGA Exchange, Inc. f/k/a EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Exchange Rule 11.27 To Implement the Regulation NMS Plan To Implement a Tick Size Pilot Program

March 22, 2016.

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 March 15, 2016, Bats EDGA Exchange, Inc. f/k/a EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to adopt Exchange Rule 11.27 to implement the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan''). Specifically, the Exchange proposed Rule 11.27(b) to set forth the requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan. The proposed rule change is substantially similar to proposed rule changes recently approved or published by the Commission by the Bats BZX Exchange, Inc. f/k/a BATS Exchange, Inc. (''BZX'') to adopt BZX Rule 11.27(b) which also sets forth requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan.[5]

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 25, 2014, NYSE Group, Inc., on behalf of the Exchange, BZX, Bats BYX Exchange, Inc., Chicago Stock Exchange, Inc., Bats EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, the Nasdaq Stock Market LLC, New York Stock Exchange LLC (''NYSE''), NYSE MKT LLC, and NYSE Arca, Inc. (collectively ''Participants''), filed with the Commission, pursuant to Section 11A of the Act[6] and Rule 608 of Regulation NMS thereunder,[7] the Plan to Implement a Tick Size Pilot Program (''Pilot'').[8] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014.[9] The Plan[10] was published for comment in the **Federal Register** on November 7, 2014, and approved by the Commission, as modified, on May 6, 2015.[11]

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small-capitalization

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* Securities Exchange Act Release Nos. 77105 (February 10, 2016), 81 FR 8112 (February 17, 2016) (order approving SR–BATS–2015–102); and 77310 (March 7, 2016) (notice for comment and immediate effectiveness of SR–BATS–2016–27).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014.

[9] *See* Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014).

[10] Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

[11] *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) (''Approval Order'').

companies. Each Participant is required to comply, and to enforce compliance by its member organizations, as applicable, with the provisions of the Plan. As is described more fully below, the proposed rules would require Members [12] to comply with the applicable data collection requirements of the Plan.[13]

The Pilot will include stocks of companies with $3 billion or less in market capitalization, an average daily trading volume of one million shares or less, and a volume weighted average price of at least $2.00 for every trading day. The Pilot will consist of a control group of approximately 1400 Pilot Securities and three test groups with 400 Pilot Securities in each (selected by a stratified random sampling process).[14] During the pilot, Pilot Securities in the control group will be quoted at the current tick size increment of $0.01 per share and will trade at the currently permitted increments. Pilot Securities in the first test group (''Test Group One'') will be quoted in $0.05 minimum increments but will continue to trade at any price increment that is currently permitted.[15] Pilot Securities in the second test group (''Test Group Two'') will be quoted in $0.05 minimum increments and will trade at $0.05 minimum increments subject to a midpoint exception, a retail investor order exception, and a negotiated trade exception.[16] Pilot Securities in the third test group (''Test Group Three'') will be subject to the same quoting and trading increments as Test Group Two and also will be subject to the ''Trade-at'' requirement to prevent price matching by a market participant that is not displaying at a Trading Center's ''Best Protected Bid'' or ''Best Protected Offer,'' unless an enumerated exception applies.[17] In addition to the exceptions provided under Test Group Two, an exception for Block Size orders and exceptions that mirror those under Rule 611 of Regulation NMS [18] will apply to the Trade-at requirement.

In approving the Plan, the Commission noted that the Trading Center data reporting requirements would facilitate an analysis of the effects of the Pilot on liquidity (*e.g.,* transaction costs by order size), execution quality (*e.g.,* speed of order executions), market maker activity, competition between trading venues (*e.g.,* routing frequency of market orders), transparency (*e.g.,* choice between displayed and hidden orders), and market dynamics (*e.g.,* rates and speed of order cancellations).[19] The Commission noted that Market Maker profitability data would assist the Commission in evaluating the effect, if any, of a widened tick increment on market marker profits and any corresponding changes in the liquidity of small-capitalization securities.[20]

Compliance With the Data Collection Requirements of the Plan

The Plan contains requirements for collecting and transmitting data to the Commission and to the public.[21] Specifically, Appendix B.I of the Plan (Market Quality Statistics) requires Trading Centers [22] to submit variety of market quality statistics, including information about an order's original size, whether the order was displayable or not, the cumulative number of orders, the cumulative number of shares of orders, and the cumulative number of shares executed within specific time increments, *e.g.,* from 30 seconds to less than 60 seconds after the time of order receipt. This information shall be categorized by security, order type, original order size, hidden status, and coverage under Rule 605.[23] Appendix B.I of the Plan also contains additional requirements for market orders and marketable limit orders, including the share-weighted average effective spread for executions of orders; the cumulative number of shares of orders executed with price improvement; and, for shares executed with price improvement, the share-weighted average amount per share that prices were improved.

Appendix B.II of the Plan (Market and Marketable Limit Order Data) requires Trading Centers to submit information relating to market orders and marketable limit orders, including the time of order receipt, order type, the order size, the National Best Bid and National Best Offer (''NBBO'') quoted price, the NBBO quoted depth, the average execution price-share-weighted average, and the average execution time-share-weighted average.

The Plan requires Appendix B.I and B.II data to be submitted by Participants that operate a Trading Center, and by members of the Participants that operate Trading Centers. The Plan provides that each Participant that is the Designated Examining Authority (''DEA'') for a member of the Participant that operates a Trading Center shall collect such data in a pipe delimited format, beginning six months prior to the Pilot Period and ending six months after the end of the Pilot Period. The Plan also requires the Participant, operating as DEA, to transmit this information to the SEC within 30 calendar days following month end.

The Exchange is therefore proposing Rule 11.27(b) to set forth the requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan. Proposed Rule 11.27(b) is substantially similar to proposed rule changes by BZX that were recently approved or published by the Commission to adopt BZX Rule 11.27(b) which also sets forth requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan.[24]

Proposed Rule 11.27(b)(1) requires that a Member that operates a Trading Center shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the data collection and transmission requirements of Items I and II to Appendix B of the Plan, and a Member that is a Market Maker shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the data collection and transmission requirements of Item IV of Appendix B of the Plan and Item I of Appendix C of the Plan.

Proposed Rule 11.27(b)(2) provides that the Exchange shall collect and transmit to the SEC the data described in Items I and II of Appendix B of the Plan relating to trading activity in Pre-Pilot Securities and Pilot Securities on a Trading Center operated by the

[12] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[13] The Exchange proposes Interpretations and Policies .11 to Rule 11.27 to provide that the Rule shall be in effect during a pilot period to coincide with the pilot period for the Plan (including any extensions to the pilot period for the Plan).

[14] *See* Section V of the Plan for identification of Pilot Securities, including criteria for selection and grouping.

[15] *See* Section VI(B) of the Plan.

[16] *See* Section VI(C) of the Plan.

[17] *See* Section VI(D) of the Plan.

[18] 17 CFR 242.611.

[19] *See* Approval Order, 80 FR at 27543.

[20] *Id.*

[21] The Exchange is also required by the Plan to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with applicable quoting and trading requirements specified in the Plan. The Exchange intends to separately propose rules that would require compliance by its Members with the applicable quoting and trading requirements specified in the Plan, and has reserved Paragraph (a) for such rules.

[22] The Plan incorporates the definition of a ''Trading Center'' from Rule 600(b)(78) of Regulation NMS. Regulation NMS defines a ''Trading Center'' as ''a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.'' *See* 17 CFR 242.600(b).

[23] 17 CFR 242.605.

[24] *See supra* note 5.

Exchange. The Exchange shall transmit such data to the SEC in a pipe delimited format, on a disaggregated basis by Trading Center, within 30 calendar days following month end for: (i) Each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period. The Exchange also shall make such data publicly available on the Exchange Web site on a monthly basis at no charge and will not identify the Member that generated the data.

Appendix B.IV (Daily Market Maker Participation Statistics) requires a Participant to collect data related to Market Maker participation from each Market Maker [25] engaging in trading activity on a Trading Center operated by the Participant. The Exchange is therefore proposing Rule 11.27(b)(3) to gather data about a Market Maker's participation in Pilot Securities and Pre-Pilot Data Collection Securities. Proposed Rule 11.27(b)(3)(A) provides that a Member that is a Market Maker shall collect and transmit to their DEA data relating to Item IV of Appendix B of the Plan with respect to activity conducted on any Trading Center in Pilot Securities and Pre-Pilot Data Collection Securities in furtherance of its status as a registered Market Maker, including a Trading Center that executes trades otherwise than on a national securities exchange, for transactions that have settled or reached settlement date. The proposed rule requires Market Makers to transmit such data in a format required by their DEA, by 12:00 p.m. EST on T+4 for: (i) Transactions in each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) for transactions in each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

The Exchange understands that some Members may utilize a DEA that is not a Participant to the Plan and that their DEA would not be subject to the Plan's data collection requirements. In such case, a DEA that is not a Participant of the Plan would not be required to collect the required data and may not establish procedures for which Members it acts a DEA for to report the data required under subparagraphs (b)(3)(A) of Rule 11.27 and in accordance with Item IV of Appendix B of the Plan. Therefore, the Exchange proposes to adopt subparagraph (b)(3)(B) to Rule 11.27 to require a Member that is a Market Maker whose DEA is not a Participant to the Plan to transmit the data collected pursuant to paragraph (3)(A) of Rule 11.27(b) to FINRA, which is a Participant to the Plan and is to collect data relating to Item IV of Appendix B of the Plan on behalf of the Participants. For Market Makers for which it is the DEA, FINRA issued a Market Maker Transaction Data Technical Specification to collect data on Pre-Pilot Data Collection Securities and Pilot Securities from Trading Centers to comply with the Plan's data collection requirements.[26]

Proposed Rule 11.27(b)(3)(C) provides that the Exchange shall transmit the data collected by the DEA or FINRA pursuant to Rule 11.27(b)(3)(A) and (B) above relating to Market Maker activity on a Trading Center operated by the Exchange to the SEC in a pipe delimited format within 30 calendar days following month end. The Exchange shall also make such data publicly available on the Exchange Web site on a monthly basis at no charge and shall not identify the Trading Center that generated the data.

Appendix C.I (Market Maker Profitability) requires a Participant to collect data related to Market Maker profitability from each Market Maker for which it is the DEA. Specifically, the Participant is required to collect the total number of shares of orders executed by the Market Maker; the raw Market Maker realized trading profits, and the raw Market Maker unrealized trading profits. Data shall be collected for dates starting six months prior to the Pilot Period through six months after the end of the Pilot Period. This data shall be collected on a monthly basis, to be provided in a pipe delimited format to the Participant, as DEA, within 30 calendar days following month end. Appendix C.II (Aggregated Market Maker Profitability) requires the Participant, as DEA, to aggregate the Appendix C.I data, and to categorize this data by security as well as by the control group and each Test Group. That aggregated data shall contain information relating to total raw Market Maker realized trading profits, volume-weighted average of raw Market Maker realized trading profits, the total raw Market Maker unrealized trading profits, and the volume-weighted average of Market Maker unrealized trading profits.

The Exchange is therefore proposing Rule 11.27(b)(4) to set forth the requirements for the collection and transmission of data pursuant to Appendix C.I of the Plan. Proposed Rule 11.27(b)(4)(A) requires that a Member that is a Market Maker shall collect and transmit to their DEA the data described in Item I of Appendix C of the Plan with respect to executions in Pilot Securities that have settled or reached settlement date that were executed on any Trading Center. The proposed rule also requires Members to provide such data in a format required by their DEA by 12 p.m. EST on T+4 for executions during and outside of Regular Trading Hours in each: (i) Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

For the same reasons set forth above for subparagraph (b)(3)(B) to Rule 11.27, the Exchange proposes to adopt subparagraph (b)(4)(B) to Rule 11.27 to require a Member that is a Market Maker whose DEA is not a Participant to the Plan to transmit the data collected pursuant to paragraph (4)(A) of Rule 11.27(b) to FINRA. As stated above, FINRA is a Participant to the Plan and is to collect data relating to Item I of Appendix C of the Plan on behalf of the Participants. For Market Makers for which it is the DEA, FINRA issued a Market Maker Transaction Data Technical Specification to collect data on Pre-Pilot Data Collection Securities and Pilot Securities from Trading Centers to comply with the Plan's data collection requirements.[27]

The Exchange is also adopting a rule setting forth the manner in which Market Maker participation will be calculated. Item III of Appendix B of the Plan requires each Participant that is a national securities exchange to collect daily Market Maker registration statistics categorized by security, including the following information: (i) Ticker symbol; (ii) the Participant exchange; (iii) number of registered market makers; and (iv) the number of other registered liquidity providers. Therefore, the Exchange proposes to adopt Rule 11.27(b)(5) providing that the Exchange shall collect and transmit to the SEC the data described in Item III of Appendix B of the Plan relating to daily Market Maker registration

[25] The Plan defines a Market Maker as ''a dealer registered with any self-regulatory organization, in accordance with the rules thereof, as (i) a market maker or (ii) a liquidity provider with an obligation to maintain continuous, two-sided trading interest.''

[26] FINRA members for which FINRA is their DEA should refer to the Market Maker Transaction Data Technical Specification on the FINRA Web site at *http://www.finra.org/sites/default/files/market-maker-transaction-data-tech-specs.pdf.*

[27] *Id.*

statistics in a pipe delimited format within 30 calendar days following month end for: (i) Transactions in each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) transactions in each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

The Exchange is also proposing, through Interpretations and Policies, to clarify other aspects of the data collection requirements.[28] Proposed Interpretations and Policies .02 relates to the use of the retail investor order flag for purposes of Appendix B.II(n) reporting. The Plan currently states that market and marketable limit orders shall include a ''yes/no'' field relating to the Retail Investor Order flag. The Exchange is proposing Interpretations and Policies .02 to clarify that, for purposes of the reporting requirement in Appendix B.II(n), a Trading Center shall report ''y'' to their DEA where it is relying upon the Retail Investor Order exception to Test Groups Two and Three, and ''n'' for all other instances.[29] The Exchange believes that requiring the identification of a Retail Investor Orders only where the exception may apply (*i.e.,* Pilot Securities in Test Groups Two and Three) is consistent with Appendix B.II(n).

Interpretations and Policies .03 requires that Members populate a field to identify to their DEA whether an order is affected by the bands in place pursuant to the National Market System Plan to Address Extraordinary Market Volatility.[30] Pursuant to the Limit-Up Limit-Down Plan, between 9:30 a.m. and 4:00 p.m., the Securities Information Processor (''SIP'') calculates a lower price band and an upper price band for each NMS stock. These price bands represent a specified percentage above or below the stock's reference price, which generally is calculated based on reported transactions in that stock over the preceding five minutes. When one side of the market for an individual security is outside the applicable price band, the SIP identifies that quotation as non-executable. When the other side of the market reaches the applicable price band (*e.g.,* the offer reaches the lower price band), the security enters a Limit State. The stock would exit a Limit State if, within 15 seconds of entering the Limit State, all Limit State Quotations were executed or canceled in their entirety. If the security does not exit a Limit State within 15 seconds, then the primary listing exchange declares a five-minute trading pause, which would be applicable to all markets trading the security.

The Exchange and the other Participants have determined that it is appropriate to create a new flag for reporting orders that are affected by the Limit-Up Limit-Down bands. Accordingly, a Trading Center shall report a value of ''Y'' to their DEA when the ability of an order to execute has been affected by the Limit-Up Limit-Down bands in effect at the time of order receipt. A Trading Center shall report a value of ''N'' to their DEA when the ability of an order to execute has not been affected by the Limit-Up Limit-Down bands in effect at the time of order receipt.

Interpretations and Policies .03 also requires, for securities that may trade in a foreign market, that the Participant indicate whether the order was handled domestically, or routed to a foreign venue. Accordingly, the Participant will indicate, for purposes of Appendix B.I, whether the order was: (1) Fully executed domestically, or (2) fully or partially executed on a foreign market. For purposes of Appendix B.II, the Participant will classify all orders in securities that may trade in a foreign market Pilot and Pre-Pilot Securities as: (1) Directed to a domestic venue for execution; (2) may only be directed to a foreign venue for execution; or (3) was fully or partially directed to a foreign venue at the discretion of the member. The Exchange believes that this proposed flag will better identify orders in securities that may trade in a foreign market, as such orders that were routed to foreign venues would not be subject to the Plan's quoting and trading requirements, and could otherwise compromise the integrity of the data.

Interpretations and Policies .04 relates to the time ranges specified in Appendix B.I.a(14), B.I.a(15), B.I.a(21) and B.I.a(22).[31] The Exchange and the other Participants have determined that it is appropriate to change the reporting times in these provisions to require more granular reporting for these categories. Accordingly, the Exchange proposes to add Appendix B.I.a(14A), which will require Trading Centers to report the cumulative number of shares of orders executed from 100 microseconds to less than 1 millisecond after the time of order receipt. Appendix B.I.a(15) will be changed to require the cumulative number of shares of orders executed from 1 millisecond to less than 100 milliseconds after the time of order receipt. The Exchange also proposes to add Appendix B.I.a(21A), which will require Trading Centers to report the cumulative number of shares of orders canceled from 100 microseconds to less than 1 millisecond after the time of order receipt. Appendix B.I.a(22) will be changed to require the cumulative number of shares of orders canceled from 1 millisecond to less than 100 milliseconds after the time of order receipt. The Exchange believes that these new reporting requirements will contribute to a meaningful analysis of the Pilot by producing more granular data on these points.[32]

Interpretations and Policies .05 relates to the relevant measurement for purposes of Appendix B.I.a(31)–(33) reporting. Currently, the Plan states that this data shall be reported as of the time of order execution. The Exchange and the other Participants believe that this information should more properly be captured at the time of order receipt as evaluating share-weighted average prices at the time of order receipt is more consistent with the goal of observing the effect of the Pilot on the liquidity of Pilot Securities. The Exchange is therefore proposing to make this change through Interpretations and Policies .05.[33] This change will make these provisions consistent with the

[28] The Exchange is also proposing Interpretations and Policies .01 to Rule 11.27 to clarify that certain enumerated terms used throughout Rule 11.27 shall have the same meaning as set forth in the Plan.

[29] FINRA, on behalf of the Plan Participants submitted a letter to Commission requesting exemption from certain provisions of the Plan related to data collection. *See* letter from Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA dated December 9, 2015 to Robert W. Errett, Deputy Secretary, Commission (''Exemption Request''). The Commission, pursuant to its authority under Rule 608(e) of Regulation NMS, granted BZX a limited exemption from the requirement to comply with certain provisions of the Plan as specified in the letter and noted herein. *See* letter from David Shillman, Associate Director, Division of Trading and Markets, Commission to Eric Swanson, General Counsel, BZX, dated February 10, 2016 (''Exemption Letter'').

[30] *See* National Market System Plan to Address Extraordinary Market Volatility, Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (''Limit-Up Limit-Down Plan'').

[31] Specifically, Appendix B.I.a(14) requires reporting of the cumulative number of shares of orders executed from 0 to less than 100 microseconds after the time of order receipt; Appendix B.I.a(15) requires reporting of the cumulative number of shares of orders executed from 100 microseconds to less than 100 milliseconds after the time of order receipt; Appendix B.I.a(21) requires reporting of the cumulative number of shares of orders cancelled from 0 to less than 100 microseconds after the time of order receipt; and Appendix B.I.a(22) requires reporting of the cumulative number of shares of orders cancelled from 100 microseconds to less than 100 milliseconds after the time of order receipt.

[32] The Commission granted BZX an exemption from Rule 608(c) related to this provision. *See* Exemption Letter, *supra* note 29.

[33] The Commission granted BZX an exemption from Rule 608(c) related to this provision. *See* Exemption Letter, *supra* note 29.

remainder of the statistics in Appendix B.I.a, which are all based on order receipt.

Interpretations and Policies .06 addresses the status of not-held and auction orders for purposes of Appendix B.I reporting. Currently, Appendix B.I sets forth eight categories of orders, including market orders, marketable limit orders, and inside-the-quote resting limit orders, for which daily market quality statistics must be reported. Currently, Appendix B.I does not provide a category for not held orders, clean cross orders, auction orders, or orders received when the NBBO is crossed. The Exchange and the other Participants have determined that it is appropriate to include separate categories for these orders types for purposes of Appendix B reporting. The Exchange is therefore proposing Interpretations and Policies .06 to provide that not held orders shall be included as an order type for purposes of Appendix B reporting, and shall be assigned the number (18). Clean cross orders shall be included as an order type for purposes of Appendix B reporting, and shall be assigned the number (19); auction orders shall be included an as order type for purposes of Appendix B reporting, and shall be assigned the number (20); and orders that cannot otherwise be classified, including, for example, orders received when the NBBO is crossed shall be included as an order type for purposes of Appendix B reporting, and shall be assigned the number (21). All of these orders already are included in the scope of Appendix B; however, without this proposed change, these order types would be categorized with other orders, such as regular held orders, that should be able to be fully executed upon receipt, which would compromise the value of this data.

The Exchange is proposing Interpretations and Policies .07 to clarify the scope of the Plan as it relates to Members that only execute orders limited purposes. Specifically, The Exchange and the other Participants believe that a Member that only executes orders otherwise than on a national securities exchange for the purpose of: (1) Correcting a bona fide error related to the execution of a customer order; (2) purchasing a security from a customer at a nominal price solely for purposes of liquidating the customer's position; or (3) completing the fractional share portion of an order [34] shall not be deemed a Trading Center for purposes of Appendix B to the Plan. The Exchange is therefore proposing Supplementary Material .09 to make this clarification.

The Exchange is proposing Interpretations and Policies .08 to clarify that, for purposes of the Plan, Trading Centers must begin the data collection required pursuant to Appendix B.I.a(1) through B.II.(y) of the Plan and Item I of Appendix C of the Plan on April 4, 2016. While the Exchange or the Member's DEA will provide the information required by Appendix B and C of the Plan during the Pilot Period, the requirement that the Exchange or their DEA provide information to the SEC within 30 days following month end and make such data publicly available on its Web site pursuant to Appendix B and C shall commence six months prior to the beginning of the Pilot Period.[35]

The Exchange is proposing Interpretations and Policies .09 to address the requirement in Appendix C.I(b) of the Plan that the calculation of raw Market Maker realized trading profits utilize a last in, first out (''LIFO'')-like method to determine which share prices shall be used in that calculation. The Exchange and the other Participants believe that it is more appropriate to utilize a methodology that yields LIFO-like results, rather than utilizing a LIFO-like method, and the Exchange is therefore proposing Interpretations and Policies .09 to make this change.[36] The Exchange is proposing that, for purposes of Item I of Appendix C, the Participants shall calculate daily Market Maker realized profitability statistics for each trading day on a daily LIFO basis using reported trade price and shall include only trades executed on the subject trading day. The daily LIFO calculation shall not include any positions carried over from previous trading days. For purposes of Item I.c of Appendix C, the Participants shall calculate daily Market Maker unrealized profitability statistics for each trading day on an average price basis. Specifically, the Participants must calculate the volume weighted average price of the excess (deficit) of buy volume over sell volume for the current trading day using reported trade price. The gain (loss) of the excess (deficit) of buy volume over sell volume shall be determined by using the volume weighted average price compared to the closing price of the security as reported by the primary listing exchange. In reporting unrealized trading profits, the Participant shall also report the number of excess (deficit) shares held by the Market Maker, the volume weighted average price of that excess (deficit) and the closing price of the security as reported by the primary listing exchange used in reporting unrealized profit.[37]

Finally, the Exchange is proposing Interpretations and Policies .10 to address the securities that will be used for data collection purposes prior to the commencement of the Pilot. The Exchange and the other Participants have determined that it is appropriate to collect data for a group of securities that is larger, and using different quantitative thresholds, than the group of securities that will be Pilot Securities. The Exchange is therefore proposing Interpretations and Policies .10 to define ''Pre-Pilot Data Collection Securities'' as the securities designated by the Participants for purposes of the data collection requirements described in Items I, II and IV of Appendix B and Item I of Appendix C of the Plan for the period beginning six months prior to the Pilot Period and ending on the trading day immediately preceding the Pilot Period. The Participants shall compile the list of Pre-Pilot Data Collection Securities by selecting all NMS stocks with a market capitalization of $5 billion or less, a Consolidated Average Daily Volume (CADV) of 2 million shares or less and a closing price of $1 per share or more. The market capitalization and the closing price thresholds shall be applied to the last

[34] The Exchange notes that where a Member purchases a fractional share from a customer, the Trading Center that executes the remaining whole shares of that customer order would subject to subject to Appendix B of the Plan.

[35] In its order approving the Plan, the SEC noted that the Pilot shall be implemented within one year of the date of publication of its order, *e.g.,* by May 6, 2016. *See* Approval Order, 80 FR at 27545. However, on November 6, 2015, the SEC extended the implementation date approximately five months to October 3, 2016. *See* Securities Exchange Act Release No. 76382 (November 6, 2015), 80 FR 70284 (File No. 4–657) (Order Granting Exemption From Compliance With the National Market System Plan To Implement a Tick Size Pilot Program). *See also* Letter from Brendon J. Weiss, Co-Head, Government Affairs, Intercontinental Exchange/NYSE, to Brent J. Fields, Secretary, Commission, dated November 4, 2015 (requesting the data collection period be extended until six months after the requisite SRO rules are approved, and the implementation data of the Tick Size Pilot until six months thereafter).

[36] Appendix C.I currently requires Market Maker profitability statistics to include (1) the total number of shares of orders executed by the Market Maker; (2) raw Market Maker realized trading profits, which is the difference between the market value of Market Maker shares and the market value of Market Maker purchases, using a LIFO-like method; and (3) raw Market Maker unrealized trading profits, which is the difference between the purchase or sale price of the end-of-day inventory position of the Market Maker and the Closing Price. In the case of a short position, the Closing Price from the sale will be subtracted; in the case of a long position, the purchase price will be subtracted from the Closing Price.

[37] The Commission granted BZX an exemption from Rule 608(c) related to this provision. See Exemption Letter, *supra* note 29.

day of the Pre-Pilot measurement period, and the CADV threshold shall be applied to the duration of the Pre-Pilot measurement period. The Pre-Pilot measurement period shall be the three calendar months ending on the day when the Pre-Pilot Data Collection Securities are selected. The Pre-Pilot Data Collection Securities shall be selected thirty days prior to the commencement of the six-month Pre-Pilot Period. On the trading day that is the first trading day of the Pilot Period through six months after the end of the Pilot Period, the data collection requirements will become applicable to the Pilot Securities only. A Pilot Security will only be eligible to be included in a Test Group if it was a Pre-Pilot Security.

Implementation Date

The proposed rule change will be effective on April 4, 2016.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [38] in general, and furthers the objectives of Section 6(b)(5) of the Act [39] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that this proposal is consistent with the Act because it implements and clarifies the provisions of the Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant of the Plan. In approving the Plan, the SEC noted that the Pilot was an appropriate, data-driven test that was designed to evaluate the impact of a wider tick size on trading, liquidity, and the market quality of securities of smaller capitalization companies, and was therefore in furtherance of the purposes of the Act. The Exchange believes that this proposal is in furtherance of the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act because the proposal implements and clarifies the requirements of the Plan and applies specific obligations to Members in furtherance of compliance with the Plan.

[38] 15 U.S.C. 78f(b).

[39] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant of the Plan. The Exchange also notes that the data collection requirements for Members that operate Trading Centers will apply equally to all such Members, as will the data collection requirements for Market Makers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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 [40] and Rule 19b–4(f)(6) thereunder.[41]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [42] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [43] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to implement the proposed amendments by April 4, 2016, the date upon which the data collection requirements of the Plan become effective.[44] Therefore, the Commission hereby waives the operative delay and designates the proposal operative as of the date of this Notice.[45]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsEDGA–2016–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGA–2016–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

[40] 15 U.S.C. 78s(b)(3)(A).

[41] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[42] 17 CFR 240.19b–4(f)(6).

[43] 17 CFR 240.19b–4(f)(6)(iii).

[44] *See* Securities Exchange Act Release No. 76382 (November 6, 2015), 80 FR 70284 (File No. 4–657) (Order Granting Exemption From Compliance With the National Market System Plan To Implement a Tick Size Pilot Program).

[45] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGA–2016–01, and should be submitted on or before April 18, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Brent J. Fields,

Secretary.

[FR Doc. 2016–06864 Filed 3–25–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given that, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, the Securities and Exchange Commission will hold an Open Meeting on Wednesday, March 30, 2016 at 10:00 a.m. in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

1. The Commission will consider whether to issue a concept release seeking comment on modernizing certain business and financial disclosure requirements in Regulation S–K.

2. The Commission will consider whether to adopt rules under the Securities Exchange Act of 1934 regarding the business conduct standards for security-based swap dealers and major security-based swap participants.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact: the Office of the Secretary at (202) 551–5400.

[46] 17 CFR 200.30–3(a)(12).

Dated: March 23, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–07021 Filed 3–24–16; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77416; File No. SR-BatsEDGX–2016–01]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc. f/k/a EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt Exchange Rule 11.27 To Implement the Regulation NMS Plan To Implement a Tick Size Pilot Program

March 22, 2016.

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 March 15, 2016, Bats EDGX Exchange, Inc. f/k/a EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to adopt Exchange Rule 11.27 to implement the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan''). Specifically, the Exchange proposed Rule 11.27(b) to set forth the requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan. The proposed rule change is substantially similar to proposed rule changes recently approved or published by the Commission by the Bats BZX Exchange, Inc. f/k/a BATS Exchange, Inc. (''BZX'') to adopt BZX Rule 11.27(b) which also sets forth requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan.[5]

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 25, 2014, NYSE Group, Inc., on behalf of the Exchange, BZX, Bats BYX Exchange, Inc., Chicago Stock Exchange, Inc., Bats EDGA Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, the Nasdaq Stock Market LLC, New York Stock Exchange LLC (''NYSE''), NYSE MKT LLC, and NYSE Arca, Inc. (collectively ''Participants''), filed with the Commission, pursuant to Section 11A of the Act[6] and Rule 608 of Regulation NMS thereunder,[7] the Plan to Implement a Tick Size Pilot Program (''Pilot'').[8] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014.[9] The Plan[10] was published for comment in the **Federal Register** on November 7, 2014, and approved by the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b-4(f)(6)(iii).

[5] *See* Securities Exchange Act Release Nos. 77105 (February 10, 2016), 81 FR 8112 (February 17, 2016) (order approving SR–BATS–2015–102); and 77310 (March 7, 2016) (notice for comment and immediate effectiveness of SR–BATS–2016–27).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014.

[9] *See* Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014).

[10] Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

Commission, as modified, on May 6, 2015.[11]

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small-capitalization companies. Each Participant is required to comply, and to enforce compliance by its member organizations, as applicable, with the provisions of the Plan. As is described more fully below, the proposed rules would require Members [12] to comply with the applicable data collection requirements of the Plan.[13]

The Pilot will include stocks of companies with $3 billion or less in market capitalization, an average daily trading volume of one million shares or less, and a volume weighted average price of at least $2.00 for every trading day. The Pilot will consist of a control group of approximately 1400 Pilot Securities and three test groups with 400 Pilot Securities in each (selected by a stratified random sampling process).[14] During the pilot, Pilot Securities in the control group will be quoted at the current tick size increment of $0.01 per share and will trade at the currently permitted increments. Pilot Securities in the first test group (''Test Group One'') will be quoted in $0.05 minimum increments but will continue to trade at any price increment that is currently permitted.[15] Pilot Securities in the second test group (''Test Group Two'') will be quoted in $0.05 minimum increments and will trade at $0.05 minimum increments subject to a midpoint exception, a retail investor order exception, and a negotiated trade exception.[16] Pilot Securities in the third test group (''Test Group Three'') will be subject to the same quoting and trading increments as Test Group Two and also will be subject to the ''Trade-at'' requirement to prevent price matching by a market participant that is not displaying at a Trading Center's ''Best Protected Bid'' or ''Best Protected Offer,'' unless an enumerated exception applies.[17] In addition to the exceptions provided under Test Group Two, an exception for Block Size orders and exceptions that mirror those under Rule 611 of Regulation NMS [18] will apply to the Trade-at requirement.

In approving the Plan, the Commission noted that the Trading Center data reporting requirements would facilitate an analysis of the effects of the Pilot on liquidity (*e.g.,* transaction costs by order size), execution quality (*e.g.,* speed of order executions), market maker activity, competition between trading venues (*e.g.,* routing frequency of market orders), transparency (*e.g.,* choice between displayed and hidden orders), and market dynamics (*e.g.,* rates and speed of order cancellations).[19] The Commission noted that Market Maker profitability data would assist the Commission in evaluating the effect, if any, of a widened tick increment on market marker profits and any corresponding changes in the liquidity of small-capitalization securities.[20]

Compliance With the Data Collection Requirements of the Plan

The Plan contains requirements for collecting and transmitting data to the Commission and to the public.[21] Specifically, Appendix B.I of the Plan (Market Quality Statistics) requires Trading Centers [22] to submit variety of market quality statistics, including information about an order's original size, whether the order was displayable or not, the cumulative number of orders, the cumulative number of shares of orders, and the cumulative number of shares executed within specific time increments, *e.g.,* from 30 seconds to less than 60 seconds after the time of order receipt. This information shall be categorized by security, order type, original order size, hidden status, and coverage under Rule 605.[23] Appendix B.I of the Plan also contains additional requirements for market orders and marketable limit orders, including the share-weighted average effective spread for executions of orders; the cumulative number of shares of orders executed with price improvement; and, for shares executed with price improvement, the share-weighted average amount per share that prices were improved.

Appendix B.II of the Plan (Market and Marketable Limit Order Data) requires Trading Centers to submit information relating to market orders and marketable limit orders, including the time of order receipt, order type, the order size, the National Best Bid and National Best Offer (''NBBO'') quoted price, the NBBO quoted depth, the average execution price-share-weighted average, and the average execution time-share-weighted average.

The Plan requires Appendix B.I and B.II data to be submitted by Participants that operate a Trading Center, and by members of the Participants that operate Trading Centers. The Plan provides that each Participant that is the Designated Examining Authority (''DEA'') for a member of the Participant that operates a Trading Center shall collect such data in a pipe delimited format, beginning six months prior to the Pilot Period and ending six months after the end of the Pilot Period. The Plan also requires the Participant, operating as DEA, to transmit this information to the SEC within 30 calendar days following month end.

The Exchange is therefore proposing Rule 11.27(b) to set forth the requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan. Proposed Rule 11.27(b) is substantially similar to proposed rule changes by BZX that were recently approved or published by the Commission to adopt BZX Rule 11.27(b) which also sets forth requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan.[24]

Proposed Rule 11.27(b)(1) requires that a Member that operates a Trading Center shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the data collection and transmission requirements of Items I and II to Appendix B of the Plan, and a Member that is a Market Maker shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the data collection and transmission

[11] *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) (''Approval Order'').

[12] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[13] The Exchange proposes Interpretations and Policies .11 to Rule 11.27 to provide that the Rule shall be in effect during a pilot period to coincide with the pilot period for the Plan (including any extensions to the pilot period for the Plan).

[14] *See* Section V of the Plan for identification of Pilot Securities, including criteria for selection and grouping.

[15] *See* Section VI(B) of the Plan.

[16] *See* Section VI(C) of the Plan.

[17] *See* Section VI(D) of the Plan.

[18] 17 CFR 242.611.

[19] *See* Approval Order, 80 FR at 27543.

[20] *Id.*

[21] The Exchange is also required by the Plan to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with applicable quoting and trading requirements specified in the Plan. The Exchange intends to separately propose rules that would require compliance by its Members with the applicable quoting and trading requirements specified in the Plan, and has reserved Paragraph (a) for such rules.

[22] The Plan incorporates the definition of a ''Trading Center'' from Rule 600(b)(78) of Regulation NMS. Regulation NMS defines a ''Trading Center'' as ''a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.'' *See* 17 CFR 242.600(b).

[23] 17 CFR 242.605.

[24] *See supra* note 5.

requirements of Item IV of Appendix B of the Plan and Item I of Appendix C of the Plan.

Proposed Rule 11.27(b)(2) provides that the Exchange shall collect and transmit to the SEC the data described in Items I and II of Appendix B of the Plan relating to trading activity in Pre-Pilot Securities and Pilot Securities on a Trading Center operated by the Exchange. The Exchange shall transmit such data to the SEC in a pipe delimited format, on a disaggregated basis by Trading Center, within 30 calendar days following month end for: (i) Each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period. The Exchange also shall make such data publicly available on the Exchange Web site on a monthly basis at no charge and will not identify the Member that generated the data.

Appendix B.IV (Daily Market Maker Participation Statistics) requires a Participant to collect data related to Market Maker participation from each Market Maker [25] engaging in trading activity on a Trading Center operated by the Participant. The Exchange is therefore proposing Rule 11.27(b)(3) to gather data about a Market Maker's participation in Pilot Securities and Pre-Pilot Data Collection Securities. Proposed Rule 11.27(b)(3)(A) provides that a Member that is a Market Maker shall collect and transmit to their DEA data relating to Item IV of Appendix B of the Plan with respect to activity conducted on any Trading Center in Pilot Securities and Pre-Pilot Data Collection Securities in furtherance of its status as a registered Market Maker, including a Trading Center that executes trades otherwise than on a national securities exchange, for transactions that have settled or reached settlement date. The proposed rule requires Market Makers to transmit such data in a format required by their DEA, by 12:00 p.m. EST on T+4 for: (i) Transactions in each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) for transactions in each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

The Exchange understands that some Members may utilize a DEA that is not a Participant to the Plan and that their DEA would not be subject to the Plan's data collection requirements. In such case, a DEA that is not a Participant of the Plan would not be required to collect the required data and may not establish procedures for which Members it acts a DEA for to report the data required under subparagraphs (b)(3)(A) of Rule 11.27 and in accordance with Item IV of Appendix B of the Plan. Therefore, the Exchange proposes to adopt subparagraph (b)(3)(B) to Rule 11.27 to require a Member that is a Market Maker whose DEA is not a Participant to the Plan to transmit the data collected pursuant to paragraph (3)(A) of Rule 11.27(b) to FINRA, which is a Participant to the Plan and is to collect data relating to Item IV of Appendix B of the Plan on behalf of the Participants. For Market Makers for which it is the DEA, FINRA issued a Market Maker Transaction Data Technical Specification to collect data on Pre-Pilot Data Collection Securities and Pilot Securities from Trading Centers to comply with the Plan's data collection requirements.[26]

Proposed Rule 11.27(b)(3)(C) provides that the Exchange shall transmit the data collected by the DEA or FINRA pursuant to Rule 11.27(b)(3)(A) and (B) above relating to Market Maker activity on a Trading Center operated by the Exchange to the SEC in a pipe delimited format within 30 calendar days following month end. The Exchange shall also make such data publicly available on the Exchange Web site on a monthly basis at no charge and shall not identify the Trading Center that generated the data.

Appendix C.I (Market Maker Profitability) requires a Participant to collect data related to Market Maker profitability from each Market Maker for which it is the DEA. Specifically, the Participant is required to collect the total number of shares of orders executed by the Market Maker; the raw Market Maker realized trading profits, and the raw Market Maker unrealized trading profits. Data shall be collected for dates starting six months prior to the Pilot Period through six months after the end of the Pilot Period. This data shall be collected on a monthly basis, to be provided in a pipe delimited format to the Participant, as DEA, within 30 calendar days following month end. Appendix C.II (Aggregated Market Maker Profitability) requires the Participant, as DEA, to aggregate the Appendix C.I data, and to categorize this data by security as well as by the control group and each Test Group. That aggregated data shall contain information relating to total raw Market Maker realized trading profits, volume-weighted average of raw Market Maker realized trading profits, the total raw Market Maker unrealized trading profits, and the volume-weighted average of Market Maker unrealized trading profits.

The Exchange is therefore proposing Rule 11.27(b)(4) to set forth the requirements for the collection and transmission of data pursuant to Appendix C.I of the Plan. Proposed Rule 11.27(b)(4)(A) requires that a Member that is a Market Maker shall collect and transmit to their DEA the data described in Item I of Appendix C of the Plan with respect to executions in Pilot Securities that have settled or reached settlement date that were executed on any Trading Center. The proposed rule also requires Members to provide such data in a format required by their DEA by 12 p.m. EST on T+4 for executions during and outside of Regular Trading Hours in each: (i) Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

For the same reasons set forth above for subparagraph (b)(3)(B) to Rule 11.27, the Exchange proposes to adopt subparagraph (b)(4)(B) to Rule 11.27 to require a Member that is a Market Maker whose DEA is not a Participant to the Plan to transmit the data collected pursuant to paragraph (4)(A) of Rule 11.27(b) to FINRA. As stated above, FINRA is a Participant to the Plan and is to collect data relating to Item I of Appendix C of the Plan on behalf of the Participants. For Market Makers for which it is the DEA, FINRA issued a Market Maker Transaction Data Technical Specification to collect data on Pre-Pilot Data Collection Securities and Pilot Securities from Trading Centers to comply with the Plan's data collection requirements.[27]

The Exchange is also adopting a rule setting forth the manner in which Market Maker participation will be calculated. Item III of Appendix B of the Plan requires each Participant that is a national securities exchange to collect daily Market Maker registration

[25] The Plan defines a Market Maker as ''a dealer registered with any self-regulatory organization, in accordance with the rules thereof, as (i) a market maker or (ii) a liquidity provider with an obligation to maintain continuous, two-sided trading interest.''

[26] FINRA members for which FINRA is their DEA should refer to the Market Maker Transaction Data Technical Specification on the FINRA Web site at *http://www.finra.org/sites/default/files/market-maker-transaction-data-tech-specs.pdf.*

[27] *Id.*

statistics categorized by security, including the following information: (i) Ticker symbol; (ii) the Participant exchange; (iii) number of registered market makers; and (iv) the number of other registered liquidity providers. Therefore, the Exchange proposes to adopt Rule 11.27(b)(5) providing that the Exchange shall collect and transmit to the SEC the data described in Item III of Appendix B of the Plan relating to daily Market Maker registration statistics in a pipe delimited format within 30 calendar days following month end for: (i) Transactions in each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) transactions in each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

The Exchange is also proposing, through Interpretations and Policies, to clarify other aspects of the data collection requirements.[28] Proposed Interpretations and Policies .02 relates to the use of the retail investor order flag for purposes of Appendix B.II(n) reporting. The Plan currently states that market and marketable limit orders shall include a ''yes/no'' field relating to the Retail Investor Order flag. The Exchange is proposing Interpretations and Policies .02 to clarify that, for purposes of the reporting requirement in Appendix B.II(n), a Trading Center shall report ''y'' to their DEA where it is relying upon the Retail Investor Order exception to Test Groups Two and Three, and ''n'' for all other instances.[29] The Exchange believes that requiring the identification of a Retail Investor Orders only where the exception may apply (*i.e.,* Pilot Securities in Test Groups Two and Three) is consistent with Appendix B.II(n).

Interpretations and Policies .03 requires that Members populate a field to identify to their DEA whether an order is affected by the bands in place pursuant to the National Market System Plan to Address Extraordinary Market Volatility.[30] Pursuant to the Limit-Up Limit-Down Plan, between 9:30 a.m. and 4:00 p.m., the Securities Information Processor (''SIP'') calculates a lower price band and an upper price band for each NMS stock. These price bands represent a specified percentage above or below the stock's reference price, which generally is calculated based on reported transactions in that stock over the preceding five minutes. When one side of the market for an individual security is outside the applicable price band, the SIP identifies that quotation as non-executable. When the other side of the market reaches the applicable price band (*e.g.,* the offer reaches the lower price band), the security enters a Limit State. The stock would exit a Limit State if, within 15 seconds of entering the Limit State, all Limit State Quotations were executed or canceled in their entirety. If the security does not exit a Limit State within 15 seconds, then the primary listing exchange declares a five-minute trading pause, which would be applicable to all markets trading the security.

The Exchange and the other Participants have determined that it is appropriate to create a new flag for reporting orders that are affected by the Limit-Up Limit-Down bands. Accordingly, a Trading Center shall report a value of ''Y'' to their DEA when the ability of an order to execute has been affected by the Limit-Up Limit-Down bands in effect at the time of order receipt. A Trading Center shall report a value of ''N'' to their DEA when the ability of an order to execute has not been affected by the Limit-Up Limit-Down bands in effect at the time of order receipt.

Interpretations and Policies .03 also requires, for securities that may trade in a foreign market, that the Participant indicate whether the order was handled domestically, or routed to a foreign venue. Accordingly, the Participant will indicate, for purposes of Appendix B.I, whether the order was: (1) Fully executed domestically, or (2) fully or partially executed on a foreign market. For purposes of Appendix B.II, the Participant will classify all orders in securities that may trade in a foreign market Pilot and Pre-Pilot Securities as: (1) Directed to a domestic venue for execution; (2) may only be directed to a foreign venue for execution; or (3) was fully or partially directed to a foreign venue at the discretion of the member. The Exchange believes that this proposed flag will better identify orders in securities that may trade in a foreign market, as such orders that were routed to foreign venues would not be subject to the Plan's quoting and trading requirements, and could otherwise compromise the integrity of the data.

Interpretations and Policies .04 relates to the time ranges specified in Appendix B.I.a(14), B.I.a(15), B.I.a(21) and B.I.a(22).[31] The Exchange and the other Participants have determined that it is appropriate to change the reporting times in these provisions to require more granular reporting for these categories. Accordingly, the Exchange proposes to add Appendix B.I.a(14A), which will require Trading Centers to report the cumulative number of shares of orders executed from 100 microseconds to less than 1 millisecond after the time of order receipt. Appendix B.I.a(15) will be changed to require the cumulative number of shares of orders executed from 1 millisecond to less than 100 milliseconds after the time of order receipt. The Exchange also proposes to add Appendix B.I.a(21A), which will require Trading Centers to report the cumulative number of shares of orders canceled from 100 microseconds to less than 1 millisecond after the time of order receipt. Appendix B.I.a(22) will be changed to require the cumulative number of shares of orders canceled from 1 millisecond to less than 100 milliseconds after the time of order receipt. The Exchange believes that these new reporting requirements will contribute to a meaningful analysis of the Pilot by producing more granular data on these points.[32]

Interpretations and Policies .05 relates to the relevant measurement for purposes of Appendix B.I.a(31)–(33) reporting. Currently, the Plan states that this data shall be reported as of the time of order execution. The Exchange and the other Participants believe that this

[28] The Exchange is also proposing Interpretations and Policies .01 to Rule 11.27 to clarify that certain enumerated terms used throughout Rule 11.27 shall have the same meaning as set forth in the Plan.

[29] FINRA, on behalf of the Plan Participants submitted a letter to Commission requesting exemption from certain provisions of the Plan related to data collection. *See* letter from Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA dated December 9, 2015 to Robert W. Errett, Deputy Secretary, Commission (''Exemption Request''). The Commission, pursuant to its authority under Rule 608(e) of Regulation NMS, granted BZX a limited exemption from the requirement to comply with certain provisions of the Plan as specified in the letter and noted herein. *See* letter from David Shillman, Associate Director, Division of Trading and Markets, Commission to Eric Swanson, General Counsel, BZX, dated February 10, 2016 (''Exemption Letter'').

[30] *See* National Market System Plan to Address Extraordinary Market Volatility, Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (''Limit-Up Limit-Down Plan'').

[31] Specifically, Appendix B.I.a(14) requires reporting of the cumulative number of shares of orders executed from 0 to less than 100 microseconds after the time of order receipt; Appendix B.I.a(15) requires reporting of the cumulative number of shares of orders executed from 100 microseconds to less than 100 milliseconds after the time of order receipt; Appendix B.I.a(21) requires reporting of the cumulative number of shares of orders cancelled from 0 to less than 100 microseconds after the time of order receipt; and Appendix B.I.a(22) requires reporting of the cumulative number of shares of orders cancelled from 100 microseconds to less than 100 milliseconds after the time of order receipt.

[32] The Commission granted BZX an exemption from Rule 608(c) related to this provision. See Exemption Letter, *supra* note 29.

information should more properly be captured at the time of order receipt as evaluating share-weighted average prices at the time of order receipt is more consistent with the goal of observing the effect of the Pilot on the liquidity of Pilot Securities. The Exchange is therefore proposing to make this change through Interpretations and Policies .05.[33] This change will make these provisions consistent with the remainder of the statistics in Appendix B.I.a, which are all based on order receipt.

Interpretations and Policies .06 addresses the status of not-held and auction orders for purposes of Appendix B.I reporting. Currently, Appendix B.I sets forth eight categories of orders, including market orders, marketable limit orders, and inside-the-quote resting limit orders, for which daily market quality statistics must be reported. Currently, Appendix B.I does not provide a category for not held orders, clean cross orders, auction orders, or orders received when the NBBO is crossed. The Exchange and the other Participants have determined that it is appropriate to include separate categories for these orders types for purposes of Appendix B reporting. The Exchange is therefore proposing Interpretations and Policies .06 to provide that not held orders shall be included as an order type for purposes of Appendix B reporting, and shall be assigned the number (18). Clean cross orders shall be included as an order type for purposes of Appendix B reporting, and shall be assigned the number (19); auction orders shall be included an as order type for purposes of Appendix B reporting, and shall be assigned the number (20); and orders that cannot otherwise be classified, including, for example, orders received when the NBBO is crossed shall be included as an order type for purposes of Appendix B reporting, and shall be assigned the number (21). All of these orders already are included in the scope of Appendix B; however, without this proposed change, these order types would be categorized with other orders, such as regular held orders, that should be able to be fully executed upon receipt, which would compromise the value of this data.

The Exchange is proposing Interpretations and Policies .07 to clarify the scope of the Plan as it relates to Members that only execute orders limited purposes. Specifically, The Exchange and the other Participants believe that a Member that only executes orders otherwise than on a national securities exchange for the purpose of: (1) Correcting a bona fide error related to the execution of a customer order; (2) purchasing a security from a customer at a nominal price solely for purposes of liquidating the customer's position; or (3) completing the fractional share portion of an order[34] shall not be deemed a Trading Center for purposes of Appendix B to the Plan. The Exchange is therefore proposing Supplementary Material .09 to make this clarification.

The Exchange is proposing Interpretations and Policies .08 to clarify that, for purposes of the Plan, Trading Centers must begin the data collection required pursuant to Appendix B.I.a(1) through B.II.(y) of the Plan and Item I of Appendix C of the Plan on April 4, 2016. While the Exchange or the Member's DEA will provide the information required by Appendix B and C of the Plan during the Pilot Period, the requirement that the Exchange or their DEA provide information to the SEC within 30 days following month end and make such data publicly available on its Web site pursuant to Appendix B and C shall commence six months prior to the beginning of the Pilot Period.[35]

The Exchange is proposing Interpretations and Policies .09 to address the requirement in Appendix C.I(b) of the Plan that the calculation of raw Market Maker realized trading profits utilize a last in, first out (''LIFO'')-like method to determine which share prices shall be used in that calculation. The Exchange and the other Participants believe that it is more appropriate to utilize a methodology that yields LIFO-like results, rather than utilizing a LIFO-like method, and the Exchange is therefore proposing Interpretations and Policies .09 to make this change.[36] The Exchange is proposing that, for purposes of Item I of Appendix C, the Participants shall calculate daily Market Maker realized profitability statistics for each trading day on a daily LIFO basis using reported trade price and shall include only trades executed on the subject trading day. The daily LIFO calculation shall not include any positions carried over from previous trading days. For purposes of Item I.c of Appendix C, the Participants shall calculate daily Market Maker unrealized profitability statistics for each trading day on an average price basis. Specifically, the Participants must calculate the volume weighted average price of the excess (deficit) of buy volume over sell volume for the current trading day using reported trade price. The gain (loss) of the excess (deficit) of buy volume over sell volume shall be determined by using the volume weighted average price compared to the closing price of the security as reported by the primary listing exchange. In reporting unrealized trading profits, the Participant shall also report the number of excess (deficit) shares held by the Market Maker, the volume weighted average price of that excess (deficit) and the closing price of the security as reported by the primary listing exchange used in reporting unrealized profit.[37]

Finally, the Exchange is proposing Interpretations and Policies .10 to address the securities that will be used for data collection purposes prior to the commencement of the Pilot. The Exchange and the other Participants have determined that it is appropriate to collect data for a group of securities that is larger, and using different quantitative thresholds, than the group of securities that will be Pilot Securities. The Exchange is therefore proposing Interpretations and Policies .10 to define ''Pre-Pilot Data Collection Securities'' as the securities designated by the Participants for purposes of the data collection requirements described in Items I, II and IV of Appendix B and Item I of Appendix C of the Plan for the

[33] The Commission granted BZX an exemption from Rule 608(c) related to this provision. *See* Exemption Letter, *supra* note 29.

[34] The Exchange notes that where a Member purchases a fractional share from a customer, the Trading Center that executes the remaining whole shares of that customer order would subject to subject to Appendix B of the Plan.

[35] In its order approving the Plan, the SEC noted that the Pilot shall be implemented within one year of the date of publication of its order, *e.g.,* by May 6, 2016. *See* Approval Order, 80 FR at 27545. However, on November 6, 2015, the SEC extended the implementation date approximately five months to October 3, 2016. *See* Securities Exchange Act Release No. 76382 (November 6, 2015), 80 FR 70284 (File No. 4–657) (Order Granting Exemption From Compliance With the National Market System Plan To Implement a Tick Size Pilot Program). *See also* Letter from Brendon J. Weiss, Co-Head, Government Affairs, Intercontinental Exchange/NYSE, to Brent J. Fields, Secretary, Commission, dated November 4, 2015 (requesting the data collection period be extended until six months after the requisite SRO rules are approved, and the implementation data of the Tick Size Pilot until six months thereafter).

[36] Appendix C.I currently requires Market Maker profitability statistics to include (1) the total number of shares of orders executed by the Market Maker; (2) raw Market Maker realized trading profits, which is the difference between the market value of Market Maker shares and the market value of Market Maker purchases, using a LIFO-like method; and (3) raw Market Maker unrealized trading profits, which is the difference between the purchase or sale price of the end-of-day inventory position of the Market Maker and the Closing Price. In the case of a short position, the Closing Price from the sale will be subtracted; in the case of a long position, the purchase price will be subtracted from the Closing Price.

[37] The Commission granted BZX an exemption from Rule 608(c) related to this provision. *See* Exemption Letter, *supra* note 29.

period beginning six months prior to the Pilot Period and ending on the trading day immediately preceding the Pilot Period. The Participants shall compile the list of Pre-Pilot Data Collection Securities by selecting all NMS stocks with a market capitalization of $5 billion or less, a Consolidated Average Daily Volume (CADV) of 2 million shares or less and a closing price of $1 per share or more. The market capitalization and the closing price thresholds shall be applied to the last day of the Pre-Pilot measurement period, and the CADV threshold shall be applied to the duration of the Pre-Pilot measurement period. The Pre-Pilot measurement period shall be the three calendar months ending on the day when the Pre-Pilot Data Collection Securities are selected. The Pre-Pilot Data Collection Securities shall be selected thirty days prior to the commencement of the six-month Pre-Pilot Period. On the trading day that is the first trading day of the Pilot Period through six months after the end of the Pilot Period, the data collection requirements will become applicable to the Pilot Securities only. A Pilot Security will only be eligible to be included in a Test Group if it was a Pre-Pilot Security.

Implementation Date

The proposed rule change will be effective on April 4, 2016.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [38] in general, and furthers the objectives of Section 6(b)(5) of the Act [39] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that this proposal is consistent with the Act because it implements and clarifies the provisions of the Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant of the Plan. In approving the Plan, the SEC noted that the Pilot was an appropriate, data-driven test that was designed to evaluate the impact of a wider tick size on trading, liquidity, and the market quality of securities of smaller capitalization companies, and was therefore in furtherance of the purposes of the Act. The Exchange believes that this proposal is in furtherance of the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act because the proposal implements and clarifies the requirements of the Plan and applies specific obligations to Members in furtherance of compliance with the Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant of the Plan. The Exchange also notes that the data collection requirements for Members that operate Trading Centers will apply equally to all such Members, as will the data collection requirements for Market Makers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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 [40] and Rule 19b–4(f)(6) thereunder.[41]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [42] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [43] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to implement the proposed amendments by April 4, 2016, the date upon which the data collection requirements of the Plan become effective.[44] Therefore, the Commission hereby waives the operative delay and designates the proposal operative as of the date of this Notice.[45]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR-BatsEDGX–2016–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR-BatsEDGX–2016–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will

[38] 15 U.S.C. 78f(b).

[39] 15 U.S.C. 78f(b)(5).

[40] 15 U.S.C. 78s(b)(3)(A).

[41] 17 CFR 240.19b–4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[42] 17 CFR 240.19b–4(f)(6).

[43] 17 CFR 240.19b–4(f)(6)(iii).

[44] *See* Securities Exchange Act Release No. 76382 (November 6, 2015), 80 FR 70284 (File No. 4–657) (Order Granting Exemption From Compliance With the National Market System Plan To Implement a Tick Size Pilot Program).

[45] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGX–2016–01, and should be submitted on or before April 18,2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Brent J. Fields,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77415; File No. SR–OCC–2016–006]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Voluntary Termination by Offset and Re-Matching of Matched-Book Positions in the Stock Loan/Hedge Program

March 22, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 15, 2016, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) [3] of the Act and Rule 19b–4(f)(4)(i) [4] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of this proposed rule change is to enhance the overall resilience of OCC's Stock Loan/Hedge Program [5] by allowing OCC to close out the Matched-Book Positions (as defined herein) of Hedge Clearing Members requesting an orderly wind down of Matched-Book Positions through the termination by offset and ''re-matching'' of such positions without requiring the transfer of securities against the payment of settlement prices as currently required under OCC's rules. All capitalized terms not defined herein have the same meaning as in OCC's By-Laws and Rules.[6]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

OCC proposes amendments to its By-Laws and Rules designed to enhance the overall resilience of OCC's Stock Loan/Hedge Program by allowing OCC to close out the Matched-Book Positions of a Hedge Clearing Member requesting an orderly wind down of Matched-Book Positions through the termination by offset and re-matching of such positions without requiring the transfer of securities against the payment of settlement prices as currently required under OCC's rules. The proposed termination by offset and re-matching of stock loan and borrow positions is designed to leave the affected Clearing Members with the same net position in such stock loan and borrow positions as prior to the adjustment.

Background

In the Stock Loan/Hedge Program, OCC acts as a central counterparty (''CCP'') for Hedge Loans that are directly negotiated by Hedge Clearing Members and sent to OCC for clearance and settlement. A prospective Lending Clearing Member and a prospective Borrowing Clearing Member identify each other (independent of OCC) and agree on the terms of the stock loan. The Hedge Clearing Members then send the details of the stock loan to The Depository Trust Company (''Depository'') with a certain ''reason code,'' [7] which designates the stock loan as a Hedge Loan for guaranty and clearance at OCC. The Lending Clearing Member instructs the Depository to transfer a specified number of shares of Eligible Stock to the account of the Borrowing Clearing Member, and the Borrowing Clearing Member instructs the Depository to transfer the appropriate amount of cash collateral to the account of the Lending Clearing Member.[8] The Depository then sends the Hedge Loan information to OCC via an end-of-day report.[9] After OCC receives the report from the Depository, OCC validates and novates the stock loan transaction and becomes the lender to the Borrowing Clearing Member and the borrower to the Lending Clearing Member.[10]

After novation, as part of the guaranty, OCC makes Mark-to-Market Payments for all Hedge Loans on a daily basis to collateralize all loans to the negotiated levels.[11] As the CCP, OCC guarantees the return of the full value of cash collateral to a Borrowing Clearing Member and the Loaned Stock, or value of that Loaned Stock, to the Lending

[46] 17 CFR 200.30–3(a)(12).

[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)(4)(i).

[5] *See* Article XXI of OCC's By-Laws and Chapter XXII of OCC's Rules. It is also noted that no changes are being proposed to Article XXIA of OCC's By-Laws or Chapter XXIIA of OCC's Rules, which address OCC's Market Loan Program.

[6] Staff has inserted this sentence based on OCC's request to clarify the use of capitalized terms by OCC in these statements prepared by OCC.

[7] Unique reason codes were created by the Depository for Clearing Members to designate stock loan transactions intended to be sent to OCC for novation and guarantee.

[8] See OCC Rule 2202(a).

[9] *See* OCC Rule 2202(b).

[10] *Id.*

[11] Mark-to-Market Payments are based on the value of the loaned securities and made between Clearing Members using OCC's cash settlement system. The percentage of the value of the loaned securities, either 100% or 102%, is dependent upon the agreement between the two Hedge Clearing Members party to the transaction.

Clearing Member. Settlements generally are combined and netted against other OCC settlement obligations in a Hedge Clearing Member's account, including trade premiums and margin deficits. A Hedge Clearing Member's open positions in the Stock Loan/Hedge Program are factored into the Hedge Clearing Member's overall Margin [12] and Clearing Fund contribution requirements.[13]

A significant portion of the activity in OCC's stock lending programs relates to what is often referred to as matched-book activity where a Hedge Clearing Member maintains in an account a stock loan position for a specified number of shares of an Eligible Stock reflecting a stock lending transaction with one Hedge Clearing Member (the Borrowing Clearing Member) and also maintains in that same account a stock borrow position for the same number, or lesser number, of shares of the same Eligible Stock with another Hedge Clearing Member (the Lending Clearing Member) (such positions being ''Matched-Book Positions''). From a daily mark-to-market settlement perspective, there are typically no obligations related to Matched-Book Positions because the member is simultaneously borrowing and lending the same securities (and quantity), which are marked to the same price. OCC's margin process recognizes this and currently nets loans and borrows in the same security prior to calculating exposure, resulting in no margin on a perfectly matched position.

Currently, in order for a Hedge Clearing Member to close out its stock loan positions, including Matched-Book Positions, the Hedge Clearing Member is required to terminate its loans through instructions issued to the Depository to transfer a specified quantity of the loaned stock against payment of the settlement price in accordance with the process prescribed in Rule 2208. Borrowing and Lending Clearing Member counterparties to the Matched-Book Positions that wish to maintain equivalent stock loan positions at OCC would then be required to initiate new stock loans, through the process described above, in accordance with Rule 2202. Throughout this process of terminating and reestablishing stock loan positions, a number of operational steps are required to effectuate and settle those transactions, which introduce the potential for market disruption. For example, because OCC maintains stock loan inventory on a bilateral basis (*i.e.,* maintains the borrower and lender to a transaction) and guarantees the return of cash collateral and the Loaned Stock, or price of the Loaned Stock, if a Hedge Clearing Member with Matched-Book Positions fails to fulfill its obligations for the recall of loans and return of borrowed shares, there would be a temporary imbalance of the previously ''matched-book'' position. In addition, the successful initiation of new replacement stock loans for the Borrowing or Lending Clearing Members could be subject to disruption by operational or execution risks, with the result that one ''leg'' of the initiating transaction would fail. Moreover, the Borrowing and Lending Clearing Members lose the protections afforded by OCC's guaranty of their stock loan positions until the newly initiated stock loan positions have been accepted, novated, and guaranteed by OCC.

The proposed rule change would permit a Hedge Clearing Member to request the orderly wind down of Matched-Book Positions, subject to the agreement of all affected Borrowing and Lending Clearing Members, without requiring the transfer of securities against the payment of settlement prices as currently required under OCC Rules 2202, 2208 and 2209. OCC believes the proposed rule change would eliminate the potential risks described above associated with the transfer of securities and funds and provide the overall marketplace with more stability with respect to the process of voluntarily closing out Matched-Book Positions in the Stock Loan/Hedge Program.

Voluntary Termination by Offset and Re-Matching

OCC proposes to amend its By-Laws and Rules to permit a Hedge Clearing Member to request an orderly wind down of its Matched-Book Positions, contingent upon the explicit agreement of the requesting Hedge Clearing Member, its counterparty Borrowing Clearing Member, and counterparty Lending Clearing Member, and at the sole discretion of OCC, without requiring the transfer of securities against the payment of settlement prices as currently required under OCC's rules. First, OCC proposes to amend Article I of its By-Laws to add new defined terms ''Matched-Book Borrowing Clearing Member,'' which would mean, with respect to any Matched-Book Positions, the Hedge Clearing Member that borrows Eligible Stock from a Hedge Clearing Member maintaining Matched-Book Positions in that Eligible Stock and ''Matched-Book Lending Clearing Member,'' which would mean, with respect to any Matched-Book Positions, the Hedge Clearing Member that lends Eligible Stock to a Hedge Clearing Member maintaining Matched-Book Positions in that Eligible Stock. OCC also proposes to add a new definition for ''Matched-Book Positions,'' which would be defined as Hedge Loan positions in which a single Hedge Clearing Member borrows Eligible Stock from its Matched-Book Lending Clearing Member and lends an equal or lesser amount of the same Eligible Stock to its Matched-Book Borrowing Clearing Member.

In addition, OCC proposes to amend Rule 2208 to adopt new rules for the voluntary termination by offset and re-matching of Matched-Book Positions. Specifically, OCC proposes to adopt new Rule 2208(e)(1), which would provide that a Hedge Clearing Member may submit a written request to OCC to effect one or more position adjustments to terminate by offset all or some of its Matched-Book Positions if the following conditions are met. First, the requesting Hedge Clearing Member, its Matched-Book Lending Clearing Member, and its Matched-Book Borrowing Clearing Member have furnished to the Corporation their written agreement to (i) the termination by offset of such Matched-Book Positions maintained in the requesting Hedge Clearing Member's account and (ii) the Corporation's re-matching the stock borrow position for the same number of shares in the same Eligible Stock maintained in a designated account of the Matched-Book Borrowing Clearing Member against the stock loan position for the same number of shares in the same Eligible Stock maintained in a designated account of the Matched-Book Lending Clearing Member. Second, the written agreement furnished by the requesting Hedge Clearing Member, the Matched-Book Borrowing Clearing Member, and the Matched-Book Lending Clearing Member must be in the form specified by OCC. Third, the written request to terminate by offset and to re-match stock loan and borrow positions may be for less than the total number of shares of the Eligible Stock that is the subject of the stock loan and borrow positions maintained, as applicable, by the requesting Hedge Clearing Member, the Matched-Book Borrowing Clearing Member, and Matched-Book Lending Clearing Member, but must be for an equal number of shares.

Additionally, proposed Rule 2208(e)(2) would provide that, if OCC in its sole discretion approves the requested termination by offset and re-matching of positions, the requesting Hedge Clearing Member, the Matched-Book Borrowing Clearing Member, and Matched-Book Lending Clearing

[12] *See* OCC Rules 601 and 2203.

[13] *See* OCC Rule 1001.

Member would not be required to issue instructions to the Depository to terminate such stock loans and stock borrow positions maintained in the Stock Loan/Hedge Program or to initiate new stock lending transactions for inclusion in the Stock Loan/Hedge Program as currently required under Rules 2202(a) and 2208(a).

Proposed Rules 2208(e)(3) and (4) would provide that, from and after the time OCC has completed the requested position adjustments to terminate by offset and re-match the specified stock loan and borrow positions, the requesting Hedge Clearing Member would have no further obligation under the By-Laws and Rules with respect to such positions; however, the Borrowing Clearing Member with re-matched stock borrow positions remains obligated as a Borrowing Clearing Member and the Lending Clearing Member with re-matched stock loan positions remains obligated as a Lending Clearing Member with respect to the re-matched positions as specified in the By-Laws and Rules applicable to the Stock Loan/Hedge Program.

Proposed Rule 2208(e)(5) would require the requesting Hedge Clearing Member and re-matched Borrowing Clearing Member and Lending Clearing Member to make any necessary bookkeeping entries at the Depository necessitated by the termination by offset and re-matching upon notification that the termination by offset and re-matching has been completed as set forth in proposed Rule 2209(h).

In addition, OCC proposes to adopt new Rule 2209(h) to specify that, in the event of a termination by offset and re-matching of a stock loan under proposed Rule 2208(e), such termination by offset and re-match shall be complete upon OCC completing all position adjustments in the accounts of the requesting Hedge Clearing Member, the Matched-Book Borrowing Clearing Member, and the Matched-Book Lending Clearing Member in accordance with Rule 2208(e) and the earlier of (i) communicating confirmation of the transaction in the form of direct written communications with the requesting Hedge Clearing Member, the Matched-Book Borrowing Clearing Member, and the Matched-Book Lending Clearing Member or (ii) when systems reports are produced and provided to the Clearing Members reflecting the transaction.

OCC also proposes conforming and clean-up changes to Article XXI, Sections 2, 3 and 4 of its By-Laws. Article XXI, Section 2 would be revised to (i) account for the netting of stock loan and stock borrow positions during the voluntary termination by offset and re-matching of Matched-Book Positions in accordance with proposed Rule 2208(e) and (ii) make clean-up changes to ensure the consistent use of the defined term ''Eligible Stock.'' Additionally, Article XXI, Sections 3 and 4 would be revised to state that the voluntary termination by offset of Matched-Book Positions in accordance with proposed Rule 2208(e) would be excluded from the requirement to pay the settlement price against delivery of the Loaned Stock as currently required for all terminations under OCC's existing rules.

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Securities Exchange Act of 1934, as amended (the ''Act''),[14] and the rules thereunder applicable to OCC. The proposed rule change would allow OCC to close out the Matched-Book Positions of Hedge Clearing Members, which could include distressed Hedge Clearing Members or Hedge Clearing Members otherwise wishing to wind down their Matched-Book Positions in an orderly manner, through the termination by offset and re-matching of such positions. As described above, under OCC's existing rules, the close out of Matched-Book Positions requires the transfer of securities against the payment of settlement prices. Moreover, to the extent Borrowing and Lending Clearing Member counterparties to the Matched-Book Positions wish to continue to maintain equivalent stock loan positions at OCC, those members would be required to initiate new stock loans to replace the closed out positions. Throughout this process of terminating and reestablishing stock loan positions, a number of operational steps are required to effectuate and settle those transactions, which introduce the potential for execution and operational risks and thereby pose risks to the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds associated therewith.

The proposed rule change would eliminate these risks by allowing OCC and its Hedge Clearing Members to close out Matched-Book Positions through a process of termination by offset and re-matching without requiring the transfer of securities and funds. Moreover, due to the nature of Matched-Book Positions, the proposed position adjustments would enable the requesting Hedge Clearing Member to orderly wind down its Matched-Book Positions while ensuring the Matched-Book Borrowing and Matched-Book Lending Clearing Members' positions are continuously protected by OCC's guaranty. OCC therefore believes the proposed rule change is designed to promote the prompt and accurate clearance of settlement of securities transactions, the safeguarding of securities and funds in the custody or control of OCC or for which it is responsible and, in general, to protect investors and the public interest in accordance with Section 17A(b)(3)(F) of the Act.[15]

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would have any impact or impose any burden on competition.[16] The proposed rules would be equally applicable to all Hedge Clearing Members at OCC. The proposed rule change is designed to allow for the termination by offset and re-matching of Matched-Book Positions without requiring the transfer of securities and funds between Hedge Clearing Members and exposing OCC's members to the risks attendant to such transfers (as described in detail above). Accordingly, OCC does not believe that the proposed rule change would have any impact or impose any burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing[17] pursuant to Section 19(b)(3)(A)(iii) of the Act[18] and Rule 19b–4(f)(4)(i) thereunder[19] as it effects a change in an existing service of a registered clearing agency that (1) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (2) does not significantly affect the respective rights

[14] 15 U.S.C. 78q–1(b)(3)(F).

[15] *Id.*

[16] 15 U.S.C. 78q–1(b)(3)(I).

[17] Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation § 40.6.

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(4)(i).

or obligations of the clearing agency or persons using the service. 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–OCC–2016–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2016–006. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_16_006.pdf.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2016–006 and should be submitted on or before April 18, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Brent J. Fields,

Secretary.

[FR Doc. 2016–06862 Filed 3–25–16; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0325]

Plexus Fund QP III, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Plexus Fund QP III, L.P., 200 Providence Road, Suite 210, Charlotte, NC 28207, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of Mission Critical Electronics, Inc., 2911 West Garry Avenue, Santa Ana, CA 92704, has sought an exemption under Section 312 of the Act and 13 CFR 107.730 financings which constitute conflicts of interest of the Small Business Administration (''SBA'') Rules and Regulations. Plexus Fund QP III, L.P. proposes to provide debt financing to Mission Critical Electronics, Inc., that will be used to discharge an obligation to Plexus Fund II, L.P., an associate. Therefore this transaction is considered a conflict of interest requiring SBA's prior written exemption.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Mark Walsh,

Associate Administrator for Office of Investment and Innovation.

[FR Doc. 2016–06879 Filed 3–25–16; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0324]

Plexus Fund III, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Plexus Fund III, L.P., 200 Providence Road, Suite 210, Charlotte, NC 28207, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of Mission Critical Electronics, Inc., 2911 West Garry Avenue, Santa Ana, CA 92704, has sought an exemption under Section 312 of the Act and 13 CFR 107.730 financings which constitute conflicts of interest of the Small Business Administration (''SBA'') Rules and Regulations. Plexus Fund III, L.P. proposes to provide debt financing to Mission Critical Electronics, Inc., that will be used to discharge an obligation to Plexus Fund II, L.P., an associate. Therefore this transaction is considered a conflict of interest requiring SBA's prior written exemption.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Mark Walsh,

Associate Administrator for Office of Investment and Innovation.

[FR Doc. 2016–06878 Filed 3–25–16; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14675 and #14676]

Texas Disaster #TX–00465

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–4266–DR), dated 03/19/2016.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 03/07/2016 and continuing.

Effective Date: 03/19/2016.

Physical Loan Application Deadline Date: 05/18/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 12/19/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 03/19/2016, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Jasper, Newton, Orange.

Contiguous Counties (Economic Injury Loans Only):

Texas: Angelina, Hardin, Jefferson, Sabine, San Augustine, Tyler.

Louisiana: Beauregard, Calcasieu, Cameron, Sabine, Vernon.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.625
Homeowners Without Credit Available Elsewhere	1.813
Businesses With Credit Available Elsewhere	6.250
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14675B and for economic injury is 146760.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–06968 Filed 3–25–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14629 and #14630]

Missouri Disaster Number MO–00079

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Missouri (FEMA–4250–DR), dated 02/10/2016.

Incident: Severe storms, tornadoes, straight-line winds, and flooding.

Incident Period: 12/23/2015 through 01/09/2016.

Effective Date: 03/17/2016.

Physical Loan Application Deadline Date: 04/11/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 11/10/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Missouri, dated 02/10/2016, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Mississippi, New Madrid, Pemiscot, Shannon

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–06970 Filed 3–25–16; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 9499]

Determination and Certification Under Section 490(b)(l)(A) of the Foreign Assistance Act Relating to the Largest Exporting and Importing Countries of Certain Precursor Chemicals

Pursuant to Section 490(b)(l)(A) of the Foreign Assistance Act of 1961, as amended, I hereby determine and certify that the top five exporting and importing countries and economies of pseudoephedrine and ephedrine (China, Egypt, Germany, India, Indonesia, Singapore, South Korea, Switzerland, Taiwan [1] Turkey, and the United Kingdom) have cooperated fully with the United States, or have taken adequate steps on their own, to achieve full compliance with the goals and objectives established by the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

This Determination and Certification shall be published in the **Federal Register** and copies shall be provided to Congress, together with the accompanying Memorandum of Justification.

Dated March 14, 2016.

Antony J. Blinken,

Deputy Secretary of State.

[FR Doc. 2016–06954 Filed 3–25–16; 8:45 am]

BILLING CODE 4710–17–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Preferences for Nepal: Request for Public Comments on Review of Nepal's Country Eligibility

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the initiation of a review of the eligibility of Nepal to receive preferential treatment for the articles described in the Trade Facilitation and Trade Enforcement Act of 2015. The South Asia Subcommittee of the Trade Policy Staff Committee is developing recommendations for the President on Nepal's eligibility. The Subcommittee is requesting written comments from the public for this review. The Subcommittee will consider the written comments in developing its recommendations for the President. This notice identifies the eligibility criteria that the President must consider in determining whether to provide preferential treatment to certain articles from Nepal.

FOR FURTHER INFORMATION CONTACT: Dawn Shackleford, Deputy Assistant U.S. Trade Representative for India, or

[1] With respect to all references to ''country ''or ''countries'' on this page, it should be noted that the Taiwan Relations Act of 1979, Public Law 96–8, Section 4(b)(l), provides that ''[w]henever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan.'' 22 U.S.C. 3303(b)(l).

Aimee Larsen, Director for GSP, Office of the United States Trade Representative, 600 17th Street NW., Washington DC 20508. The telephone numbers are (202) 395–9658 or (202) 395–2974, respectively. The email addresses are *Dawn_Shackleford@ustr.eop.gov* or *Aimee_B_Larsen@ustr.eop.gov.*

DATES: Public comments are due by 5:00 p.m., 30 days from the date of publication of this **Federal Register** Notice.

Background Information

The Trade Facilitation and Trade Enforcement Act of 2015 (Sec. 915 of P.L. 114–125) authorizes the President to designate Nepal as eligible for preferential treatment for certain articles. The President may authorize the provision of preferential treatment for certain articles imported directly from Nepal if the President determines that Nepal meets the eligibility criteria set forth in: (1) Paragraphs (1), (2), and (3) of section 104(a) of African Growth and Opportunity Act (AGOA), as amended (Title I of the Trade and Development Act of 2000, Pub. L. 106–200) (19 U.S.C. 3703(a)); and (2) section 502 of the Generalized System of Preferences (GSP) (Title V of the Trade Act of 1974) (1974 Act) (19 U.S.C. 2462).

Section 104(a) of AGOA includes requirements that the country has established or is making continual progress toward establishing, *inter alia:* A market-based economy; the rule of law, political pluralism, and the right to due process; the elimination of barriers to U.S. trade and investment; economic policies to reduce poverty; a system to combat corruption and bribery; and the protection of internationally recognized worker rights. In addition, AGOA provides that the country may not engage in activities that undermine U.S. national security or foreign policy interests or engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism.

Section 502(b) of the 1974 Act includes bases for ineligibility for benefits and section 502(c) includes factors that the President shall take into account in determining whether to provide benefits under the GSP. Among the factors that the President shall take into account under section 502(c) include: An expression by the country to be designated as a beneficiary; the level of economic development; whether or not other major developed countries are providing preferential treatment; the extent to which the country has assured the United States that it will provide market access and refrain from unreasonable export practices; the extent to which the county is providing adequate and effective protection of intellectual property rights; the extent to which the country has taken action to reduce trade distorting investment practices and policies and reduce or eliminate barriers to trade in services; and whether or not the country has taken or is taking steps to afford workers with internationally recognized worker rights.

Please see section paragraphs (1), (2) and (3) 104(a) of AGOA and section 502 of the 1974 Act for a complete list of relevant eligibility criteria.

Separately, before providing preferential treatment to any article from Nepal, the President must also determine, after receiving the advice of the United States International Trade Commission, that these articles are not import sensitive in the context of imports from Nepal.

Requirements for Submissions

Persons submitting written comments must do so electronically by 5:00 p.m., 30 days from the date of publication of this **Federal Register** Notice, using *www.regulations.gov,* docket number USTR–2016–0005. Instructions for submitting business confidential versions are provided below. Hand-delivered submissions will not be accepted. All written materials must be submitted in English to the Chairman of the South Asia Subcommittee of the TPSC.

To make a submission using *http://www.regulations.gov,* enter the docket number in the ''Search for'' field on the home page and click ''Search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' in the ''Filter Results by'' section on the left side of the screen and click on the link entitled ''Comment Now.'' The site offers the option of providing comments by filling in a ''Type Comment'' field or by attaching a document using the ''Upload file(s)'' field. The South Asia Subcommittee prefers that submissions be provided as an attached document. Submissions should not exceed 30 single-spaced, standard letter-size pages in 12-point type, including attachments. Any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Each submitter will receive a submission tracking number upon completion of the submissions procedure at *http://www.regulations.gov.* The tracking number will be the submitter's confirmation that the submission was received into *http://www.regulations.gov.* The confirmation should be kept for the submitter's records. USTR is not able to provide technical assistance for the Web site. Documents not submitted in accordance with these instructions may not be considered in this review.

Business Confidential Submissions

An interested party requesting that information contained in a submission be treated as business confidential information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such. The submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page, and the submission should indicate, via brackets, the specific information that is confidential. Additionally, ''Business Confidential'' must be included in the ''Type Comment'' field. For any submission containing business confidential information, a non-confidential version must be submitted separately (*i.e.,* not as part of the same submission with the confidential version), indicating where confidential information has been redacted. The non-confidential version will be placed in the docket and open to public inspection.

Public Viewing of Review Submissions

Submissions in response to this notice, except for information granted ''business confidential'' status under 15 CFR 2003.6, will be available for public viewing pursuant to 15 CFR 2007.6 at *http://www.regulations.gov* upon completion of processing. Such submissions may be viewed by entering the country-specific docket number in the search field at *http://www.regulations.gov.*

Dawn Shackleford,

Deputy Assistant U.S. Trade Representative for India, Office of the U.S. Trade Representative.

[FR Doc. 2016–06926 Filed 3–25–16; 8:45 am]

BILLING CODE 3290–F6–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2016–0009]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on January 21, 2016. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by April 27, 2016.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2016–0009.

FOR FURTHER INFORMATION CONTACT: James Garland, 202–366–6221, Office of Planning, Environment, and Realty, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Transportation Planning Excellence Awards Nomination Form.

OMB Control #: 2125–0615.

Background: Transportation Planning Excellence Awards Nomination Form. The Transportation Planning Excellence Awards (TPEA) Program is a biennial awards program developed by the FHWA and the Federal Transit Administration (FTA) to recognize outstanding initiatives across the country to develop, plan and implement innovative transportation planning practices. The program is co-sponsored by the American Planning Association.

The on-line TPEA nomination form is the tool for submitters to nominate a process, group, or individual involved in a project or process that has used the FHWA and/or the FTA funding sources to make an outstanding contribution to the field of transportation planning. The information about the process, group or individual provided by the submitter may be shared and published if that submission is selected for an award.

The TPEA Program is a biennial awards program and individuals will be asked to submit nominations via the online form every two years. The participants will provide their information by means of the Internet.

Respondents: For the TPEA, 35 participants biennially.

Frequency: For the TPEA, nominations are solicited every two years.

Estimated Average Burden per Response: For the TPEA Program, approximately 90 minutes.

Estimated Total Annual Burden Hours: For the TPEA Program, 225 hours in the first year and 225 hours in the third year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: March 23, 2016.

Michael Howell,

Information Collection Officer.

[FR Doc. 2016–06958 Filed 3–25–16; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0351]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 22 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before April 27, 2016. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2015–0351 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *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: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 22 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Lee R. Boykin

Mr. Boykin, 54, has open angle glaucoma in his right eye since 2008 causing a visual field defect. The visual acuity in his right eye is 20/30, and in his left eye, 20/20. Following an examination in 2015, his ophthalmologist stated, ''In my professional medical opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle at this time.'' Mr. Boykin reported that he has driven straight trucks for 1 years, accumulating 9,000 miles and tractor-trailer combinations for 28 years, accumulating 3.40 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; speeding.

Donald Carrillo

Mr. Carrillo, 53, has had a prosthetic right eye since 1986 due to a traumatic incident. The visual acuity in his right eye is no light perception, and in his left eye, 20/15. Following an examination in 2015, his ophthalmologist stated, ''In our opinion, vision is sufficient to operate a commercial vehicle.'' Mr. Carrillo reported that he has driven straight trucks for 24 years, accumulating 22,800 miles and buses for 23.5 years, accumulating 21,150 miles. He holds an operator's license from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Carl F. Cryer

Mr. Cryer, 29, has had optic nerve damage in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''However, I DO [*sic*] feel that he has sufficient vision to perform the driving tasks required to operate a commercial.'' Mr. Cryer reported that he has driven straight trucks for 8 years, accumulating 60,000 miles. He holds a Class DV operator's license from Alabama. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Steven W. Day

Mr. Day, 65, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/150, and in his left eye, 20/20. Following an examination in 2015, his ophthalmologist stated, ''In my medical opinion, Mr. Day has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Day reported that he has driven straight trucks for 20 years, accumulating 60,000 miles and tractor-trailer combinations for 30 years, accumulating 60,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Roger M. Dunaway

Mr. Dunaway, 40, has had aphakia in his right eye since childhood. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''The applicant was found to be visually able to safely operate a commercial motor vehicle.'' Mr. Dunaway reported that he has driven straight trucks for 15 years, accumulating 487,500 miles and tractor-trailer combinations for 9 years, accumulating 162,000 miles. He holds a Class DMA CDL from Kentucky. His driving record for the last 3 years shows one crash, which he was not cited for, and no convictions for moving violations in a CMV.

Horace N. Goss

Mr. Goss, 58, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/25. Following an examination in 2015, his optometrist stated, ''I certify in my medical opinion that Horace Goss has sufficient vision to perform driving task to be able to drive a commercial vehicle.'' Mr. Horace reported that he has driven straight trucks for 10 years, accumulating 600,000 miles, and tractor-trailer combinations for 34 years, accumulating 2.72 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Matt A. Guilmain

Mr. Guilmain, 44, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2015, his optometrist stated, ''Patient's vision is sufficient to drive a commercial vehicle.'' Mr. Guilmain reported that he has driven straight trucks for 5 years, accumulating 192,000 miles. He holds a Class B CDL from New Hampshire. His driving record for the last 3 years shows one crash in a CMV, for which he contributed by making an improper lane change, and no convictions for moving violations in a CMV.

Hugo N. Gutierrez

Mr. Gutierrez, 33, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''However, he does have normal vision in his left eye and in my opinion is able to perform driving tasks to operate a commercial vehicle.'' Mr. Gutierrez reported that he has driven straight trucks for 5 years, accumulating 13,000 miles. He holds an operator's license from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Mr. Edward R. Hunt

Mr. Hunt, 46, has had a central scotoma in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2015, his ophthalmologist stated, ''I certify that in my medical opinion he has more than sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Hunt reported that he has driven straight trucks for 10 years, accumulating 55,000 miles and tractor-

trailer combinations for 3 years, accumulating 7,500 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

William J. Kanaris

Mr. Kanaris, 53, has had strabismic amblyopia in his right eye since birth. The visual acuity in his right eye is light perception, and in his left eye, 20/15. Following an examination in 2015, his optometrist stated, ''In my medical opinion, I believe Mr. Kanaris has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Kanaris reported that he has driven straight trucks for 30 years, accumulating 360,000. He holds a Class B CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Harvey Klein

Mr. Klein, 76, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/25, and in his left eye, 20/50. Following an examination in 2015, his optometrist stated, ''It is my medical opinion, Mr. Klein, has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Klein reported that he has driven buses for 22 years, accumulating 440,000 miles. He holds a Class C CDL from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronnie L. McHugh

Mr. McHugh, 57, has had amblyopia in his left eye since 1989. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2015, his optometrist stated, ''In my medical opinion, Ronnie L. McHugh has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. McHugh reported that he has driven straight trucks for 31 years, accumulating 465,000 miles and tractor-trailer combinations for 26 years, accumulating 260,000 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Walter J. Musty

Mr. Musty, 70, has had a corneal scar in his left eye since 2011. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2015, his ophthalmologist stated, ''I Certify [*sic*] that, in my medical opinion, the applicant's visual deficiency is stable; the applicant has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle, and, the applicant's condition will not adversely affect his/her ability to operate a commercial motor vehicle safely.'' Mr. Musty reported that he has driven straight trucks for 12 years, accumulating 39,000 miles. He holds a Class D operator's license from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

John O'Boyle

Mr. O'Boyle, 58, has had aphakia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2015, his optometrist stated, ''I certify that in my medical opinion the above named patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. O'Boyle reported that he has driven straight trucks for 40 years, accumulating 1.66 million miles. He holds a Class B CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael L. Robinson

Mr. Robinson, 45, has macular scarring in his right eye due to a traumatic incident in 2009. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''It is my opinion that Mr. Robinson has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Robinson reported that he has driven straight trucks for 11 years, accumulating 330,000 miles. He holds a Class B CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Donald P. Ruckinger

Mr. Ruckinger, 75, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''I believe that MR. [*sic*] Ruckinger in my medical opinion has adapted to his stable visual condition and has sufficient vision to perform the driving tasks required to operate a commercial vehicle . . .'' Mr. Ruckinger reported that he has driven tractor-trailer combinations for 40 years, accumulating 2 million miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Mark A. Sanders

Mr. Sanders, 59, has a prosthetic left eye due to a traumatic incident in 1994. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2015, his optometrist stated, ''My assessment is that his vision does allow him to perform normally and safely for all tasks, including those for use as a commercially certificated driver.'' Mr. Sanders reported that he has driven straight trucks for 43 years, accumulating 1.1 million miles, tractor-trailer combinations for 34 years, accumulating 3.4 million miles and buses for 2 years, accumulating 40,000 miles. He holds a Class A CDL from Oklahoma. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael J. Scarano

Mr. Scarano, 59, has had a prosthetic right eye since 1965 due to a traumatic incident. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2015, his ophthalmologist stated, ''Mr. Michael J. Scarano's Snellen visual acuity, peripheral vision and visual field test have remained unchanged from 2012. Accordingly, his visual ability to operate a commercial vehicle has remained unchanged as well.'' Mr. Scarano reported that he has driven straight trucks for 41 years, accumulating 2.4 million miles and tractor-trailer combinations for 10 years, accumulating 150,000. He holds a Class B CDL from New Jersey. His driving record for the last 3 years shows one crash in a CMV, for which he contributed by making an improper turn, and no convictions for moving violations in a CMV.

Edward P. Schrader II

Mr. Schrader, II, 29, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''I certify that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Schrader reported that he has driven straight trucks for 2 years, accumulating 50,000 miles and tractor-trailer combinations for 6 years, accumulating 150,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows

no crashes and no convictions for moving violations in a CMV.

Charles H. Strople

Mr. Strople, 73, had a retinal detachment in his left eye in 2011. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2015, his ophthalmologist stated, ''In my medical opinion, Mr. Strople has sufficient vision to operate a commercial vehicle.'' Mr. Strople reported that he has driven straight trucks for 49 years, accumulating 980,000 miles, and tractor-trailer combinations for 49 years, accumulating 2.45 million miles. He holds a Class A CDL from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Eddie Walker

Mr. Walker, 44, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2015, his optometrist stated, ''In my medical opinion Chad's depth perception based on adapting since birth to the amblyopic Left Eye [*sic*] is sufficient and given all vision testing I would give the recommendation that Chad has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Walker reported that he has driven tractor-trailer combinations for 16 years, accumulating 672,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Trent Wipf

Mr. Wifp, 30, has been blind in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''I, Erica Seelye, O.D., hereby certify that Trent Wipf has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Wipf reported that he has driven straight trucks for 15 years, accumulating 15,000 miles and tractor-trailer combinations for 15 years, accumulating 300,000 miles. He holds a Class A CDL from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number FMCSA–2015–0351 in the ''Keyword'' box, and click ''Search. When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number FMCSA–2015–0351 in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: March 21, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–06955 Filed 3–25–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0470]

Hours of Service of Drivers: American Trucking Associations (ATA); Denial of Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; denial of application for exemption.

SUMMARY: FMCSA announces its denial of the application of ATA for an exemption from the 14-hour provision of the Agency's hours-of-service regulations to enable certain drivers to exclude waiting time from their calculations of on-duty time. Currently, only specially trained drivers of commercial motor vehicles (CMVs) that are specially constructed to service oil and natural gas extraction sites may employ this provision. ATA proposed that FMCSA issue a limited 2-year exemption to permit exclusion of such waiting time by drivers of CMVs who are exclusively engaged in servicing oil and natural gas extraction sites and have the opportunity to obtain rest while waiting at such sites. FMCSA concluded that ATA did not demonstrate how the CMV operations under such an exemption would achieve a level of safety equivalent to or greater than the level of safety obtained in the absence of the exemption.

DATES: FMCSA denied the application for exemption by letter dated February 4, 2016, after notice and opportunity for public comment.

ADDRESSES: *Docket:* For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The online FDMS is available 24 hours each day, 365 days each year.

FOR FURTHER INFORMATION CONTACT: Mrs. Pearlie Robinson, Driver and Carrier Operations Division 202–366–4325 or: *MCPSD@dot.gov,* Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–

0001. If you have questions on viewing material in the docket, contact Docket Services at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov* and insert the docket number, ''FMCSA–2013–0470 in the ''Keyword'' box and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption and the regulatory provision from which the exemption is granted. The notice must specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Part 395 of the FMCSRs contains the hours of service (HOS) rules for drivers of CMVs in interstate commerce. Section 395.8 requires most interstate CMV drivers to maintain a handwritten or electronic record of duty status, or log, on a 24-hour grid. They must record their duty status as either ''off duty,'' ''sleeper berth,'' ''on duty/not driving,'' or ''on duty/driving.'' Drivers must keep their log up to date to the most recent change of duty status and have their log for the current date and the preceding 7 days on board the CMV.

Generally, a driver may not record time as ''off duty'' unless he or she has been relieved of all duty and responsibility for the care and custody of the CMV, its accessories, and its cargo, and is free to pursue activities of his or her own choosing. Thus, drivers who are waiting, whether at a loading dock or at a natural gas or oil well site, are generally considered to be ''on duty.'' Section 395.3(a)(2) provides that ''a driver may drive only during a period of 14 consecutive hours after coming on duty following 10 consecutive hours off duty.'' However, the FMCSRs provide an exception to the 14-hour rule for the waiting time of a specific classification of driver. Section 395.1(d)(2) provides, ''In the case of specially trained drivers of commercial motor vehicles that are specially constructed to service oil wells, on-duty time shall not include waiting time at a natural gas or oil well site'' (waiting-time rule). These drivers may record such waiting time as off duty time, making note of the waiting-time rule on their log. Section 395.1(d)(2) also provides that the waiting time of these drivers ''shall not be included in calculating the 14-hour period. . . .''

IV. Request for Exemption

ATA requested a limited 2-year renewable exemption to permit similar treatment of waiting time at such locations to drivers ''exclusively engaged in servicing oil and natural gas extraction sites'' who are able to establish ''a method to adequately ensure a rest opportunity while waiting.'' ATA suggested that ''trucks equipped with sleeper berths'' and ''on-site bunking or resting facilities'' would satisfy the ''rest opportunity'' standard. ATA believes the proposed exemption would encourage these drivers to obtain quality rest at extraction sites and would provide an improved standard for State officials enforcing waiting time requirements.

V. Public Comments and Agency Decision

On May 23, 2014, FMCSA published notice of this application and asked for public comment (79 FR 29837). The Agency received 37 comments representing various transportation interests in response to the proposed exemption. Twenty-one commenters expressed support for the ATA's request for the exemption. Among the supporters were individuals and companies such as the American Exploration & Production Council and the National Association of Manufacturers. Eleven commenters opposed granting the exemption as requested. The commenters included Advocates for Highway and Auto Safety and the Commercial Vehicle Safety Alliance. Five individuals provided comments that neither opposed nor supported the proposed exemption.

The Agency reviewed ATA's application and the public comments. By letter dated February 4, 2016, FMCSA denied the application because the Agency concluded that CMV operations under the proposed exemption were not likely to achieve a level of safety equivalent to or greater than the level of safety that would be achieved in the absence of the exemption [49 CFR 381.310(c)(5)]. Fatigue during the work day represents the greatest safety risk because the 60- and 70-hour rules would remain in effect if the exemption or petition were granted. The proposed relief from the 14-hour rule would enable miscellaneous off-duty periods at the oil or natural gas work sites to be excluded when determining whether the individual may operate the CMV during the work day. This creates the potential for extremely long work days provided the individual has not accumulated 14 hours of on-duty time prior to completing his/her driving tasks for the day. This may represent an extreme condition but the current waiting time exception does not include a limit and the ATA's request would extend this potentially risky option to a wider population of oil and natural gas workers.

A copy of the denial letter is in the docket referenced at the beginning of this notice.

Issued on: March 21, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–06951 Filed 3–25–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0032]

Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption renewal; request for comments.

SUMMARY: FMCSA announces that Daimler Trucks North America (Daimler) has requested a renewal of an exemption for one commercial motor vehicle (CMV) driver from the Federal requirement to hold a U.S. commercial driver's license (CDL). Daimler requests a five-year exemption for Dr. Wolfgang Bernhard, head of the Daimler Trucks and Bus Division, who will test drive CMVs for Daimler within the United States. Dr. Bernhard holds a valid German commercial license and wants to test drive Daimler vehicles on U.S. roads to better understand product requirements in ''real world'' environments, and verify results. Daimler believes the requirements for a German commercial license ensure that operation under the exemption will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

DATES: Comments must be received on or before April 27, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2012–0032 using any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *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: For information concerning this notice, contact Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2012–0032), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2012–0032'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Section 5206(a)(2) of the ''Fixing America's Surface Transportation Act,'' (FAST Act), effective October 1, 2015, permits exemptions for no longer than five years from their dates of inception, instead of the current two years. This statutory provision will be codified in 49 CFR part 381 in a forthcoming rulemaking.

III. Request for Exemption

Daimler requests a renewal of its exemption from 49 CFR 383.23, which prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce, for the next five years for the chief executive of its Truck and Bus Division. Section 5206(a)(2) of the ''Fixing America's Surface Transportation Act,'' (FAST Act), effective October 1, 2015, permits exemptions for no longer than five years

from their dates of inception. This driver, Dr. Wolfgang Bernhard, holds a valid German commercial license but is unable to obtain a CDL in any of the U.S. States due to residency requirements. A copy of the request for renewal, dated February 22 and 23, 2016, is in the docket identified at the beginning of this notice.

FMCSA initially granted an exemption to Dr. Bernhard on August 29, 2014 (79 FR 51641). This exemption was effective August 29, 2014, and expires August 29, 2016. Detailed information about the qualifications and experience of Dr. Bernhard was provided by Daimler in its original application, a copy of which is in the docket. Renewal of the exemption will enable Dr. Bernhard to operate CMVs in interstate or intrastate commerce to support Daimler field tests designed to meet future vehicle safety and environmental requirements and to promote technological advancements in vehicle safety systems and emissions reductions. Dr. Bernhard needs to drive Daimler vehicles on public roads to better understand ''real world'' environments in the U.S. market. According to Daimler, Dr. Bernhard will typically drive for no more than 6 hours per day for 2 consecutive days, and that 10 percent of the test driving will be on two-lane state highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day, for a total of 400 miles during a two-day period on a quarterly basis. He will in all cases be accompanied by a holder of a U.S. CDL who is familiar with the routes to be traveled.

Daimler has explained in prior exemption requests that the German knowledge and skills tests and training program ensure that Daimler's drivers operating under the exemption will achieve a level of safety that is equivalent to, or greater than, the level of safety obtained by complying with the U.S. requirement for a CDL. Furthermore, according to Daimler, Dr. Bernhard is familiar with the operation of CMVs worldwide.

IV. Method To Ensure an Equivalent or Greater Level of Safety

FMCSA has previously determined that the process for obtaining a German commercial license is comparable to, or as effective as, the requirements of part 383, and adequately assesses the driver's ability to operate CMVs in the U.S. Since 2012, FMCSA has granted Daimler drivers similar exemptions [May 25, 2012 (77 FR 31422); July 22, 2014 (79 FR 42626); March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); December 7, 2015 (80 FR 76059); December 21, 2015 (80 FR 79410)].

Issued on: March 21, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–06953 Filed 3–25–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Federal Financial Institutions Examination Council Cybersecurity Assessment Tool Working Session in the National Institute of Standards and Technology Cybersecurity Framework Workshop

AGENCY: Office of the Comptroller of the Currency (''OCC''), Treasury.

ACTION: Notice of public meeting.

SUMMARY: The OCC, on behalf of itself, the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and National Credit Union Administration (Agencies), announces a public meeting to receive feedback on the Federal Financial Institutions Examination Council (FFIEC) Cybersecurity Assessment Tool (Assessment).

DATES: The Agencies will hold a public meeting on the Assessment on Thursday, April 7, 2016, beginning at 9:00 a.m. Eastern Daylight Time (EDT). The public meeting is a part of the National Institute of Standards and Technology (NIST) cybersecurity framework workshop, taking place on Wednesday, April 6, and Thursday, April 7, 2016. The public meeting on the Assessment will be a separate working session (Assessment working session) during the NIST workshop and will be open to any individual registered for the NIST workshop. Registrations for the NIST workshop will be accepted until March 31, 2016 11:59 p.m. EDT. There is no cost for registering for the workshop or attending the working session. Attendance at the Assessment working session will be on a first-come, first-served basis. The NIST workshop, including the Assessment working session, will be Webcast at *http://www.nist.gov/itl/acd/cybersecurity-framework-workshop-2016.cfm.*

ADDRESSES: The Assessment working session will be held on April 7, 2016 at 9:00 a.m., at the NIST Campus, 100 Bureau Drive, Gaithersburg, Maryland 20899. All participants must pre-register at *http://www.nist.gov/itl/acd/cybersecurity-framework-workshop-2016.cfm.*

FOR FURTHER INFORMATION CONTACT: Beth Knickerbocker, Counsel (202) 649–5490, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The FFIEC, on behalf of its members, released the Assessment on June 30, 2015, to help institutions identify their cyber risk and assess their cybersecurity preparedness. The purpose of the Assessment working session is to obtain substantive input from financial institutions and other interested parties on ways to improve the Assessment.

The Agencies are holding the Assessment working session on April 7, 2016, as a part of the NIST workshop, at the NIST Campus—100 Bureau Drive, Gaithersburg, Maryland 20899. The NIST workshop, including the Assessment working session, will be Webcast online at *http://www.nist.gov/itl/acd/cybersecurity-framework-workshop-2016.cfm.* The in-person Assessment working session will be open to any individual registered for the NIST workshop and attendance will be on a first-come, first-served basis. There is no cost for registering for the workshop or attending the working session. The Assessment working session will provide a forum for discussion of all aspects of the Assessment and will be an opportunity for interested persons to ask questions about the Assessment. Specifically, interested parties are encouraged to provide feedback on the Assessment's inherent risk profile, cybersecurity maturity, and supplemental materials. The Agencies may limit the time available to individuals seeking to provide their input, if needed, in order to accommodate the number of people desiring to speak.

All participants in the Assessment working session must pre-register for the NIST workshop at *http://www.nist.gov/itl/acd/cybersecurity-framework-workshop-2016.cfm.*

Further details about the NIST workshop, including the Assessment working session, are published on the NIST Web site at *http://www.nist.gov/itl/acd/cybersecurity-framework-workshop-2016.cfm.* The agenda for the NIST workshop is posted at *http://www.nist.gov/itl/acd/upload/Agenda_Cybersec-2.pdf.*

Additional Background on Assessment

Cyber threats have evolved and increased exponentially with greater sophistication. Cyber attacks on financial institutions may not only result in access to, and the compromise of, confidential information, but also the destruction of critical data and systems. Disruption, degradation, or unauthorized alteration of information and systems can affect an institution's operations and core processes and undermine confidence in the nation's financial services sector.

The Agencies, under the auspices of the FFIEC, developed the Assessment to assist financial institutions of all sizes in assessing their inherent cyber risks and their cybersecurity preparedness. The Assessment is intended to allow a financial institution to identify its inherent cyber risk profile based on the financial institution's technologies and connection types, delivery channels, online/mobile products and technology services it offers, organizational characteristics, and current threats. Once an institution identifies its inherent cyber risk profile, it will then determine its cybersecurity maturity levels based on the institution's cyber risk management and oversight, threat intelligence and collaboration, cybersecurity controls, external dependency management, and cyber incident management and resilience. A financial institution can use the Assessment to identify opportunities for improving the institution's cybersecurity preparedness. Use of the Assessment by financial institutions is not mandatory. Additional information on the Assessment and supporting materials are available on the FFIEC's Web site at *http://www.ffiec.gov/cyberassessmenttool.htm.*

Dated: March 23, 2016.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2016–06949 Filed 3–25–16; 8:45 am]

BILLING CODE 4810–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in New York, NY.

DATES: The meeting will be held April 20–21, 2016.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held at 290 Broadway, New York, NY 10007.

FOR FURTHER INFORMATION CONTACT: Maricarmen Cuello, AP:SO:AAS, 51 SW 1st Avenue, Room 1014, Miami, FL 33130. Telephone (305) 982–5364 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., that a closed meeting of the Art Advisory Panel will be held at 290 Broadway, New York, NY 10007.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in sections 552b(c)(3), (4), (6), and (7), of the Government in the Sunshine Act, and that the meeting will not be open to the public.

Kirsten B. Wielobob,

Chief, Appeals.

[FR Doc. 2016–06950 Filed 3–25–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 990–T

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 990–T, Exempt Organization Business Income Tax Return.

DATES: Written comments should be received on or before May 27, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Kerry Dennis at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Kerry.Dennis@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Exempt Organization Business Income Tax Return.

OMB Number: 1545–0687.

Form Number: Form 990–T.

Abstract: Form 990–T is used to report and compute the unrelated business income tax imposed on exempt organizations by Internal Revenue Code section 511 and the proxy tax imposed by Code section 6033(e). The form provides the IRS with the information necessary to determine that the tax has been properly computed.

Current Actions: The agency has updated the estimated number of respondents based on its most recent filing data. The additional respondents results in a burden increase of 24,167,406 hours resulting in a new total burden of 29,429,725 hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 207,500.

Estimated Time per Respondent: 141 hrs., 48 min.

Estimated Total Annual Burden Hours: 29,429,725.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the

information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 15, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–06952 Filed 3–25–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13614–C

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13614–C, Interview and Intake Sheet.

DATES: Written comments should be received on or before May 27, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Kerry Dennis, at Internal Revenue Service, room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Interview and Intake Sheet.

OMB Number: 1545–1964.

Form Numbers: 13614–C, 13614–C (SP), 13614 (AR), 13614 (CN–S), 13614 (CN–T), 13614 (HT), 13614 (KR), 13614 (PL), 13614 (PT), 13614 (TL), and, 13614 (VN).

Abstract: Forms 13614–C, 13614–C (SP), 13614 (AR), 13614 (CN–S), 13614 (CN–T), 13614 (HT), 13614 (KR), 13614 (PL), 13614 (PT), 13614 (TL), and, 13614 (VN) contain a standardized list of required intake questions to guide volunteers in asking taxpayers basic questions about themselves. The intake sheet is an effective tool ensuring that critical taxpayer information is obtained and applied during the interview process.

Current Actions: There are no changes being made to these forms at this time, however, the agency has updated its most recent number of respondent estimates and updated the collection to include all 11 language translations.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, Business or other for-profit organizations, and not-for-profit institutions, and Federal Government.

Estimated Number of Responses: 3,700,000.

Estimated Time per Response: 17 min.

Estimated Total Annual Burden Hours: 629,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 7, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–06927 Filed 3–25–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0138]

Proposed Information Collection (Request for Details of Expenses, VA Form 21P–8049); Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 27, 2016.

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. 2900–0138'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), 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.

Title: Request for Details of Expenses, VA Form 21P–8049.

OMB Control Number: 2900–0138.

Type of Review: Revision of an already approved collection.

Abstract: VA uses the information collected on this form as evidence of additional circumstances which may affect entitlement determinations pursuant to 38 U.S.C. 1522. The information is used as a counterbalance to a claimant's substantial estate and/or annual income.

Affected Public: Individuals or households.

Estimated Annual Burden: 5,700 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 22,800.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–06892 Filed 3–25–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0162]

Proposed Information Collection (Monthly Certification of Flight Training VA Form 22–6553c); Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to ensure that the amount of benefits payable to a student pursuing flight training is correct.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 27, 2016.

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. 2900–0162'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), 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.

Title: Monthly Certification of Flight Training, VA Form 22–6553c.

OMB Control Number: 2900–0162.

Type of Review: Revision of a currently approved collection.

Abstract: Veterans, individuals on active duty training and reservist training, may receive benefits for enrolling in or pursuing approved vocational flight training. VA Form 22–6553c serves as a report of flight training pursued and termination of such training. Payments are based on the number of hours of flight training completed during the month.

Affected Public: Individuals or households.

Estimated Annual Burden: 7,728 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,576.

Estimated Total Annual Responses: 15,456.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–06891 Filed 3–25–16; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 81 Monday,
No. 59 March 28, 2016

Part II

Environmental Protection Agency

40 CFR Part 58
Revisions to Ambient Monitoring Quality Assurance and Other Requirements; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[EPA–HQ–OAR–2013–0619; FRL–9942–91–OAR]

RIN 2060–AS00

Revisions to Ambient Monitoring Quality Assurance and Other Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates revisions to ambient air monitoring requirements for criteria pollutants. These revisions include adding and harmonizing definitions; clarifying annual monitoring network plan public notice requirements; revising network design requirements; system modifications and operating schedules; clarifying data certification, data submittal and archiving procedures; reorganizing and clarifying quality assurance requirements; and revising certain network design criteria for non-source oriented lead monitoring. These revisions also address other issues in the Ambient Air Quality Surveillance Requirements, to help reduce the compliance burden of monitoring agencies operating ambient monitoring networks.

DATES: This final rule is effective on April 27, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2013–0619. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at Docket ID No. EPA–HQ–OAR–2013–0619, EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Docket Facility is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The docket telephone number is (202) 566–1742. 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.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis Weinstock, Air Quality Assessment Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail code C304–06, Research Triangle Park, NC 27711; telephone: (919) 541–3661; fax: (919) 541–1903; email: *weinstock.lewis@epa.gov*.

SUPPLEMENTARY INFORMATION:

A. Does this action apply to me?

This action applies to state, territorial, and local air quality management programs that are responsible for ambient air monitoring under 40 CFR part 58. Categories and entities potentially regulated by this action include:

Category	NAICS [a] code
State/territorial/local/tribal government	924110

[a] North American Industry Classification System.

B. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted at the TTN's Ambient Monitoring Technology Information Center at the following address: *https://www3.epa.gov/ttnamti1/monregs.html*. The TTN provides information and technology exchange in various areas of air pollution control.

C. Judicial Review

This rule is nationally applicable and, furthermore, the Administrator finds that it is of nationwide scope and effect. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of this final rule is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by May 27, 2016. Moreover, under section 307(b)(2) of the CAA, the requirements established by this action may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Table of Contents

The following topics are discussed in this preamble:

I. Background

On September 11, 2014, the EPA proposed revisions to its ambient air monitoring requirements for criteria pollutants to provide clarifications to existing requirements and to reduce the compliance burden of monitoring agencies operating ambient monitoring networks (79 FR 54356). The proposal focused on ambient monitoring requirements that are found in 40 CFR part 58 and the associated appendices (A, D, and new Appendix B), including issues such as operating schedules, the

development of annual monitoring network plans, data reporting and certification requirements, and the operation of the required quality assurance (QA) program. These revisions were proposed to maintain the robust nature of the ambient monitoring networks while identifying efficiencies and flexibilities that would help ensure the successful operation of the national monitoring system.

The EPA last completed a comprehensive revision of its ambient air monitoring regulations in a final rule published on October 17, 2006 (71 FR 61236). Minor revisions were completed in a direct final rule published on June 12, 2007 (72 FR 32193). Periodic pollutant-specific monitoring updates have occurred in conjunction with revisions to the National Ambient Air Quality Standards (NAAQS). In such cases, the monitoring revisions were typically finalized as part of the NAAQS final rules.[1]

II. Amendments to the Ambient Monitoring Requirements

A. General Information

This section describes revisions to the EPA's ambient air monitoring requirements found in 40 CFR part 58—Ambient Air Quality Surveillance: Subpart A—General Provisions, Subpart B—Monitoring Network, and Appendix D—Network Design Criteria for Ambient Air Quality Monitoring.

The EPA received public comments on its September 2014 proposal from 31 respondents including 15 state agencies, 12 local agencies, two multijurisdictional organizations (MJO), one consulting firm, and one environmental organization whose comments represented two organizations. Due to the relatively large number of individual revisions contained in the proposal, commenters typically focused their attention on particular items of interest while occasionally providing a more general, overarching statement of support for the remaining provisions. In some cases, commenters remained silent on other provisions of the proposal and the level of support for those provisions cannot be ascertained. In the following sections, the specific comments will be noted as they pertain to each particular proposed revision. This preamble will summarize the affected regulation, proposed changes, public comments that were received, the EPA's analysis of those comments where applicable, and EPA's final decision concerning the revisions. A detailed description of changes to Quality Assurance Requirements is contained in section III of the preamble.

B. Definitions

The presence of a definitions section in the regulation ensures a consistent interpretation of technical terminology across the various parts of the CFR that pertain to ambient air monitoring, as well as in supporting guidance documents, databases, and outreach materials that support the monitoring community.

The EPA proposed to add and revise several terms to ensure consistent interpretation within the monitoring regulations and to harmonize usage of terms with the definition of key metadata fields that are important components of the Air Quality System (AQS).[2]

The EPA proposed to add the term ''Certifying Agency'' to the list of definitions. The certifying agency field was added to the AQS in 2013 as part of the development of a revised process for states and the EPA Regions to meet the data certification requirements described in 40 CFR 58.15. The new term specifically describes any monitoring agency that is responsible for meeting data certification requirements for a set of monitors. In practice, a certifying agency is typically a state, local, or tribal agency depending on the particular data reporting arrangements that have been approved by an EPA Regional Office for a given state. A list of certifying agencies by individual monitor is available on the AQS–TTN Web site.[3]

The term ''Chemical Speciation Network,'' or CSN, was proposed for addition to the definition list. The CSN has been functionally defined as being composed of the Speciation Trends Network (STN) sites and the supplemental speciation sites that are collectively operated by monitoring agencies to obtain particulate matter up to 2.5 micrometers ($PM_{2.5}$) chemical species data.

The term ''Implementation Plan'' was proposed for addition to provide more specificity to current definitions that reference the word ''plan'' in their description. The EPA wishes to ensure that references to State Implementation Plans (SIPs) are not confused with references to Annual Monitoring Network Plans that are described in 40 CFR 58.10.

The EPA proposed to revise the term ''Local Agency'' to clarify that such organizations are responsible for implementing portions of Annual Monitoring Network Plans. The current definition refers to the carrying out a plan that is not specifically defined, leading to possible confusion with SIPs.

The EPA proposed to revise the term ''Meteorological Measurements'' to clarify that such measurements refer to required parameters at the National Core Monitoring Program (NCore) and photochemical assessment monitoring stations (PAMS).

The terms ''Monitoring Agency'' and ''Monitoring Organization'' were proposed for clarification to include tribal monitoring agencies and to simplify the definition of monitoring organization to reference the definition of monitoring agency.

The term ''NCore'' was proposed for revision to remove nitrogen dioxide (NO_2) and lead in PM_{10} (Pb-PM_{10}) as a required measurement and to expand the definition of basic meteorology to specifically reference the required measurements: Wind speed, wind direction, temperature, and relative humidity. The EPA clarifies that NO_2 was never a required NCore measurement and that the current definition was erroneous on this issue. Additionally, the requirement to measure Pb-PM_{10} at NCore sites in areas over 500,000 population was proposed for elimination due to the extremely low concentrations being measured at these sites.

The term ''Near-road NO_2 Monitor'' was proposed for revision to ''Near-road Monitor.'' This revision is being made to broaden the definition of near-road monitors to include all monitors operating under the specific requirements described in 40 CFR part 58, appendix D (sections 4.2.1, 4.3.2, 4.7.1(b)(2)) and appendix E (section 6.4(a), Table E–4) for near-road measurement of $PM_{2.5}$ and carbon monoxide (CO) in addition to NO_2.

The term ''Network Plan'' was proposed for addition to clarify that any such references in 40 CFR part 58 refer to the annual monitoring network plan required in 40 CFR 58.10.

The term ''Plan'' was proposed for deletion as its usage has been replaced with more specific references to either the annual monitoring network plan required in 40 CFR 58.10 or the SIP approved or promulgated pursuant to CAA section 110.

The term ''Population-oriented Monitoring (or sites)'' was proposed for

[1] Links to the NAAQS final rules are available at: *https://www3.epa.gov/ttn/naaqs/criteria.html.*

[2] The AQS is the EPA's repository of ambient air quality data. The AQS stores data from over 10,000 monitors, 5,000 of which are currently active. State, local and tribal agencies collect the data and submit it to the AQS on a periodic basis. See *https://www.epa.gov/aqs/aqs-obtaining-aqs-data* for additional information.

[3] *https://aqs.epa.gov/aqsweb/codes/data/CertifyingAgenciesByMonitor.html.*

deletion. This term, along with the related concept of population-oriented monitoring, was deleted from 40 CFR part 58 in the 2013 $PM_{2.5}$ NAAQS final rule (78 FR 3235–3236). This was to ensure consistency with the longstanding definition of ambient air applied to the other NAAQS pollutants.

The term ''Primary Monitor'' was proposed for addition to the definition list. The use of this term has become important in AQS to better define the processes used to calculate NAAQS design values when more than one monitor is being operated by a monitoring agency for a given pollutant at the same site. This term identifies the primary monitor used as the default data source in AQS for creating a combined site record for pollutants that allow site combinations per 40 CFR part 50.

The term ''Primary Quality Assurance Organization'' was proposed for revision to include the use of the acronym, ''PQAO,'' and to note that a PQAO could include a group of monitoring organizations.

The terms ''PSD Monitoring Organization'' and ''PSD Monitoring Network'' were proposed for addition to support the proposed new appendix B that will pertain specifically to QA requirements for prevention of significant deterioration (PSD) networks.

The term ''PSD Reviewing Authority'' was proposed for addition to support the addition of appendix B to the part 58 appendices and to clarify the identification of the lead authority in determining the applicability of QA requirements for PSD monitoring projects.

The term ''Reporting Organization'' was proposed for revision to clarify that the term refers specifically to the reporting of data as defined in AQS. The AQS does allow the distinct designation of agency roles that include analyzing, certifying, collecting, reporting, and PQAO.

The term ''SLAMS'' (state and local air monitoring stations) was proposed for clarification to indicate that the designation of a monitor as SLAMS generally refers to a monitor required under appendix D of part 58 and is needed to meet monitoring objectives. The SLAMS monitors make up networks that include NCore, PAMS, CSN, and other state or local agency sites that have been so designated in annual monitoring network plans.

The terms ''State Agency'' and ''STN'' were proposed for minor wording changes for purposes of clarity only.

The term ''State Speciation Site'' was proposed for deletion given the proposed addition of ''Supplemental Speciation Station'' to better describe the distinct elements of the CSN, which includes the STN stations that are required under section 4.7.4 of appendix D of part 58, and supplemental speciation stations that are operated for specific monitoring agency needs and are not considered to be required monitors under appendix D.

We received relatively few comments on the proposed revisions to definitions. One commenter noted that the clarification of Meteorological Measurements should specify that those parameters are also required at SLAMS sites, which include both the NCore and PAMS sites. They noted the use of the undefined phrase ''combined data record'' in the Primary Monitor definition and recommended that a definition be provided. They also recommended that the EPA include an explanation of the term ''Special Purpose Monitor'' (SPM) in the definitions section of the preamble and not rely solely on the amended regulatory text. A commenter from a state air program noted that the proposed definition for ''Monitoring Organization'' includes the phrase ''or other monitoring organization.'' They believe the phrase is ambiguous and could extend the applicability of requirements such as technical systems audits to universities, contractors, and other government organizations. This commenter was concerned that the phrasing could expand the applicability of regulations, and that the phrase should be either defined or removed from the final definition verbiage.

The EPA has made several revisions to definitions in response to these comments. The Meteorological Measurements definition has been amended to include a clarifying reference that SLAMS stations include sites that comprise the NCore and PAMS networks. Additionally, the words ''or other monitoring organization'' have been removed from the definition for Monitoring Organization to remove any ambiguity that monitoring regulations apply to entities other than state, local, or tribal agencies.[4] The EPA does not believe that the definition for Primary Monitor needs to be amended as the term ''combined data record'' is already defined as part of appendix N to Part 50 (Interpretation of the National Ambient Air Quality Standards for $PM_{2.5}$). The EPA acknowledges that the preamble to the proposal inadvertently failed to discuss a clarification to the Special Purpose Monitor definition included in the proposal. The proposed revision to this definition was the addition of two sentences that merely restated existing requirements already established in 40 CFR 58.10 with regard to annual monitoring network plans and network assessments. The EPA believes that the proposed definition is a useful but minor revision that should be retained as proposed. No other comments were received on the proposed revisions to definitions and they will be finalized as proposed.

[4] The EPA does note that other mechanisms can be used to extend the applicability of monitoring requirements to sites operated by other entities, *e.g.,* industrial monitors. For example, states can develop Memorandum of Understanding (MOU's) with the operators of such sites to ensure that the monitors are operated according to part 58 requirements and that the resulting data are of known quality.

C. Annual Monitoring Network Plan and Periodic Network Assessment

The annual monitoring network plan process provides an important communications and planning pathway between monitoring agencies, EPA Regional Offices, and the general public. The network assessment process, required every 5 years, provides an opportunity to conduct more in-depth planning and analyses of current and future ambient monitoring needs and objectives to help ensure that monitoring programs respond to changing requirements, demographics, air quality trends, and updated technology.

The EPA proposed several changes to the annual monitoring network plan process and related requirements. We received significant comment on these changes. Therefore, each individual proposed revision is discussed below along with relevant comments.

Since the revision of the annual monitoring network plan process in 2006, the EPA has received feedback about confusion concerning the difference between the process of obtaining public inspection versus comment, the responsibility of monitoring agencies to respond to public comment in their submitted annual monitoring network plans, and the responsibility of the EPA Regional Offices to obtain public comment depending on a monitoring agency's prior action, as well as whether the annual monitoring network plan was modified based on discussions with the monitoring agency following plan submission. Accordingly, we proposed that the public inspection aspect of the requirement contained in 40 CFR 58.10(a)(1) be revised to clearly indicate that obtaining public comment is a required part of the process, and that plans that are submitted to the EPA

Regional Offices should address such comments that were received during the public notice period. A related part of the annual monitoring network plan process is described in 40 CFR 58.10(a)(2) with the distinction that this section pertains specifically to plans that propose SLAMS modifications and, thereby, also require specific approval from the EPA Regional Administrator.

Consistent with the proposed change to the comment process described above, the EPA proposed changes to the text in 40 CFR 58.10(a)(1) to reflect the fact that public comments will have been required to be obtained by monitoring agencies prior to submission, and that the role of the EPA Regional Office would be to review the submitted plan together with public comments and any modifications to the plan based on these comments.

A number of state monitoring agencies and two MJOs commented that the proposed requirement to solicit and address comments during the public inspection period would impose additional burden, inflexibility, and delays on the process by requiring that the comments be addressed before the original plan is submitted to the EPA. Some of these commenters estimated that it would take an additional two months compared with the current process to handle comments in this manner, and that they could only support the proposed change if the deadline for submittal was revised as well. They requested that the EPA waive this proposed requirement or make the procedure more flexible by allowing comments to be submitted later, perhaps as an amendment before the plan is approved, or even with the next year's plan. Four state programs supported the proposed revision noting the importance of soliciting public input on the content of the plan and the perspective that states should take the lead in responding to comments versus the EPA. One of these states noted that they attempt to schedule a public comment period for every SLAMS modification. They also noted that flexibility would be needed in emergency situations that demand immediate changes to their network. Another of these states requested that the term ''address'' be clarified and noted that the timeliest way to handle comments and responses would be to include this information in an appendix to the plan when submitted to the EPA. A different perspective was offered by comments received from a joint environmental group submission. They commented that the proposed changes did not go far enough to ensure a meaningful public comment opportunity. They noted that annual monitoring network plans are integral parts of SIPs and that the CAA requires that SIP submittals and revisions be more formally publicly noticed. They suggested that the EPA require states to prominently advertise monitoring plans, allow at least 30 days for public comment, then either hold a public hearing or provide such an opportunity if requested. They also added that a separate notice and comment opportunity must be required on the EPA's proposed action on a submitted plan or a related amendment to an approved plan, and that all of the suggested public comment requirements must also be applicable to the 5-year network assessment.

The EPA recognizes the diversity of comments on this aspect of the proposal. Nearly all commenters recognized that fostering public involvement in the annual monitoring network plan is important and desirable. Those commenters supporting the proposal noted that their existing procedures already address the proposed requirements and that they found it desirable to be able to respond directly to stakeholders. Adverse comment was related to the implied additional burden of obtaining comment versus the current requirement of posting for public inspection, concern about limiting the flexibility to subsequently modify the plan following submission to the EPA, and the perceived impracticality of adequately responding to public comments in a timely manner.

The EPA does not agree with the comments received from the joint environmental group submission on this aspect of the proposal. First, the final rule text requires annual monitoring network plans to be made available for at least 30 days of public inspection and comment and further requires monitoring agencies to address, as appropriate, any significant issues raised in public comment. Requiring at least 30 days of public participation and consideration of significant comments is consistent with the CAA and the Administrative Procedure Act (APA) and, at the same time, affords monitoring agencies with the flexibility and discretion to provide for additional time and public participation procedures.

Second, the EPA disagrees that state action on an annual monitoring network plan triggers the same public participation requirements applicable to SIP adoption and revision. Section 110(a)(2)(B) of the CAA provides that each SIP shall ''provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator.'' To meet these requirements, our September 2013 *Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)* states that ''the best practice for an air agency submitting an infrastructure SIP would be to submit, for inclusion into the SIP . . . , the statutory or regulatory provisions that provide the air agency or official *with the authority and responsibility to perform*'' certain actions required under 40 CFR part 58. (*See 2013 iSIP Guidance,* p. 22.) In other words, CAA section 110(a)(2)(B) simply requires that monitoring agencies have the legal authority to implement 40 CFR part 58; it does not treat annual monitoring network plans required under 40 CFR part 58 as ''integral parts'' of a SIP subject to public participation whenever such network plans are established or modified.

Third, the EPA disagrees that EPA action on an annual monitoring network plan requires a separate notice and comment opportunity. The EPA reviews and acts on network plans through informal adjudications in which the EPA determines whether such network plans satisfy the requirements in 40 CFR 58.10. Such adjudications are not rulemakings subject to the public participation requirements of the APA (*see* 5 U.S.C. 553), although they are final agency actions subject to judicial review (*see* 5 U.S.C. 706). The EPA's decision to treat network plan decisions as case-by-case adjudications rather than ''rules'' reflects the fact that the EPA simply compares the information supplied in the network plan with the requirements of 40 CFR part 58 and notifies the relevant monitoring agencies that design and operate the corresponding networks whether their particular networks satisfy Part 58 or need further revision.

Finally, the EPA disagrees that public notice and comment is required ''at both the state and federal levels on the 5-year monitoring network assessments required at 40 CFR 58.10(d).'' To the extent that the EPA takes ''substantive action'' on such assessments, such actions are not rulemakings subject to public participation requirements under the CAA or the APA.

Given the relatively broad support for the concept of soliciting public comment as part of the annual monitoring network plan posting process, as well as the concern for the

implied logistical challenge of both obtaining comment and developing (and getting management approval for) adequate responses, while still meeting the required submission deadline of July 1, the EPA believes that some modification of the proposed language is appropriate. As noted by several commenters, the implied burden to ''reference and address any such received comments'' as described in the proposed regulatory language may be too difficult to achieve. As suggested by one commenter, it may be more practical for monitoring agencies to review and consider the comments, and only to modify the plan when ''appropriate and feasible.'' By modifying the proposed language to provide more flexibility and discretion in addressing comments based on each agency's technical evaluation of received comments and the associated management review chain, the EPA can finalize the generally supported goal of increasing public involvement in the process while lessening the burden on agencies that have not previously included the solicitation of public comment in their process. Accordingly, the EPA is revising the regulatory language in the last sentence of 40 CFR 58.10(a)(1) from ''The annual monitoring network plan must be made available for public inspection and comment for at least 30 days prior to submission to the EPA and the submitted plan shall reference and address any received comments'' to ''The annual monitoring network plan must be made available for public inspection and comment for at least 30 days prior to submission to the EPA and the submitted plan shall include and address, as appropriate, any received comments.'' The EPA believes that this revised language, including the clarification that the plan ''address, as appropriate, any received comments,'' provides sufficient flexibility to monitoring agencies and ensures adequate public participation practices. Under this approach, all agencies will review public comments and make changes to the plan as appropriate in light of public comments, taking into account the requirement for timely submission of network plans. The EPA encourages states to provide responses to significant comments but understands that developing formal responses may potentially delay submission of the plan beyond the July 1 deadline, in light of internal timelines and management review procedures. To avoid such delays, it would also be acceptable for states to submit the proposed plan with comments and any resulting changes, and where the EPA finds it necessary to discuss how the state considered and addressed specific comments, the EPA will follow up as part of our process for reviewing the plan for approval.

Another aspect of the annual monitoring network plan requirements is the listing of required elements and site information in 40 CFR 58.10. The EPA proposed to add two requirements to this list as described below. First, the EPA proposed to require that a PAMS network description be specifically included in the 40 CFR 58.10(a) requirements for any monitoring agencies affected by PAMS requirements. The requirements for such a plan are already referenced in appendix D, sections 5.2 and 5.4 of this part. Second, the EPA proposed that ''long-term'' SPMs, *i.e.,* those SPMs operating for longer than 24 months whose data could be used to calculate design values for NAAQS pollutants in cases where the EPA-approved methods are being employed, should be identified in the 40 CFR 58.10(b) requirements along with a discussion of the rationale for keeping the monitor(s) as SPMs or potentially reclassifying to SLAMS. The EPA did not propose that such monitors must become SLAMS, only that the ongoing operation of such monitors and the rationale for retaining them as SPMs be explicitly discussed to avoid confusion, particularly because the monitoring data could be used to calculate design values regardless of whether the monitors are designated SPMs or SLAMs. Thus, there is potential for unintended complexities in the designations process if any design value SPMs would be discontinued without adequate discussion.

Nine commenters addressed the above issues. Only one commenter specifically addressed the addition of the PAMS network description and that comment was ''Support this action.'' The remainder of comments addressed the issue of requiring an annual monitoring network plan discussion and rationale for whether longer-term SPMs should be retained as SPMs or reclassified to SLAMS. Three of these commenters were supportive of the proposed revision with several noting that they expected that monitoring agencies would still be granted discretion on the issues by the EPA Regional Offices. Two commenters suggested revised language to limit the proposed SPM discussion to only criteria pollutant monitors and also only those monitors utilizing federal reference methods (FRM) or federal equivalent methods (FEM). One commenter only supported the revision if the EPA could provide grant funding. Three commenters did not support the proposed revision, either because they interpreted the provision as meaning that the EPA was proposing that such longer-term SPMs be automatically converted to SLAMS in the absence of a justification, due to the belief that such a rationale would create a burden for monitoring agencies and that such a discussion is misplaced in the annual monitoring network plan, or because of the belief that ongoing discussions between the states and EPA Regional Offices are already sufficient to handle such issues, and that the additional requirement is an unnecessary limit on monitoring network flexibility.

After consideration of these comments, the addition of the PAMS network description to the list of requirements in 40 CFR 58.10(a) will be finalized as proposed due to general support and lack of comment on this revision.

The EPA will not finalize the proposed changes to 40 CFR 58.10(b). The EPA believes that some misunderstanding still exists as to the intent of the proposed addition of a required discussion and rationale concerning longer-term SPM monitors. Although preamble language explicitly stated that the EPA was not intending to propose an automatic conversion process for such SPMs, several commenters interpreted the proposal in that way. One commenter noted, ''Also the mechanism is unclear for how SPMs not granted approval will convert to a SLAMS monitor.'' It was not the EPA's intention to imply any limitations on monitoring agency discretion to employ SPMs as part of their network design strategy, only to raise the awareness among all stakeholders of such situations when they occur, particularly with longer-term SPMs that may have design values approaching or exceeding the NAAQS. Comments regarding the need to limit the proposed requirement to FRMs or FEMs also indicate a misunderstanding of the proposed language as this limitation was already included in the regulatory language in the proposal. Given these apparent areas of confusion and the concern about additional burden that the inclusion of such a rationale would place on plan submitters, the EPA will not finalize this proposed change to 58.10(b). Nevertheless, we continue to believe that an open and robust discussion about such longer-term SPMs is an important part of interactions between monitoring agencies and EPA Regional Offices, particularly in the context of monitors utilizing EPA-approved methods that are measuring concentrations near the level of

applicable NAAQS. While continuing to support the use of SPMs to provide flexible options for investigating air quality problems, we encourage reference to these situations in annual monitoring network plans and thoughtful consideration of the pros and cons of converting such monitors to SLAMS particularly to avoid potential disruption of implementation actions due to discontinuance of important SPMs.

The EPA proposed a minor edit to the annual monitoring network plan requirements to revise terminology referring to $PM_{2.5}$ speciation monitoring. No comments were received on this issue and the change will be finalized as proposed.

The EPA received comments on a general rewording of regulatory language that was included as part of the revisions to 40 CFR 58.10(a). Specifically, we revised the sentence ''The plan shall include a statement of purposes for each monitor and evidence that siting and operation of each monitor meets the requirements of appendices A, C, D, and E of this part, where applicable'' to ''The plan shall include a purpose statement for each monitor along with a statement of whether the operation of each monitor meets the requirements of appendices A, B, C, D, and E of this part, where applicable.'' Additionally, the proposed language added the following sentence: ''The Regional Administrator may require the submission of additional information as needed to evaluate compliance with applicable requirements of Part 58 and its appendices.''

One state monitoring agency noted that there was overlap between the monitoring objective and the purpose of a monitor as referenced in the regulatory language. They suggested that the terms be defined in the definitions section of the rule. They also suggested removing the purpose statement entirely as it appears duplicative with other annual monitoring plan requirements that are already present. Two MJOs referenced the statement concerning the Regional Administrator's discretion to require the submission of additional information to evaluate the compliance of the submitted plan with part 58 and appendices. They commented that the proposed language was ''vague and open-ended'' and that the presence of this requirement would lead to significant differences among the EPA Regions concerning the level of detail needed to evaluate plan submittals. It was suggested that the EPA consider amending the language to more clearly define the circumstances when additional information would be needed.

The EPA believes that some revision of the referenced language is appropriate to achieve the goal of providing monitoring agencies with a more explicit description of the documentation that is required in the plans as well as providing the EPA Regional Offices with a clear basis for review and approval. We agree with the comment that the requirement for a ''purpose statement'' is vaguely worded and duplicative of existing requirements (in 40 CFR 58.10(b)) that pertain to factors such as monitoring objective and spatial scale. We also note the comments concerning the open-ended nature of the statement that the Regional Administrator has discretion to require the submission of additional information to evaluate the compliance of the submitted plan with Part 58 and appendices. The EPA observes that this type of statement is not unusual in the context of various monitoring requirements, particularly in the Network Design Criteria described in appendix D. We do not anticipate frequent requests for additional information in the context of the Annual Monitoring Network Plan requirements, but we would anticipate that additional information would be needed by Regional Offices when the reasons supporting compliance with the applicable requirements of part 58 and its appendices have changed from the previous year's plan, or when a monitor has been added since the previous year's plan was approved.

Accordingly, the EPA is revising the proposed language by deleting the words ''a purpose statement for each monitor along with'' from the second sentence of 40 CFR 58.10(a)(1) and also revising the sentence ''The Regional Administrator may require the submission of additional information as needed to evaluate compliance with applicable requirements of Part 58 and its appendices'' to ''The Regional Administrator may require additional information in support of this statement,'' which is a somewhat narrower framing of the need for Regional Administrator discretion in the context of assuring whether the operation of each monitor meets the requirements of appendices A, B, C, D, and E of this part, as described in the submitted Annual Monitoring Network Plan.

Finally, two public comments were received on preamble language in the proposal pertaining to the EPA's discussion about the ability of Regional Offices to handle partial approvals of annual monitoring network plans in cases where one or more of the required elements is problematic. A joint environmental organization comment noted that the EPA's discussion did not indicate a timeframe for the correction of deficiencies and, hence, the described partial approval process was unlawful and arbitrary. They further suggested that an appropriate time limit for the correction of deficiencies would be 90 days. A MJO comment noted that a partial approval process is not an appropriate strategy for the longer term, although the process as it exists now has been found to be useful in some cases. This commenter supported language in the preamble discussion relating to an approval process while noting technical deficiencies, as long as such deficiencies were related to required elements of the plan.

The EPA notes that the preamble discussion (79 FR 54360) was not tied to any proposed revisions to requirements or regulatory language, but was intended as an articulation of what we believe to be currently available flexibility in the handling of annual monitoring network plan submissions. The EPA agrees that deficiencies should be corrected and intends to work with monitoring agencies to address deficiencies in a timely manner. However, the EPA does not believe that the lack of a regulatory schedule for correcting deficiencies is unlawful or that it would be appropriate to establish one without having solicited comment on the topic in the proposal. Accordingly, no additional action was taken within the context of this rulemaking.

D. Network Technical Requirements

The Network Technical Requirements section provides a place for cross-referencing and clarifying the applicability of the various requirements that are described in the appendices to part 58.

The EPA proposed to revise the language in 40 CFR 58.11(a)(3) to note the proposed revisions to appendix B to the QA requirements that would pertain to PSD monitoring sites. One supportive comment was received on this issue and the revision will be finalized as proposed.

E. Operating Schedules

The operating schedule requirements described in 40 CFR 58.12 pertain to the minimum required frequency of sampling for continuous analyzers (for example, hourly averages) and manual methods for particulate matter (PM) and Pb sampling (typically 24-hour averages for manual methods).

The EPA proposed to revise these requirements by (1) adding flexibility in the minimum required sampling for $PM_{2.5}$ mass sampling and for $PM_{2.5}$ speciation sampling; (2) modifying language pertaining to continuous mass monitoring to reflect revisions in regulatory language that were finalized in the 2013 PM NAAQS final rule; and (3) clarifying the applicability of certain criteria that can lead to an increase in the required sampling frequency, for example, to a daily schedule. Ten commenters responded to these proposed changes. Most of the comments were generally supportive of these changes as they provide additional flexibility and potential burden reductions for monitoring agencies. Some comments noted concern with specific changes to the period of time that a $PM_{2.5}$ sampler would have to utilize an increased sampling frequency if triggered by design values. Additional details on these generally supportive comments are discussed below in the relevant sections. A joint environmental organization comment opposed all the sampling frequency changes; they noted concern for the increased risk of not detecting daily variations in $PM_{2.5}$ by allowing samplers to follow reduced sampling schedules and also noted the lack of a cost analysis documenting the burden of monitoring as well as the fact that the EPA was not requiring additional monitoring to compensate for the reduced sampling frequency.

With regard to the minimum required sampling frequency for manual $PM_{2.5}$ samplers, current requirements state that at least a 1-in-3 day frequency is mandated for required SLAMS monitors without a collocated continuous monitor. The EPA believes that some regulatory flexibility is appropriate in situations where a particular monitor is highly unlikely to record a violation of the $PM_{2.5}$ NAAQS, such as in areas with very low $PM_{2.5}$ concentrations relative to the NAAQS and/or in urban areas with many more monitors than are required by appendix D (when a subset of those monitors is reading lower than other monitors in the area). The EPA specifically proposed that the required sampling frequency could be reduced to 1-in-6 day sampling or another alternate schedule through a case-by-case approval by the EPA Regional Administrator. Such approvals could be based on factors that are already described in 40 CFR 58.12(d)(1)(ii) such as historical $PM_{2.5}$ data assessments, the attainment status of the area, the location of design value sites, and the presence of continuous $PM_{2.5}$ monitors at nearby locations. The EPA noted that the request for such reductions in sampling frequency would occur as part of the annual monitoring network plan process as operating schedules are a required part of the plans as stated in 40 CFR 58.10(b)(4). For sites with a collocated continuous monitor, the EPA also proposed that the current regulatory flexibility to reduce to 1-in-6 day sampling or a seasonal sampling schedule is appropriate based on factors described above and, in certain cases, may also be applicable to lower-reading SLAMS sites without a collocated continuous monitor, for example, to reduce frequency from 1-in-6 day sampling to a seasonal schedule. Such flexibility was proposed through changes in the regulatory language in 40 CFR 58.12(d)(1)(i) and (ii).

With the one exception noted earlier, supportive comments were received on this specific proposed revision. One MJO commented that flexibility is needed in specifying operating schedules, and that it is preferable to retain lower reading sites with a reduced sampling frequency rather than close them completely. Similar comments included ''Support this action'' and the observation that the proposed changes should reduce monitoring burden. Concerning the joint environmental organization comment noting the potential increased risk of not characterizing the risk from $PM_{2.5}$ levels that might be missed when sampling frequency is reduced, the EPA notes that these case-by-case situations would be reviewed by EPA Regional Offices for approval, and that the pertinent approval criteria would include an assessment of prevailing $PM_{2.5}$ concentrations and the availability of other manual or continuous monitors that would provide characterization in the general area. As stated in the proposal, we expect these sampling reduction requests to be made for lower reading sites so the impact on area design values would be negligible. We also note that the requests would be made through the annual monitoring network plan process and, therefore, would be open for public inspection and comment prior to potential approval by the EPA. On an overall basis, the EPA believes that it is important to have operational flexibilities with regard to sampling frequency to permit monitoring agencies to shift resources (*e.g.,* higher sampling frequency samplers) to high priority areas; this flexibility supports the ability of the monitoring network to react to changing air quality trends and problems in a manner most protective of public health. Concerning the observation that the EPA has not provided an analysis of relevant costs, we note the public availability of such financial information in information collection request documents that are regularly updated and submitted for public comment according to Office of Management and Budget regulation.[5]

In consideration of the comments above, the EPA is finalizing the revisions to add flexibility to sampling frequency requirements for $PM_{2.5}$ mass samplers as proposed.

The EPA also proposed added flexibility in sampling frequency for $PM_{2.5}$ CSN sites, specifically the STN sites that are currently operated at approximately 53 locations.[6] The STN stations are currently required to sample on at least a 1-in-3 day frequency with no opportunity for flexibility. Justifications for the proposed additional flexibility include the conservation of resources for reinvestment in other needs within the CSN, rising analytical costs, and the availability of new technologies that provide continuous measurement of $PM_{2.5}$ species. Accordingly, the EPA proposed that a reduction in sampling frequency from 1-in-3 day be permissible for manual $PM_{2.5}$ samplers at STN stations, for example, to a 1-in-6 day frequency. The approval for such changes at STN stations, on a case-by-case basis, would be made by the EPA Administrator as the authority for changes to STN has been retained at the Administrator level per appendix D of this part, section 4.7.4.[7] Factors that would be considered as part of the decision would include an area's design value, the role of the particular site in national health studies, the correlation of the site's species data with nearby sites, and presence of other leveraged measurements.

Few commenters specifically addressed this proposed change as the aforementioned comments pertaining to changes in sampling frequency for $PM_{2.5}$ mass samplers were likely deemed pertinent to the CSN. Where this proposed change was mentioned specifically, monitoring agency comments noted support as a means of increasing flexibility and potentially protecting sites by reducing sampling frequency versus eliminating sites completely. The joint environmental organization comment stated that a

[5] See *http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2002-0091-0017.*

[6] *http://www.epa.gov/ttn/amtic/specgen.html.*

[7] The approval process has been delegated, in practice, to the Director of the Air Quality Assessment Division within the Office of Air Quality Planning and Standards.

reasoned justification for the change was not provided, and noted that speciation data are critical in development of SIP control strategies, health studies, modeling exercises, and investigation of air pollution episodes.

The EPA notes the supportive comments from monitoring agencies and agrees that increasing flexibility with respect to sampling frequency as an alternative to site elimination was a motivation for the revision. With respect to the environmental organization comment noting concern about the additional flexibility and the potential for reduced sampling frequency, the EPA agrees with the observation that $PM_{2.5}$ speciation data are critical to supporting many different monitoring objectives. Because we believe that $PM_{2.5}$ speciation data are critical for the objectives noted above, we recently completed an in-depth assessment of the CSN with the goal of protecting, to the greatest extent possible, the long-term operation of the network.[8] In the face of rising analytical costs and unchanging budgets, the EPA considered factors such as site reductions, changes in sampling frequency, and alterations in operational procedures to support long-term viability of the CSN. The results of the assessment were implemented in late 2014 and early 2015, and the EPA believes the revised CSN continues to provide strong support for key monitoring objectives noted by the commenter and would do so even if sampling frequency were selectively reduced at a small number of STN sites based on substantive and suitable criteria. The EPA notes that a proposal to reduce sampling frequency would need to be accompanied by a technical rationale justifying the request and evaluating the impact on data users and the ability of the site to meet the aforementioned key objectives, for example, by employing new technology such as continuous monitoring of $PM_{2.5}$ species, in lieu of the reduced number of filter samples.

In consideration of the comments and detailed network assessment described above, the EPA is finalizing the revisions to add flexibility to sampling frequency requirements for the $PM_{2.5}$ STN sites as proposed.

The EPA proposed editorial revisions to 40 CFR 58.12(d)(1)(ii) to harmonize the language regarding the use of continuous FEM or approved regional methods (ARM) monitors to support sampling frequency flexibility for manual $PM_{2.5}$ samplers with the current language in 40 CFR 58.12(d)(1)(iii) that was revised as part of 2013 PM NAAQS final rule. Specifically, the phrase ''unless it is identified in the monitoring agency's annual monitoring network plan as not appropriate for comparison to the NAAQS and the EPA Regional Administrator has approved that the data from that monitor may be excluded from comparison to the NAAQS'' was proposed for appending to the current regulatory language to reflect the new process that was finalized in the 2013 PM NAAQS final rule that allows monitoring agencies to request that continuous $PM_{2.5}$ FEM data be excluded from NAAQS comparison based on technical criteria described in 40 CFR 58.11(e). We also proposed the addition of the phrase ''and the EPA Regional Administrator has approved that the data from that monitor may be excluded from comparison to the NAAQS'' to the revisions that were made with the 2013 PM NAAQS. This revision was proposed to clearly indicate that two distinct actions are necessary for the data from a continuous $PM_{2.5}$ FEM to be considered not comparable to the NAAQS; first, the identification of the relevant monitor(s) in an agency's annual monitoring network plan, and, second, the approval by the EPA Regional Administrator of that request to exclude data. The language used by the EPA in the relevant sections of 40 CFR 58.12 related to the initial request by monitoring agencies but did not specifically address the needed approval by the EPA.

No comments specifically addressed these editorial changes in regulatory language and they will be finalized as proposed.

Finally, the EPA proposed to clarify the applicability of statements in 40 CFR 58.12(d)(1)(ii) and (iii) that reference the relationship of sampling frequency to site design values. Specifically, we proposed clarifications and revisions affecting the following statements: (1) ''Required SLAMS stations whose measurements determine the design value for their area and that are within ±10 percent of the NAAQS; and all required sites where one or more 24-hour values have exceeded the NAAQS each year for a consecutive period of at least 3 years are required to maintain at least a 1-in-3 day sampling frequency,'' and (2) ''Required SLAMS stations whose measurements determine the 24-hour design value for their area and whose data are within ±5 percent of the level of the 24-hour $PM_{2.5}$ NAAQS must have a FRM or FEM operate on a daily schedule.'' These revisions were proposed to avoid confusion among monitoring agencies and Regional Offices concerning the applicability of the sampling frequency adjustments since design values are recalculated annually and, in some situations, such revised design values can either fall below the comparative criteria or rise above the criteria. To provide some clarity to this situation as well as to provide a framework where changes in sampling frequency occur on a more consistent and predictable basis, the EPA proposed that design value-driven sampling frequency changes be maintained for a minimum 3-year period once such a change is triggered. Additionally, such changes in sampling frequency would be required to be implemented no later than January 1 of the year that follows the recalculation and certification of a triggering design value.

A number of supportive comments were received on this specific issue from monitoring agencies. These comments ranged from unqualified support to more conditional support based on concerns related to funding levels and the overall burden of analyzing more $PM_{2.5}$ filters when sampling frequency is increased. One agency commented that the proposed change ''makes sense where the concentrations have reached a plateau or fluctuate back and forth from year to year.'' However, concern was noted about waiting for 3 years to decrease sampling frequency when design values are clearly trending downward. Another state agency generally agreed with the proposed approach but requested clarifying language that the same criteria that would require an increase in sampling frequency for a 3-year period due to an increase in design values would also allow a decrease in sampling frequency for a 3-year period if the corresponding site design value decreased below a threshold. Other commenters expressed concern about the associated resource burdens noting that their gravimetric laboratories are already operating at full capacity and that an increase from 1-in-3 day sampling to daily sampling would triple the number of filters to be weighed. Accordingly, these commenters requested that the EPA allow the affected design value sampler to drop back to a reduced sampling frequency as soon as a design value fell out of the specific range and not be required to wait for the proposed 3-year period. One commenter expressed concern that the provision could trigger daily sampling even if the higher values were caused by a rare or exceptional event, and requested that the proposed revision be omitted. Finally, one state monitoring

[8] *https://www.sdas.battelle.org/CSNAssessment/html/Default.html.*

agency expressed concern about the apparent deletion of PM_{10} monitoring requirements from 40 CFR 58.12, and also offered suggested revisions to the current requirements in 40 CFR 58.12(e).

The EPA notes the range of responses on this issue and acknowledges that in cases where the sampling frequency for a $PM_{2.5}$ sampler is increased, for example from 1-in-3 day to daily sampling, the associated burden, which includes field support and gravimetric lab support, would increase for a minimum period of 3 years based on the proposed change. After that 3-year period of increased sampling, the sampling frequency would be eligible to be reduced if the triggering design value was no longer in the specified range (*e.g.,* ±5 percent of the 24-hour $PM_{2.5}$ NAAQS). The EPA agrees that the treatment of sampling frequency in situations where a sampler is no longer in the specific triggering range after a 3-year period of increased sampling, should be analogous to the treatment of sampling frequency in situations where a sampler first enters into the specific triggering range, for purposes of providing predictability to monitoring agencies in terms of anticipating operational burden. In other words, where the sampling frequency is reduced at a sampler after a 3-year period of increased sampling frequency (for example, where the design value falls out of the ±5 percent range), that sampler should not be subject to an increased sampling frequency requirement for at least 3 years. With regard to the concern that an exceptional event could trigger the increased burden of operating a higher sampling frequency sampler, we believe that this is a plausible situation that deserves additional consideration. Rather than trying to account for this situation in this rule, however, we believe it is best dealt with in the context of the ongoing process of developing guidance and proposed revisions to the Exceptional Events rule.[9] Once those actions are finalized, the EPA will work with Regional Offices to clarify how to address this situation. On the related concern of a ''rare'' event triggering increased sampling frequency, the EPA notes that the form of the $PM_{2.5}$ NAAQS is intended to address such year-to-year variations such that design values should not be overly affected by ''rare'' occurrences of $PM_{2.5}$ concentrations in any given year. With regard to the comment indicating an apparent deletion of the PM_{10} sampling frequency requirements in 40 CFR 58.12(e), we note that such changes were not included as part of the proposal and those requirements remain.

The EPA believes that this proposed revision to sampling frequency procedures is a necessary clarification to the regulatory change that was finalized in 2006, and will provide a more predictable and statistically robust process for making design value driven changes in sampling frequency. Based on the unqualified and qualified supportive comments, we are finalizing the regulatory language as proposed. While we are mindful of the potential for added burden in cases where $PM_{2.5}$ samplers must move to a more frequent sampling frequency for a longer period of time based on this revision, we also note that the likelihood of such occurrences affecting monitoring agencies is relatively small. Based on an AQS retrieval conducted in August 2014, fewer than ten $PM_{2.5}$ monitors out of a pool of 980 FRM monitors were required to operate on a daily sampling frequency based on the rule provisions of 40 CFR 58.12(d)(1)(iii).[10] While this analysis is not predictive in nature, we believe the overall risk of increasing burden on monitoring programs is quite small and an acceptable consequence of providing a more specific way of implementing an important aspect of the sampling frequency requirements. Alternatively, as noted in the regulatory text, monitoring agencies have the option of installing a continuous $PM_{2.5}$ FEM monitor to satisfy this requirement and, thereby, avoid the consequence of handling an increased number of filters.

F. System Modification

The System Modification section pertains to the specific requirements that must be followed when monitoring agencies request changes to the SLAMS portion of their networks.

In the 2006 monitoring amendments, the EPA finalized a requirement in 40 CFR 58.14(a) for monitoring agencies to ''develop and implement a plan and schedule to modify the ambient air quality network that complies with the finding of the network assessments required every 5 years by 58.10(e).'' Since 2006, there has been confusion between the EPA and monitoring agencies as to whether a separate plan was required to be submitted by 40 CFR 58.14(a) relative to the annual monitoring network plan, with that separate plan devoted specifically to discussing the results of the 5-year network assessment. As explained in the monitoring proposal, the EPA did not intend for the submission of a distinct plan devoted specifically to the implementation of the 5-year network assessment. Accordingly, the EPA proposed to revise the regulatory language in 40 CFR 58.14(a) to clearly indicate that a separate plan is not needed to account for the findings of the 5-year network assessment, and that the information concerning the implementation of the 5-year assessment, referred to in the proposed regulatory language as a ''network modification plan,'' shall be submitted as part of the annual monitoring network plan that is due no later than the year after the network assessment is due.[11] According to the proposed schedule, the annual monitoring network plans that are due in 2016, 2021, etc., would contain the information referencing the network assessments.

A number of comments were received on this issue. Most of the commenters provided the perspective that the clarification in the regulatory text was useful but that additional clarification was needed to address how the phrase ''implement the findings'' was used in the language. Five of these commenters noted that states should only have to address those changes in the network assessments that are specifically required by regulation, and that the EPA should clarify that monitoring agencies have the flexibility to discuss what findings they intend to implement and which findings they do not intend to implement. Two commenters noted that monitoring agencies should not have to summarize the findings of their network assessment in a network modification plan that is due one year after the assessment, but rather should have the flexibility to address and implement those findings that are appropriate based on available resources and changing priorities over some period of time. Two commenters supported the proposed language without additional elaboration.

The EPA agrees with the comments requesting additional clarification. The intention of the proposed revision was to clarify the process for how and when monitoring agencies should deal with

[9] *http://www2.epa.gov/air-quality-analysis/treatment-data-influenced-exceptional-events#Proposed%20EE%20Rule.*

[10] Hanley, T. (2015). Assessment of $PM_{2.5}$ data to determine the number of sites that would be potentially required to increase their sample frequency to daily. Memorandum to the Docket, EPA–HQ–OAR–2013–0619.

[11] Monitoring agencies, at their discretion, could submit the network modification plan in the year that the assessment is due if sufficient feedback had been received. On balance, the EPA believes that the extra year following the completion of the network assessment would be valuable to assure a productive outcome from the assessment process.

the results from these important network assessments, not to imply that all the results should be implemented or were necessarily required. The network assessment requirements detailed in 40 CFR 58.10(d) reference a mix of required elements (*e.g.,* meeting the monitoring objectives of appendix D) as well as useful but non-required elements such as evaluation of new technologies and the evaluation of the impact on data users of site discontinuance. To the extent that the EPA used the phrase ''implements the findings of the network assessment'' in the proposed regulatory language of 40 CFR 58.14(a), the concern from monitoring agencies about specifying which results from the network assessment are required and not required is understandable. The EPA always intended that the results of the network assessments should be used as a flexible planning tool for informing the next 5 years of monitoring network operations, and the specificity being implied by the monitoring agency comments reflects a misreading of those intentions.[12] The EPA disagrees with the comments suggesting that a network modification plan is unnecessary. Such a requirement has been a part of the monitoring regulations since the inception of the network assessment, and having the network modification plan submitted as part of the annual monitoring network plan insures public involvement in a key process that occurs on a relatively infrequent basis.

To address the concerns noted above, the proposed regulatory language is being revised to replace ''implements'' with ''addresses,'' as follows: ''The state, or where appropriate local, agency shall develop a network modification plan and schedule to modify the ambient air quality monitoring network that addresses the findings of the network assessment required every 5 years by § 58.10(d).'' With this revision, the EPA is indicating that the network modification plan should reference or ''address'' the findings of the network assessment without the unintended implication that some of the findings are required network changes that must be implemented. The correct vehicle for the discussion of required elements that must be implemented is the annual monitoring network plan that is required to be submitted each year, as discussed earlier in section II.C of this preamble.

The EPA also proposed to revise an incorrect cross-reference in the current text of 40 CFR 58.14(a) in which the network assessment requirement is noted as being contained in 40 CFR 58.10(e) when the correct cross-reference is 40 CFR 58.10(d). One supportive comment addressed this issue, and the revision will be finalized as proposed.

G. Annual Air Monitoring Data Certification

The data certification requirement is intended to provide ambient air quality data users with an indication that all required validation and reporting steps have been completed, and that the certified data sets are now considered final and appropriate for all uses including the calculation of design values and the determination of NAAQS attainment status. Current requirements include the certification of data collected at all monitors at SLAMS and monitors at SPMs using FRM, FEM, or ARM methods. In practice, this requirement includes a very wide range of measurements that are not limited to criteria pollutants but also extend to non-criteria pollutant measurements at PAMS stations, meteorological measurements at PAMS and NCore stations, and $PM_{2.5}$ chemical speciation parameters.

The EPA proposed several changes in the data certification requirements to accomplish a streamlining of this important process. First, to support the focus on certification of criteria pollutant measurements, the EPA proposed to revise relevant sections of 40 CFR 58.15 to focus the requirement on FRM, FEM, and ARM monitors at SLAMS and at SPM stations rather than at all SLAMS, which also include PAMS and CSN measurements that may not utilize federally approved methods. Second, the EPA proposed that the required AQS reports be submitted to the Regional Administrator rather than through the Regional Administrator to the Administrator as is currently required. Finally, minor editorial changes were proposed in 40 CFR 58.15 to generalize the title of the official responsible for data certification (senior official versus senior air pollution control officer) and to remove an outdated reference to the former due date for the data certification letter (July 1 versus the current due date of May 1).

Seven commenters specifically addressed the proposed changes to data certification. Three monitoring agencies, one MJO, and one consulting firm were supportive of the changes. One of these commenters also noted that the data certification and QA report hosted on the AQS system, the AMP600 report, should be modified to provide more useful data certification flag recommendations for regions and states. Another of these supportive commenters also stated that the EPA should ensure that QA practices and responsibilities remain in place to validate PAMS and $PM_{2.5}$ chemical speciation data. A joint environmental group comment stated that the EPA had not provided a rational basis for the proposed changes, and that an inconsistency exists between proposing to retain the data certification process for criteria pollutants while stating that existing QA plans and procedures would be sufficient to validate non-criteria pollutant measurements. In this commenter's view, the data certification process, as it exists today, appears to delay the availability of data for use in computing criteria pollutant design values, so perhaps the agency should consider eliminating the process entirely if it is deemed unnecessary. Finally, one commenter asked that the EPA consider moving the data certification deadline from May 1 back to July 1, and also to consider not requiring chemical speciation data to be certified.

With regard to the adverse comment, the EPA notes that the proposed changes were made to protect the viability of the process in the face of a rapidly increasing volume of data subject to certification requirements versus the available resources at the monitoring agency and EPA level needed to meet the requirements and deadline. We continue to believe that the data certification process adds the greatest degree of value when focused on criteria pollutants that support the calculation of design values and the mandatory designations process. The review of design values occurs on an annual basis and there is a long-standing practice of waiting for criteria pollutant data to be certified before such calculations are completed.[13] This process provides a basis for documenting that a state's review of their data is complete and that the data are considered final for key purposes such as comparison to the NAAQS. The same annual pattern of regular data usage and oversight does not exist for non-criteria pollutants such as PAMS, $PM_{2.5}$ chemical species, and air toxics data, and these data are not directly compared to the NAAQS. Therefore, the EPA believes that the applicability and visibility of the data certification process for these measurements is less critical. As stated in the proposal, there are existing standardized procedures and QA documents that provide a framework for assuring the quality of

[12] See *http://www.epa.gov/ttn/amtic/files/2014conference/monnaweinstock.pdf.*

[13] See 40 CFR part 50, appendix N, section 3.0(a) as revised on January 15, 2013 (78 FR 3278).

non-criteria pollutants,[14] and we believe that the resulting quality of such data will not be compromised by their removal from the data certification process. With regard to the comment requesting that the data certification deadline be pushed back to July 1, the EPA notes that this deadline was not proposed for revision and, therefore, is not being considered in this final rulemaking. With regard to the comment about excluding chemical speciation data from the certification process, the EPA notes that this procedural change would occur as a result of the proposed revisions as explained above.

After reviewing the comments, the EPA is finalizing the changes to data certification requirements as proposed. The EPA agrees with commenters that efforts to improve the validation procedures for non-criteria data should continue and the agency has invested in revised tools, such as the recently launched Data Analysis and Reporting Tool (DART) web resource that can assist monitoring agencies with the validation of data including PAMS and air toxics data.[15] Improvements are also being made to the AMP600 report to improve the utility of the program for generating recommended certification flags for consideration by monitoring agencies and EPA Regional Offices during the annual review process.

H. Data Submittal and Archiving Requirements

The requirements described in 40 CFR 58.16 address the specific measurements that must be reported to AQS as well as the relevant schedule for doing so. Required measurements include criteria pollutants in support of NAAQS monitoring objectives and public reporting; specific ozone (O_3) and $PM_{2.5}$ precursor measurements such as those obtained at PAMS, NCore, and CSN stations; selected meteorological measurements at PAMS and NCore stations; and associated QA data that support the assessment of precision and bias. In 1997, an additional set of required supplemental measurements was added to 40 CFR 58.16 in support of the newly promulgated FRM for $PM_{2.5}$, described in 40 CFR part 50, appendix L. In the 2006 monitoring amendments, many of these supplemental measurements were removed from the requirements based on the EPA's confidence that the $PM_{2.5}$ FRM was meeting data quality objectives (see 71 FR 2748). At that time, reporting requirements were retained for average daily ambient temperature and average daily ambient pressure, as well as any applicable sampler flags, in addition to $PM_{2.5}$ mass and field blank mass.

The EPA believes that it is no longer necessary to require agencies to report the average daily temperature and average daily pressure from manual $PM_{2.5}$ samplers, given the long-standing experience with the FRM and the ubiquitous availability of meteorological data, and these specific AQS reporting requirements were proposed for removal in the monitoring proposal. The EPA also proposed to remove similar language referenced elsewhere in 40 CFR 58.16 that pertains to measurements at Pb sites as well as to other average temperature and average pressure measurements recorded by samplers or from nearby airports. For the reasons noted above, the EPA believes that meteorological data are more than adequately available from a number of sources, and that the removal of specific requirements for such data to be reported to AQS represents an opportunity for burden reduction. The EPA notes that the requirement to report specific meteorological data for NCore and PAMS stations remains unchanged given the importance of having on-site meteorological data to correlate with $PM_{2.5}$ and O_3 precursor measurements. The EPA also proposed a change to the data reporting schedule described in 40 CFR 58.16(b) and (d) to provide additional flexibility for reporting $PM_{2.5}$ chemical speciation data measured at CSN stations. Specifically, we proposed that such data be required to be reported to AQS within 6 months following the end of each quarterly reporting period, as is presently required for certain PAMS measurements such as volatile organic compounds. This change would provide an additional 90 days for $PM_{2.5}$ chemical speciation data to be reported compared with the current requirement of reporting 90 days after the end of each quarterly reporting period. This change was proposed to provide both the EPA and monitoring agencies with potential data reporting flexibility as technological and procedural revisions are considered for the national analytical frameworks that support the CSN network.

Seven commenters specifically addressed the proposed changes to data submittal and archiving requirements. One state monitoring agency, one MJO, and one consulting firm were supportive of all of the proposed changes in this rule section, with the consulting firm comment also noting that average temperature and pressure information should still be archived within monitoring programs for data validation purposes. Two state monitoring agencies expressed concerns about the proposed change in the reporting deadline for $PM_{2.5}$ chemical speciation data by noting the impacts on their usage of the data, one agency noting that efforts to submit timely exceptional event demonstrations would be impacted by the longer period allowed for reporting data, and the other state agency noting that their use of the speciation data to validate $PM_{2.5}$ FRM and ion (*e.g.,* sulfate, nitrate) data would be impacted.

With specific regard to the impact on state submissions of exceptional event data exclusion determinations, the EPA understands the impact of the additional 90-day delay in gaining access to $PM_{2.5}$ chemical speciation data, but also notes that the relatively long timelines that currently exist within the exceptional events rule framework can typically accommodate an additional delay of 90 days without significant impact on the submitting agency. Accordingly, we do not believe that the additional 90 days being proposed for reporting $PM_{2.5}$ chemical speciation data should materially impact the ability of submitters to develop exceptional event data exclusion determinations within allowable timeframes.[16] Concerning the comment relating to the availability of $PM_{2.5}$ chemical speciation data to QA practices for $PM_{2.5}$ FRM data, the EPA acknowledges the comparative value of such data but believes that the existing availability of $PM_{2.5}$ sampler diagnostic records, collocated FRM data, as well as the potential availability of continuous monitoring data from collocated monitors and/or nearby sites, should be more than sufficient to validate $PM_{2.5}$ FRM data in the absence of more timely reported speciation data.

In consideration of the comments noted above, the EPA is finalizing the changes to data submittal and archiving requirements as proposed.

I. Network Design Criteria (Appendix D)

Appendix D to part 58 contains important information about ambient monitoring objectives, site types, spatial scales, as well as other general and specific minimum requirements

[14] See *http://www.epa.gov/ttn/amtic/specguid.html* and *http://www.epa.gov/ttn/amtic/airtoxqa.html*.

[15] See *http://www.epa.gov/ttn/amtic/files/2014conference/mondatdewinter.pdf* or access DART at *http://www.airnowtech.org/dart/dartwelcome.cfm* (username and password required).

[16] The EPA expects chemical speciation data to be reported within 30 days of $PM_{2.5}$ mass data based on the revised analytical framework that took effect in late 2015.

concerning network size and design criteria.

The EPA proposed two changes that affect the required suite of measurements in the NCore network. This multi-pollutant network became operational on January 1, 2011, and includes approximately 80 stations that are located in both urban and rural areas.[17]

The EPA proposed a minor change to section 3 of appendix D to part 58, the design criteria for NCore sites, specifically, the deletion of the requirement to measure speciated $PM_{10-2.5}$ from the list of measurements in section 3(b). An identical revision was finalized in the text of 40 CFR 58.16(a) in the 2013 p.m. NAAQS final rule (see 78 FR 3244). During this process, the EPA inadvertently failed to complete a similar change that was required in the language of section 3 of appendix D. Accordingly we proposed this change to align the NCore monitoring requirements between the two sections noted above.

The EPA also proposed to delete the requirement to measure Pb at urban NCore sites, either as Pb in Total Suspended Particles (Pb-TSP) or as Pb-PM_{10}. This requirement was finalized as part of the reconsideration of Pb monitoring requirements that occurred in 2010 (see 75 FR 81126). Since that time, non-source oriented Pb data has been measured at 50 urban NCore sites, with the majority of sites having already collected at least 2 years of data. In all cases, valid ambient Pb readings have been low, with maximum 3-month rolling averages typically reading around 0.01 micrograms per cubic meter as compared to the NAAQS level of 0.15 micrograms per cubic meter.[18] This is an expected result given the elimination of Pb from gasoline and the refocusing of the ambient network to characterize emissions at sites that have been placed in relative close proximity to the remaining industrial sources around a given threshold. We expect the vast majority of non-source sites to have the 3 years of data necessary to calculate a design value following the completion of monitoring in 2015. Given the uniformly low readings being measured at these NCore sites, we believe it is appropriate to consider eliminating this requirement. As noted in the associated docket memo, non-source oriented Pb data will continue to be measured (as Pb-PM_{10}) at the 27 National Air Toxics Trends Sites (NATTS) and at hundreds of $PM_{2.5}$ speciation stations that comprise the CSN and IMPROVE networks.

Accordingly, the EPA proposed to delete the requirement to monitor for non-source oriented Pb at NCore sites from appendix D of 40 CFR part 58.[19] Given the requirement to collect a minimum of 3 years of Pb data in order to support the calculation of design values, the EPA proposed that monitoring agencies would be able to request permission to discontinue non-source oriented monitoring following the collection of at least 3 years of data at each urban NCore site.[20]

Eight commenters specifically addressed the proposed changes to network design criteria. Five state or local monitoring agencies, one MJO, and one consulting firm were supportive of all of the proposed changes in this appendix, with several of the monitoring agencies characterizing their measurements of Pb at urban NCore sites as either ''extremely low'' or between 3 percent or 5 to 7 percent of the Pb NAAQS. One joint environmental group comment disagreed with the proposed change to Pb monitoring, noting the perspective that there is no safe level of Pb and that data even well below the level of the NAAQS could assist communities with finding ways of reducing Pb exposure and that such data would also assist researchers investigating the risks of Pb exposure for children. This commenter also noted that the EPA might propose to lower the Pb NAAQS in an upcoming rulemaking that was pending at the time when the comment was submitted.

With regard to the adverse comment, the EPA notes in the referenced docket memo that well over 300 monitoring sites for Pb would remain in operation following the proposed termination of monitoring at urban NCore sites. These remaining sites would provide characterization of Pb in TSP, PM_{10}, and $PM_{2.5}$ in a variety of urban and rural locations including source oriented sites, neighborhood/community locations, and background areas. We also note that the EPA retains the authority to require additional Pb monitoring as determined by Regional Administrators per the rule language in appendix D, section 4.5(c). With regard to the reference to the EPA's upcoming decision on the Pb NAAQS, we note that on December 19, 2014, based on a review of the full body of evidence, the EPA proposed to retain, without revision, the current NAAQS of 0.15 micrograms per cubic meter (as a 3-month average in TSP) as requisite to protect public health and welfare.[21]

In consideration of the supportive comments noted above, the EPA is finalizing the changes to network design criteria as proposed. With specific regard to Pb monitoring at urban NCore sites, monitoring agencies should request permission from the EPA Regional Administrator to discontinue non-source oriented monitoring following the collection of at least 3 years of complete data at each affected site. Monitoring agencies should work closely with their respective EPA Regional Offices to ensure review and coordination of these changes to the network and inclusion of such changes in annual monitoring network plans.

III. Amendments to Quality Assurance Requirements

A. Quality Assurance Requirements for Monitors Used in Evaluations for National Ambient Air Quality Standards—Appendix A

1. General Information

The following changes to monitoring requirements relate to appendix A to part 58. Changes that affect the overall appendix are discussed in this section of the preamble while changes specific to the various sections of the appendix will be addressed in subsequent sections of the preamble. The EPA notes that the entire regulatory text section for appendix A will be reprinted since this section is being reorganized for clarity as well as being selectively revised as described in detail below. Additionally, although the EPA proposed a new appendix B to apply to PSD monitors, much of the proposed content of appendix B was taken directly from the existing requirements for these monitors set forth in appendix A. It should be noted that a number of provisions from appendix A were reprinted in the regulatory text for appendix B solely for clarity, to assist the public in understanding the changes being proposed. The EPA did not solicit comment on those provisions and did not make any changes to those provisions in this rulemaking.

[17] See *https://www3.epa.gov/ttn/amtic/ncore.html* for more information.

[18] See supporting information for reconsideration of existing requirements to monitor for lead at urban NCore site, Kevin Cavender, Docket number EPA–HQ–OAR–2013–0619, *http://www.regulations.gov/#!documentDetail;D=EPA–HQ–OAR–2013–0619–0002*.

[19] Specific revisions are proposed in 40 CFR part 58, appendix D, section 3(b) and sections 4.5(b) and 4.5(c).

[20] The EPA will review requests for shutdown under the provisions of 40 CFR 58.14. Although the EPA anticipates that these non-source oriented monitors will have design values well below the NAAQS and will be eligible to be discontinued after 3 years of data have been collected, in the event that a monitor records levels approaching the NAAQS, it may not qualify to be discontinued.

[21] *http://www.epa.gov/airquality/lead/actions.html#dec2014*.

The QA requirements in appendix A have been developed for measuring the criteria pollutants of O_3, NO_2, sulfur dioxide (SO_2), CO, Pb and PM (PM_{10} and $PM_{2.5}$), and are minimum requirements for monitoring these ambient air pollutants for use in NAAQS attainment demonstrations. To emphasize the objective of this appendix, the EPA proposed to change the title of appendix A to ''Quality Assurance Requirements for Monitors used in Evaluations of National Ambient Air Quality Standards,'' and remove the terms SLAMS and SPMs from the title. We do, however, in the applicability paragraph, indicate that any monitor identified as SLAMS must meet the appendix A criteria in order to avoid any confusion about SLAMS monitors measuring criteria pollutants. Special purpose monitors may in fact be monitoring for a criteria pollutant for other objectives besides making comparisons to the NAAQS. Therefore, appendix A clarifies in the title and the applicability section that the QA requirements specified in this appendix are for criteria pollutant monitors that are designated, through the Part 58 ambient air regulations and monitoring organization annual monitoring network plans, as eligible to be used for NAAQS evaluation purposes. The applicability section also provides a reporting mechanism in AQS to identify any criteria pollutant monitors that are not used for NAAQS evaluations. The criteria pollutants identified for NAAQS exclusion will require review and approval by the EPA Regional Offices and will increase transparency and efficiencies in the NAAQS designation, data quality evaluation and data certification processes. There were no adverse comments to the change in the title and, therefore, the title will be changed as proposed.

The previous appendix A regulation had separate sections for automated (continuous) and manual method types. The EPA proposed to reformat the document by pollutant rather than by method type. The four gaseous pollutants (CO, NO_2, SO_2 and O_3) will be contained in one section since the quality control (QC) requirements are very similar, and separate sections will be provided for PM_{10}, $PM_{2.5}$, and Pb.

The EPA received one supportive comment from a consulting firm made on the proposed reformatting and no adverse comments. Therefore, appendix A and appendix B will be reformatted as proposed.

In the 2006 monitoring rule revisions, the PSD QA requirements, which were previously in appendix B, were added to appendix A and appendix B was reserved. The PSD requirements, in most cases, mimicked appendix A in structure but because PSD monitoring is often operated only for a period of 1 year, some of the frequencies of implementation of the PSD requirements are higher than the appendix A requirements. In addition, the agencies governing the implementation, assessment and approval of the QA requirements are different for PSD and ambient air monitoring for NAAQS decisions (*i.e.,* the EPA Regions for appendix A versus PSD reviewing authorities for PSD). The combined regulations have caused confusion among monitoring organizations and those implementing PSD requirements, so the EPA proposed that the PSD requirements be moved back to a separate appendix B. This change would also provide more flexibility for revision if changes in either appendix are needed.

The EPA received one supportive comment to adopt this change and received no adverse comments. Therefore, PSD QA requirements will be placed into appendix B as proposed.

Finally, the EPA proposed that appendix A emphasize the use of PQAO and moved the definition and explanation to the beginning of the regulation in order to ensure that the application and use of PQAO in appendix A is clearly understood. The definition for PQAO was not proposed for change. Since the PQAO can be a consolidation of a number of local monitoring organizations, the EPA proposed to add a sentence clarifying that the agency identified as the PQAO (usually the state agency) will be responsible for overseeing that the appendix A requirements are being met by all local agencies within the PQAO. Current appendix A regulation requires PQAOs to be approved by the EPA Regions during network reviews or audits. The EPA believes this approval can occur at any time and proposed to eliminate wording that suggests that PQAO approvals can only occur during events like network reviews or audits.

The EPA received one comment supporting the clarifying language suggesting it will reduce unnecessary work on the part of the monitoring agencies by combining and consolidating QA/QC activities and also fostering a unified approach to air monitoring across an entire state's PQAO. The EPA received no adverse comments. Therefore, the EPA is finalizing the language as proposed.

2. Quality System Requirements

The EPA proposed to remove the QA requirements for $PM_{10-2.5}$ (see current sections 3.2.6, 3.2.8, 3.3.6, 3.3.8, 4.3). Appendix A has traditionally been used to describe the QA requirements of the criteria pollutants used in making NAAQS attainment decisions. While the part 58 Ambient Air Monitoring regulation requires monitoring for the CSN, PAMS, and total oxides of nitrogen (NO_y) for NCore, the QA requirements for these networks are found in technical assistance documents and not in appendix A. In 2006, the EPA proposed a $PM_{10-2.5}$ NAAQS along with requisite QA requirements in appendix A. While the $PM_{10-2.5}$ NAAQS was not promulgated, $PM_{10-2.5}$ monitoring was required to be performed at NCore sites and the EPA proposed requisite QA requirements in appendix A. Some of the PM requirements, like collocation for precision and the performance evaluation programs for bias, are accomplished on a percentage of monitoring sites within a PQAO. For example, collocated sampling for $PM_{2.5}$ and PM_{10} is required at approximately 15 percent of the monitoring sites within a PQAO. Since virtually every NCore site is the responsibility of a different PQAO, the appendix A requirements for $PM_{10-2.5}$, if implemented at the PQAO level, would have been required to be implemented at almost every NCore site, which would have been expensive and an unintended burden. Therefore, the EPA required the implementation of the $PM_{10-2.5}$ QC requirements at a national level and worked with the EPA Regions and monitoring organizations to identify the sites that would implement the requirements. The implementation of the $PM_{10-2.5}$ QC requirements at NCore sites fundamentally changed how QC is implemented in appendix A and has been a cause of confusion. Since $PM_{10-2.5}$ is not a NAAQS pollutant and the QC requirements cannot be cost-effectively implemented at a PQAO level, the EPA proposed to eliminate the $PM_{10-2.5}$ requirements including flow rate verifications, semi-annual flow rate audits, collocated sampling procedures, and the $PM_{10-2.5}$ Performance Evaluation Program (PEP). Similar to the technical assistance documents associated for the CSN [22] and PAMS [23] networks, the EPA will develop QA guidance for the $PM_{10-2.5}$ network which will afford more flexibility for implementation and revision of QC activities for $PM_{10-2.5}$.

The EPA received comments from a state and a consulting firm in support of

[22] See *http://www.epa.gov/ttn/amtic/specguid.html* for CSN quality assurance project plan.

[23] See *http://www.epa.gov/ttn/amtic/pamsguidance.html* for PAMS technical assistance document.

the removal of these requirements and no adverse comments. Therefore, the EPA will remove the $PM_{10-2.5}$ QA requirements as proposed.

The EPA proposed that the QA Pb requirements of collocated sampling (see current section 3.3.4.3) and Pb performance evaluation procedures (see current section 3.3.4.4) for non-source oriented NCore sites be eliminated. The 2010 Pb rule in 40 CFR part 58, appendix D, section 4.5(b), added a requirement to conduct non-source oriented Pb monitoring at each NCore site in a core based statistical area (CBSA) with a population of 500,000 or more. This requirement had some monitoring organizations implementing Pb monitoring at only their NCore sites. Since the appendix A requirements are focused on PQAOs, the QC requirements would increase at PQAOs who were required to implement Pb monitoring at their NCore site. Similar to the $PM_{10-2.5}$ QA requirements, the requirement for Pb at NCore sites forced the EPA away from a focus on PQAOs to working with the EPA Regions and monitoring organizations for implementation of the Pb-PEP at NCore sites at national levels. Therefore, the EPA proposed to eliminate the collocation requirement and the Pb-PEP requirements at NCore sites while retaining the requirements for flow rate verifications and flow rate audits, which do not require additional monitors or independent sampling and analysis. Similar to the CSN and PAMS programs, the EPA will develop QA guidance for Pb monitoring in the NCore network, which will afford more flexibility for change/revision to accommodate Pb monitoring at non-source oriented NCore sites. Additionally, the EPA proposed to delete the requirement to measure Pb at these specific NCore sites, either as Pb-TSP or as Pb-PM_{10} (see section II.I). Such a revision would eliminate the need for any associated QA requirements including collocation, Pb-PEP or any QC requirements for these monitors.

The EPA received two state comments and one MJO comment in support of the removal of this requirement and no adverse comments. Therefore, the EPA will remove the Pb QA requirements at non-source oriented NCore sites as proposed. As noted earlier in section II.I, the EPA is also finalizing the proposed deletion of Pb monitoring requirements at NCore sites from appendix D.

The EPA proposed that quality management plan (QMP) (current section 2.1.1) and quality assurance project plan (QAPP) (current section 2.1.2) submission and approval dates be reported by monitoring organizations and the EPA. This will allow for timely and accurate reporting of this information. From 2007 to 2011, the EPA tracked the submission and approval of QMPs and QAPPs by polling the EPA Regions each year and updating a spreadsheet that was posted on the Ambient Monitoring Technical Information Center (AMTIC) Web site. The development of the annual spreadsheet was time-consuming on the part of monitoring organizations and the EPA and, due to polling delays, took a significant amount of time to assemble a final version for posting. It is expected that simplified reporting by monitoring organizations and EPA to AQS will reduce entry errors and the burden of incorporating this information into annual spreadsheets, and increase transparency of this important quality system documentation. In order to reduce the initial burden of this data entry activity, the EPA populated AQS with the last set of updated QMP and QAPP data from the 2011 listing. Monitoring organizations will need to update AQS only when submitting new or revised versions of QAPP or QMPs (one or two fields) and the EPA can then add approval dates.

The EPA received one state comment in support of this proposal, and two states, a consulting firm and one MJO commented expressing concern. One state commenter mentioned that the preamble indicates that the monitoring organizations would be responsible for submitting the dates associated with QMP and QAPP submittals and approvals and, if this was the intent of the proposed rule, AQS must be modified to allow monitoring organizations the ability to enter this data. The commenter also mentioned that the EPA's AQS web application only allows monitoring organizations to view QAPP and QMP dates, but the functionality to enter or revise those dates is unavailable. The commenter mentioned other issues related to the current functionality of the system but not a disagreement with the proposed requirement to report the data.

The MJO commenter mentioned that reporting to AQS was an unnecessary burden on state air monitoring agencies because the EPA Regional Offices receive these reports and the information is available to the public on the EPA AMTIC Web site. The consulting firm did not understand how shifting this burden to ''monitoring organizations'' would relieve the reporting burden on any organization other than the EPA.

As mentioned in the proposal, the approach of reporting QAPP and QMP information to AMTIC was not only time-consuming for monitoring organizations but also for EPA who would work for 2 to 3 months to pull together this annual report. By reporting the information directly to AQS, the monitoring organization's requirements are also reduced since they do not need to be polled every year to gather this information, review it for accuracy and completeness, and transmit it to the EPA Regional Office. The monitoring organizations will only need to report updates to AQS when they occur and will not be burdened with this request/review process every year.

In regard to the comment related to the current functionality of AQS, which did not allow agency reporting of the QMP/QAPP information, the EPA notes that AQS is now available for monitoring organizations, and EPA Regional Offices, to report this information that has currently been reported and revised by the EPA. Therefore, rather than posting a static table on AMTIC each year (which could change through-out the time period between updates), AMTIC can host a link to the most up-to-date information in AQS, which is a much more efficient method than the cumbersome annual collection and reporting method described above. Therefore, the EPA is finalizing the requirement as proposed.

The EPA proposed that if a PQAO or monitoring organization has been delegated authority to review and approve their QAPP, an electronic copy must be submitted to the EPA Regional Office at the time it is submitted to the PQAO/monitoring organization's QAPP approving authority. Submission of an electronic version to the EPA at the time of completion is not considered an added burden on the monitoring organization because such submission is already a standard practice as part of the review process for technical systems audits (TSA).

The EPA did not receive any supporting or adverse comments to this proposal, but did receive a state comment suggesting that a copy of all approved QAPP's be submitted annually rather than at the time when a QAPP is submitted or approved. The EPA notes that during recent systems audits, EPA auditors have found language in approved QAPPs that do not meet ambient air regulatory requirements. Non-conformance with a regulatory requirement can lead to data invalidation. In an effort to identify any non-conformance with regulatory requirements as early as possible, especially with monitoring organizations that have been delegated responsibility to approve their own

QAPPs, the EPA believes it is important to have the opportunity to review these documents as early as possible to eliminate potential data invalidation issues. Therefore, the EPA is finalizing this language as proposed.

In the QAPP requirement language, the EPA proposed to clarify that the QAPP include a list of sites and monitors associated with the QAPP.

The EPA received a state comment that considered it a burden to update the QAPP every time a site or monitor is changed or is added. The commenter suggested adding that this information can be referenced in other publicly available documents. Since this section allows standard operating procedures to be referenced in the QAPP, the EPA will also allow the referencing of monitors and sites.

The requirement to identify the sites/monitors in a QAPP is a standard QAPP requirement and is why it is included in the regulation. However, the QAPP can refer to an official table that is updated annually that may be on a Web site or other official documentation (*e.g.,* annual network plan). In addition, if the QAPP does contain this information, an addendum to the QAPP modifying this information (with reference to the QAPP) can be accomplished without having to physically edit the document each time a monitoring site is added because the addition of the site does not affect how the quality system is implemented.

The EPA is finalizing the requirement as proposed, but is also clarifying that sites and monitors may be allowed to be referenced from other up-to-date sources.

The EPA proposed to add some clarifying language to the section describing the National Performance Evaluation Program (NPEP) (current section 2.4) explaining self-implementation of the performance evaluation by the monitoring organization. The clarification also adds the definition of ''independent assessment'' which is included in the $PM_{2.5}$-PEP, Pb-PEP and National Performance Audit Program (NPAP) QAPPs, and is included in the self-implementation memo sent to the monitoring organizations on an annual basis and posted on the AMTIC Web site.[24] The clarification codifies in regulation what was in guidance, and provides a better reference for this information in addition to the annual memo sent to the monitoring organizations.

[24] See *http://www.epa.gov/ttn/amtic/npepqa.html.*

The EPA received one state comment in support of the addition of the independent assessment definition and one state comment noting concern.

The state comment of concern included a reference to the NPAP revisions that are proposed below (section 3.1.3) and does not appear to be related to the actual definition that was proposed in this section. Further, we note that the state that made the comment qualifies as eligible to conduct an ''independent assessment'' under the current definition that was proposed and has been defined in this way in annual self-implementation decision memorandums that have been sent to monitoring organizations since 2008. This definition has not changed and was expected to be achieved by monitoring organizations in order to self-implement the various performance evaluations defined in this section. Therefore, the EPA is finalizing the requirement as proposed.

The EPA proposed to add clarifying language to the TSA section (current section 2.4). As described in more detail below, the current TSA requirements are clearly intended to be performed at the monitoring organization level.

The EPA proposed a TSA frequency of 3 years for each PQAO, but included language that if a PQAO is made up of a number of monitoring organizations, all monitoring organizations within the PQAO should be audited within 6 years. This proposed language maintains the 3 year TSA requirement as it applies to PQAOs but provided additional flexibility for the EPA Regions to audit every monitoring organization within the PQAO every 6 years. This revision was made to address logistical concerns at the EPA Regions, particularly for those Regions with very large PQAOs composed of many monitoring organizations. In the EPA's view, the proposed revision did not materially affect the burden on monitoring organizations.

The EPA received one state comment supporting the proposed revision as written, one comment by a joint environmental organization suggesting that we maintain the current requirement to audit each monitoring organization on a 3-year basis, and two state comments that suggested that the proposed revision was a burden to monitoring organizations.

The comment from the joint environmental organization expressed concern with the potential for reduced frequency of the TSAs for monitoring organizations in consolidated PQAOs (proposed 6-year frequency versus current 3-year frequency). The commenter believed such a change could seriously jeopardize implementation of the Act and threaten public health by delaying NAAQS decisions. The commenter cited examples of recent invalidation of $PM_{2.5}$ data that were based on findings from TSAs. In their view, delaying audit frequencies to once every 6 years (for a monitoring organization) raises the risk of even greater delay and disruption of nonattainment designations in areas that are violating NAAQS and have data quality issues at the pertinent monitoring organizations.

Two commenters from state agencies felt that the proposed language would treat these monitoring organizations (within a PQAO) as individual entities, causing an increase in the number of TSAs and difficulty in ensuring consistency among monitoring organizations within the PQAO, and would disrupt monitoring organizations with the scheduling of these audits. The PQAO staff would be required to oversee the changes throughout the monitoring organizations, participate in each of the TSAs, track all corrective actions, verify implementation, and ensure consistency of implementation across all monitoring organizations.

Commenters who were concerned with the proposed language to audit individual monitoring organizations within a PQAO may have been interpreting the current and earlier appendix A requirements somewhat differently than the original intent of the EPA. Since 1996, the TSA language in appendix A has been associated with auditing monitoring agencies or monitoring organizations, not PQAOs (note—the PQAO term was promulgated in 2006). For additional context, the following rule excerpts provide a chronological history of the TSA language in appendix A.

Prior to 1998: ''*Agencies operating SLAMS network stations shall be subject to annual EPA systems audits of their ambient air monitoring program and are required to participate in EPA's National Performance Audit Program.''*

1998: ''*Systems audits of the ambient air monitoring programs of agencies operating SLAMS shall be conducted at least every 3 years by the appropriate EPA Regional Office.''*

2005: ''*Systems audits of the ambient air monitoring programs of agencies operating SLAMS shall be conducted at least every 3 years by the appropriate Regional Office.''*

2006–2014 (prior to this proposed change): ''*Technical systems audits of each ambient air monitoring organization shall be conducted at least every 3 years by the appropriate EPA*

Regional Office and reported to the AQS.''

The EPA notes that the current definition (40 CFR 58.1) for a monitoring agency (prior to this proposal) was defined as ''a state or local agency responsible for meeting the requirements of this part.'' Monitoring organization was defined as a ''state, local, or other monitoring organization responsible for operating a monitoring site for which the quality assurance regulations apply.'' Neither definition described any consolidation of agencies into a PQAO; therefore, individual monitoring agencies or organizations were to receive a TSA by the EPA Region annually prior to 1998 and every 3 years after 1998.

As indicated by one of the commenters who suggested that the proposed language would treat monitoring organizations as individual entities, the TSA language was, in fact, defined to treat the monitoring agencies as individual entities. The value of this approach has been reaffirmed by recent TSAs where Regional Office auditors have found that monitoring organizations within consolidated PQAOs, in some cases, did not operate consistent quality systems.

A commenter expressing concern about the proposed revision made the point that all monitoring organizations covered under the umbrella of the PQAO's quality system would have to make changes in their operation each time a TSA at any of the monitoring organizations indicates an issue with that monitoring organization's quality system. This comment reflects a concern (and a tacit acknowledgement) that monitoring organizations within a PQAO do not necessarily implement a consistent quality system and need to be audited at some frequency. The commenter is correct and the EPA agrees that an issue identified by a TSA at one monitoring organization within the PQAO should be reviewed by the PQAO to determine if corrective action should be instituted for all monitoring organizations operating in the PQAO. That is the specific concern that has driven the EPA's regulations to consistently require TSAs at the monitoring organization level. The proposed TSA language provides for this review of the PQAO every 3 years and of all monitoring organizations within the PQAO within 6 years.

A state agency commenter was also concerned that TSAs could affect the data certification process. The commenter was concerned that EPA concurrence with a PQAO's data certification could be prohibited due to the lack of a TSA within the appropriate time frame. The EPA notes that TSA completeness requirements are reported on certification reports but do not affect the concurrence process itself and, therefore, do not penalize the PQAO if the TSA is not performed at the required frequency.

In response to the comment from the joint environmental organization and based on the recent findings in the TSAs,[25] the EPA Regions are providing more scrutiny on the PQAO requirements to ensure that monitoring organizations consolidated in PQAOs develop and document consistent quality practices. The EPA Headquarters and Regions are working together to develop a more consistent TSA process based on ''lessons learned'' from the $PM_{2.5}$ TSAs findings identified in the joint environmental organization comment. In addition, Regions are scrutinizing PQAO quality systems to ensure a level of QA consistency of monitoring organizations within a PQAO and, where there are issues, either taking corrective actions or suggesting that monitoring organizations within a PQAO disaggregate. The EPA has also seen PQAOs developing better documents and training for monitoring organizations within PQAOs to improve quality system consistency. Based on the information presented above, the EPA believes that the proposal to allow monitoring organizations within a PQAO to be audited within a 6-year period is reasonable and is finalizing the requirement as proposed.

In summary, the revised regulation specifies that EPA Regional Offices conduct TSAs of every PQAO at a 3-year frequency and that they should also perform a TSA on all monitoring organizations within the PQAO within 6 years. Where resources permit, the EPA encourages the adoption of the practice of some PQAOs to perform their own agency-specific TSAs and monitoring site visits on member monitoring agencies in the intervening years between required EPA Regional Office TSAs. Such visits can help to proactively identify potential QA deficiencies before situations involving long-term data loss occur and can also serve to assure uniformity in procedures across PQAOs through periods of changing personnel, equipment, or EPA requirements.

The EPA proposed to require monitoring organizations to complete an annual survey for the Ambient Air Protocol Gas Verification Program (AA–PGVP) (current section 2.6.1). Since 2009, the EPA has had a separate information collection request [26] requiring monitoring organizations to complete an annual survey of the producers that supply their gas standards (for calibrations and QC) in order to be able to select standards from these producers for verification. The survey generally takes less than 10 minutes to complete. The EPA proposed to add the requirement to complete the survey to appendix A.

The EPA received one consulting firm comment suggesting that entry of data in the annual survey was a modest burden and another state comment of support without additional comment. There were no adverse comments on completing the annual survey. Therefore, the EPA is finalizing the language as proposed.

In addition, the EPA proposed to add language that monitoring organizations participate, at the request of the EPA, in the AA–PGVP by sending a gas standard to one of the verification laboratories no more frequently than every 5 years. Since many monitoring organizations already volunteer to send in cylinders, this proposed new requirement is not expected to materially affect most agencies and will not affect those agencies that do not run gaseous ambient air monitors and, therefore, do not use gas standards.

The EPA received three state comments supporting and one MJO and two state comments expressing concern about this aspect of the AA–PGVP requirement. The supportive responses included one organization already participating in the program and another that mentioned that the independent verification of cylinder contents has value for monitoring groups especially with respect to the lower target gas concentrations now employed in QA procedures. A third response supported the action with no additional comments. Comments expressing concern about the proposal were related to the extra cost associated with shipping a cylinder to the verification laboratory and the Department of Transportation (DOT) training required for shipping the cylinder. One commenter mentioned that the organizations are already required to use traceable or certified gases and another suggested that the EPA could also consider working with the standard gas vendors directly, potentially through a federally funded gas certification and verification program. A commenter suggested the

[25] McCabe, Janet G. (2014). Particle Pollution Quality Assurance. Memorandum to the Docket, EPA–HQ–OAR–2013.

[26] See *http://www.reginfo.gov/public/Forward?SearchTarget=PRA&textfield=ambient+air+protocol+gas.*

requirement is resource intensive because additional standard gases will need to be maintained for use while the audited cylinder is not in use.

By way of background relating to the genesis of the AA–PGVP, the EPA notes that the Office of Research and Development (ORD) operated a protocol gas audit program that was discontinued in 1997. In the mid-2000 timeframe, the EPA received a number of comments from monitoring organizations that the program was needed and the current program (implemented in 2010) was created based on those comments. The monitoring organizations were concerned that they were receiving cylinders that were not meeting the protocol gas specifications even though the producers, as one commenter mentioned, are required to use traceable or certified gases. Information from a 2009 Office of Inspector General report indicated some failures to meet protocol gas requirements by some protocol gas producers.[27] Gas producers were also sharing concerns with the EPA that some producers were selling cylinders that were not properly verified. Although the EPA initially tried to develop a program that would be funded by the gas vendors, many of whom agreed to fund it, one producer lodged a protest and the EPA could not implement the program in this manner.

In addition, the AA–PGVP is intended to be a blind verification of the producers, meaning it would be most advantageous for the producer not to know a cylinder is being sent to a verification lab and, therefore, the EPA tries not to request cylinders directly from gas producers. Although one commenter suggested that the EPA receive cylinders directly from the producer, this would defeat the purpose of the blind verification and the producers would have the opportunity to send a cylinder that may have had additional testing against its certified value. The AA–PGVP has been implemented since 2010 and the EPA is starting to see a drop in monitoring organization participation, yet we also received positive comments that the program is valuable in keeping the producers aware of the need for the quality of their gas standards.

In response to the comment expressing concern about the cost of participating in the program and the logistical difficulty of properly being certified to ship cylinders, the EPA clarifies that with the current program, the EPA covers the cost of shipping the cylinders to and from the regional AA–PGVP verification laboratory. Online DOT training is offered to monitoring organizations and is valid for 3 years. So although there is an expense to the monitoring organization on the time to train, there is limited burden related to the rest of the program. The EPA is aware that additional standard gases will need to be maintained for use while the new cylinder is being sent for verification. Most monitoring organizations order new cylinders prior to expiration of older cylinders or before they run out of gas supply. There is normally a transition period where new cylinders are on hand and checked against the current cylinder before retiring the older cylinder. The AA–PGVP Implementation Plan[28] describes that during this change-out process, if the new cylinder is ordered with enough lead time (AA–PGVP estimates 30–45 days from shipping through verification and cylinder return), it could be sent to the AA–PGVP verification laboratory and verified prior to use by monitoring organizations before it needed to be exchanged with an older cylinder.

Based on the comments received and the EPA's clarifications of the need for the current program, the EPA will codify the ICR requiring monitoring organizations to report the gas standard producers it uses on an annual basis and also finalize the proposed language allowing the agency to request cylinders from monitoring organizations no more frequently than every 5 years.

3. Measurement Quality Checks for Gases

The EPA proposed to lower the audit concentrations (current section 3.2.1) of the one-point QC checks to between 0.005 and 0.08 parts per million (ppm) for SO_2, NO_2, and O_3 (currently 0.01 to 0.1 ppm), and to between 0.5 and 5 ppm for CO monitors (currently 1 and 10 ppm). With the development of more sensitive monitoring instruments with lower detection limits, technical improvements in calibrators, and lower ambient air concentrations in general, the EPA felt this revision would better reflect the precision and bias of the ambient air data being measured at the site. Since the QC check concentrations are selected using the mean or median concentration of typical ambient air concentrations (guidance on this is provided in the QA Handbook[29]), the EPA proposed to add some clarification to the current language by requiring monitoring organizations to select either the highest or lowest concentration in the ranges identified if their mean or median concentrations are above or below the prescribed range.

The majority of the comments (19 of 26 responding to the quality assurance proposal) received on appendix A were related to this proposed change. One state and one consulting firm commenter expressed support for the change but the majority of commenters expressed concern (16 state commenters and one MJO). Most of the commenters expressed similar technical concerns that:

- The SLAMS network is in place mainly for decisions related to the NAAQS, so QC checks should be at the levels approximating the NAAQS values.
- Some of the FRM or FEM that are still in use may operate acceptably at concentrations around the NAAQS, but the older versions of the approved monitors are not as sensitive at lower concentrations (*i.e.,* mean or median concentrations), so QC checks at these lower levels are beyond the operational limits of the instrumentation.
- The instrumentation necessary to challenge the monitors at the lower concentrations (calibrators with additional mass flow controllers or gas cylinders of lower concentrations) would be required to comply and, therefore, represent an added expense and burden.
- The lower concentrations affect the percent difference statistic so there is more chance that the QC check will fail the acceptance requirements and, therefore, invalidate data that the monitoring organization feels is of acceptable quality.

The EPA acknowledges these comments and has performed some evaluations on 2013 hourly gaseous data that are summarized in a memo placed in the docket.[30] As summarized in the memo, the EPA generally believes that challenging ambient air analyzers with a one-point QC check at the level of the NAAQS provides an incomplete and potentially inaccurate representation of the precision and bias of the data actually reported to the AQS since, in most cases, the precision and bias estimates are performed at levels that are above 99 percent of the actual SLAMS data reported to AQS. The

[27] U.S. Environmental Protection Agency. ''EPA Needs an Oversight Program for Protocol Gases,'' Office of Inspector General Report No. 09–P–0235, 2009.

[28] *http://www.epa.gov/ttnamti1/files/ambient/qaqc/aapgvpimpplan.pdf.*

[29] QA Handbook for Air Pollution Measurement Vol. II Ambient Air Quality Monitoring Program at: *http://www.epa.gov/ttn/amtic/qalist.html.*

[30] Papp, M. (2015). Assessments of One-Point QC Data in Response to Comments on Revisions to the Ambient Air Quality Assurance Regulation contained in 40 CFR part 58, appendix A. Memorandum to the Docket, EPA–HQ–OAR–2013–0619.

EPA's analysis of QC check data shows that many monitoring agencies are successfully meeting measurement quality objectives at lower concentrations that are closer to the routine ambient data being reported to AQS. We recognize that some of these QC checks may be reported by monitoring organizations that have invested in the technology (*i.e.,* analyzers, calibration devices and standards at NCore sites) necessary to adequately calibrate and estimate precision and bias at the concentrations measured at ambient levels. This analysis demonstrates that the technology is available to measure and report precision and bias at mean/median ambient air concentration levels.

At the same time, the EPA is aware that there are monitoring agencies that have not yet invested in some of these newer technologies and/or may not believe that the operation of more sensitive instrumentation and associated calibration equipment outside of the NCore framework is necessary to meet their monitoring objectives. In light of the comments received on this issue, the EPA will modify the proposed changes to QC check requirements. Specifically, we are finalizing the lower concentration ranges as proposed: 0.005 to 0.08 ppm for SO_2, NO_2, and O_3, and between the prescribed range of 0.5 and 5 ppm for CO monitors. Additionally, rather than requiring that the range selected be at the mean or median concentration range at the site or the agencies network of sites, the current flexibility to select the QC check gas concentration within the prescribed range will remain unchanged. Specifically, monitoring agencies should relate the concentration of the QC check to the monitoring objective of the site; with SLAMS monitors primarily intended for NAAQS compliance utilizing concentrations at or near the level of the NAAQS (higher end of the required range), and trace gas monitors operating at NCore, background or trends sites related to the mean or median of the ambient air concentrations normally measured at those sites in order to appropriately reflect the precision and bias at these routine concentration ranges. The EPA also clarifies that if the mean or median concentrations at trace gas sites are below the method detection limits (MDL) of the instrument, or if concentrations are above the prescribed range, the agency can select the lowest or highest concentration in the range that can be practically achieved. In addition, the EPA will keep language suggesting that an additional QC check point is encouraged for those organizations that may have occasional high values or would like to confirm monitor linearity at the higher end of the operational range. It will also encourage monitoring organizations that are operating NAAQS compliance sites to include additional QC checks around the mean or median values.

The EPA believes that providing monitoring organizations some flexibility in determining the QC check concentration range based on site monitoring objective and the sensitivity of its monitors should address the concerns that were noted in the comments on this aspect of the proposed requirement. However, the EPA reiterates that our analysis of reported data has shown that monitoring agencies can test and achieve acceptable precision and bias results at these lower concentration levels. Providing data users with estimates of precision and bias where the majority of our ambient air data are measured is an EPA programmatic goal and monitoring organizations should be working with the EPA Regional Offices to develop the budgets necessary for purchasing the updated equipment and revising related procedures. The EPA will continue to endorse this approach to make the QC checks more meaningful and we will consider future revisions to appendix A to either require QC checks at two concentration levels (*i.e.,* one around the mean concentrations and one related to the NAAQS) or require the span check [31] to be reported to AQS. In addition, to alleviate concerns about failing the acceptance criteria at lower QC concentrations, the EPA will evaluate suggestions by monitoring organizations to raise acceptance criteria or look at alternative acceptance criteria (*e.g.,* difference instead of percent difference). Since acceptance criteria are included in guidance, the EPA will have the opportunity to perform the evaluations without affecting the regulation. In 2011, the EPA developed similar guidance for lower concentration levels of the annual performance evaluation audits.[32]

The EPA proposed to remove reference to zero and span adjustments (current section 3.2.1.1) and revise the one-point QC language to simply require that the QC check be conducted before any calibration or adjustment to the monitor. Recent revisions of the QA Handbook discourage the implementation of frequent span adjustments so the proposed language helps to clarify that no adjustment be made prior to implementation of the one-point QC check.

There were no comments made on this proposed revision so the EPA is finalizing this revision as proposed.

The EPA proposed to remove the requirement (current section 3.2.2) to implement an annual performance evaluation for one monitor in each calendar quarter when monitoring organizations have fewer than four monitoring instruments. The minimum requirement for the annual performance evaluation for the primary monitor at a site is one per year. The current regulation requires evaluation of 25 percent of the monitors per quarter so that the performance evaluations are performed in all four quarters. There are cases where some monitoring organizations have fewer than four primary monitors for a gaseous pollutant, and the current language suggests that a monitor already receiving a performance evaluation be re-audited to provide for performance evaluations in all four quarters. This proposed removal of the requirement for evaluation in every quarter reduces the burden for monitoring agencies operating smaller networks and does not change the requirement of an annual performance evaluation for each primary monitor.

The EPA received one state comment in support of this revision and no adverse comments. Therefore, the EPA is finalizing this revision as proposed.

The current annual performance evaluation language (current section 3.2.2.1) requires that the audits be conducted by selecting three consecutive audit levels (currently five audit levels are provided in appendix A). Due to the implementation of the NCore network, the inception of trace gas monitors, and generally lower ambient air concentrations being measured, there is a need for audit levels at lower concentrations to more accurately represent the uncertainties present in much of the ambient data. The EPA proposed to expand the audit levels from five to ten and remove the requirement to audit three consecutive levels. The previous regulation suggested that the three audit levels bracket 80 percent of the ambient air concentrations measured by the analyzer, and monitoring organizations have requested the use of an audit point to establish monitor accuracy around the NAAQS levels. Therefore, the EPA proposed to revise the language so that two of the audit levels selected

[31] A check similar to the QC check but implemented at a concentration closer to the higher end of the calibration range of the monitor.

[32] *http://www.epa.gov/ttnamti1/files/ambient/pm25/datamang/20110217lowlevelstatmemo.pdf.*

represent 10–80 percent of routinely-collected ambient concentrations either measured by the monitor or in the PQAOs network of monitors. The proposed revision allowed the third point to be selected at the NAAQS level (*e.g.,* 75 ppb for SO_2) or above the highest 3-year routine hourly concentration, whichever was greater.

One state commenter and a consulting firm supported this proposal while six state commenters voiced concern. The comments expressing concern were similar to comments made on the one-point QC check proposal described earlier, including:

- The SLAMS network is in place mainly for decisions related to the NAAQS, so QC checks should be at the levels approximating the NAAQS values.
- Some of the FRM or FEM that are still in use may operate acceptably at concentrations around the NAAQS, but these older methods are not as sensitive at lower concentrations (*i.e.,* mean or median concentrations), so QC checks at these lower levels are beyond the limits of the instrumentation.
- The instrumentation necessary to challenge the monitors at the lower concentrations (calibrators with additional mass flow controllers or gas cylinders of lower concentrations) would be required to comply and, therefore, represent an added expense and burden.
- The lower concentrations affect the percent difference statistic so there is more chance that the QC check will fail the acceptance requirements and, therefore, invalidate data that the monitoring organization feels is of acceptable quality.

The EPA believes that there are some distinctions between the annual performance evaluations and the one-point QC checks, and although the comments on the proposed revisions are similar, a different response to the comments is appropriate as explained below.

Where monitoring organizations typically utilize standards and equipment at each site to run one-point QC checks, the annual performance evaluations require less equipment since, in many cases, one set (or a few sets) of independent equipment is/are used to audit all sites in a network. Accordingly, the EPA believes that it is practical for monitoring agencies to procure and utilize audit equipment, including calibrators and gas standards that are capable of generating the lower concentrations that are typically measured at most sites in the U.S. Indeed, all monitoring agencies that operate NCore multi-pollutant stations should already own and be proficient in the operation of such equipment as the objectives of the NCore stations and the technology used (*i.e.,* trace level gas monitors) are oriented to characterizing typical ambient concentrations.

In order to make the requirements easier to comprehend and allow for more flexibility in audit point selection, the EPA will revise the proposed language to require three points to be selected: One point around two to three times the method detection limit of the instruments within the PQAO network, a second point less than or equal to the 99 percentile of the data at the site or the network of sites within a PQAO or the next highest audit concentration level, and the third point around the primary NAAQS or the highest 3-year concentration at the site or the network of sites in the PQAO. This framework provides two audit points that reflect 99 percent of the monitoring data and a third point at the highest 3-year concentration or the level of the NAAQS, whichever concentration the monitoring organization chooses. Since performance evaluation audits are only performed once a year at each site, the burden to perform these audits at suitable concentrations is reduced relative to the QC checks. Therefore, the revised audit approach should provide the flexibility requested by the commenters. Also, in 2011, the EPA adopted a more flexible acceptance criteria for the two lower concentration audit levels (option to use difference instead of percent difference) [33] that is not influenced by concentration, which should alleviate commenter's concerns about acceptance criteria at the lower audit levels. Accordingly, the EPA is finalizing the changes to performance audit requirements as described above.

The EPA proposed to revise the language (current section 3.2.2.2(a)) addressing the limits on excess nitric oxide (NO) that must be followed during gas phase titration (GPT) procedures involving NO_2 audits. The previous NO limit (maintaining at least 0.08 ppm NO) was restrictive and required auditors to make numerous mid-audit adjustments during a GPT that resulted in making the NO_2 audit a time-consuming procedure. Accordingly, we proposed a more general statement regarding GPT that acknowledges the ongoing usage of monitoring agency procedures and guidance documents that have successfully supported NO_2 calibration activities.

The EPA received one state comment in support of the proposed revision to the language on excess NO and no adverse comments. Therefore, the EPA is finalizing this revision as proposed.

The EPA proposed to remove language (current section 3.2.2.2(b)) in the annual performance evaluation section that required Regional approval for audit gases for any monitors operating at ranges higher that 1.0 ppm for O_3, SO_2 and NO_2 and greater than 50 ppm for CO. The EPA does not need to approve a monitoring organization's use of audit gases to audit above proposed concentration levels. Since data reported to AQS above the highest level may be flagged or rejected, the EPA proposed that PQAOs notify the EPA Regional Office of sites being audited at concentrations above level 10 so that reporting accommodations can be made.

The EPA did not receive any comments on this proposed change. Therefore, the EPA is finalizing this revision as proposed.

The EPA proposed to provide additional explanatory language in appendix A to describe the NPAP. The NPAP has been a long-standing program for the ambient air monitoring community. Since 2007, the EPA has distributed an annual decision memorandum to all monitoring organizations in order to determine whether the monitoring organization plans to self-implement the NPAP program or utilize the federally implemented program. In order to make this decision, the NPAP adequacy and independence requirements are described in this annual decision memorandum. The EPA proposed to include these same requirements in appendix A in a separate section for NPAP. In addition, the annual decision memorandum stated that 20 percent of the sites would be audited each year so that all sites would be audited in a 5-year period. Since there is a possibility that monitoring organizations may want certain higher priority sites audited more frequently, the EPA proposed to revise the language to require all sites to be audited within a 6-year period to provide more flexibility and discretion for monitoring agencies. This revision does not change the number of sites audited in any given year, but allows for increased frequency in auditing sites deemed as high priority.

The EPA received one state comment and one consulting firm comment supporting this action and two state comments expressing concern. One commenter supported it without any additional comment while another made the point that the clarification simply added the definition of an ''independent assessment,'' which has been widely circulated and understood

[33] *http://www.epa.gov/ttnamti1/files/ambient/pm25/datamang/20110217lowlevelstatmemo.pdf.*

by state, local and tribal monitoring organizations for several years and is neutral with respect to burden. One state commenter mentioned that the proposed additions have changed the requirements for demonstrating independence and adequacy that were originally outlined in the memorandum, ''*National Performance Audit Program/ $PM_{2.5}$ Performance Evaluation Program Implementation Decision Memorandum for Calendar Year 2008,*'' by implementing training requirements, requiring separate audit equipment, and adding a requirement to perform a whole system check tested against an independent and qualified lab. The commenter suggested that the proposed changes impact the costs for the PQAO to implement the NPAP.

A state commenter suggested that the description for NPAP was ''inconsistent with what had been conveyed in the past and is more pertinent for the performance audit.'' The commenter also suggested that proposed sections 3.1.3.4(a)–(f) be removed and retained in guidance (annual memorandum). However, the 2008 version of the QA Handbook, as well as the current 2013 version, provides the same definition of a Performance Evaluation as a type of audit in which the quantitative data generated in a measurement system are obtained independently and compared with routinely obtained data to evaluate the proficiency of an analyst, or a laboratory, and has included NPAP in this definition in both versions of the QA Handbook. Another state commenter also raised questions as to the objective of the program and suggested that the NPAP objective is already being accomplished with the annual performance evaluation.

In response to changes in the NPAP requirement from the 2008 NPAP memo, each year the EPA requests that monitoring organizations make a decision with regard to self-implementation of the NPAP program based on the current year's decision memorandum, or allow for federal implementation of the program. The proposed regulatory language has been included in the decision memorandums for the past number of years that the EPA expected monitoring organizations to follow in order to self-implement.

The EPA disagrees that the NPAP objectives have changed since the inception of the program. Early versions of NPAP included cylinders of unknown concentration being sent to monitoring organizations (mailed audits) who would challenge the analyzers with these standards and send the results back to the EPA for evaluation. This process was ''blind,'' meaning that the monitoring organization did not know the concentration of the standard they were auditing. It was completely independent of monitoring organization implementation and also established independence of the concentration being audited. At the same time the NPAP mailed audits were conducted, monitoring organizations continued to implement their annual performance evaluations. So, both NPAP and the annual performance programs have been implemented at the same time and NPAP, having a different objective, allowed for a level of independent auditing by the EPA. Due to complaints lodged on the length of time required to get results back from the NPAP ''mailable'' program, the EPA instituted the current NPAP through the probe program while continuing its primary objective: providing independent, quantitative evaluations of data quality. Since the majority of monitoring organizations allow for federal implementation, which is reliably independent of monitoring organization implementation (only two monitoring organizations in the country self-implement NPAP), the EPA identified the requirements necessary for self-implementing monitoring organizations to maintain as close a level of independence and data quality consistency to federal implementation. Therefore, while one commenter suggested that the training requirements be revised to ensure that auditors have been trained in the procedures that PQAOs actually employ to satisfy this requirement, the EPA believes that the training be required to reflect consistency with the federal program in order to establish consistency in data quality across the NPAP program. The EPA provides the opportunity for monitoring organizations to make the self-implementation decision each year based on the requirements in the decision memorandum, which ensures the NPAP program is equitably and consistently implemented across all monitoring organizations. Therefore, the EPA is finalizing this revision as proposed, but is also providing some flexibility as requested in a state comment by inserting the following language into the relevant section of appendix A:

OAQPS, in consultation with the relevant EPA Regional Office, may approve the PQAO's plan to self-implement NPAP if the OAQPS determines that the PQAO's self-implementation plan is equivalent to the federal programs and adequate to meet the objectives of national consistency and data quality.

4. Measurement Quality Checks for Particulate Monitors

The EPA proposed to require that flow rate verifications (current section 3.2.3) be reported to AQS. Particulate matter concentrations (*e.g.,* $PM_{2.5}$, PM_{10}, Pb) are reported in mass per unit of volume ($\mu g/m^3$). Flow rate verifications are implemented at required frequencies in order to ensure that the PM sampler is providing an accurate and repeatable measure of volume that is critical for the determination of concentration. If a given flow rate verification does not meet acceptance criteria, the EPA guidance suggests that data may be invalidated back to the most recent acceptable verification, which is why these checks are performed at higher frequencies. Implementation of the flow rate verification is currently a requirement, but reporting to AQS has only been a requirement for PM_{10} continuous instruments. This is the only QC requirement in appendix A that was not fully required for reporting for all PM pollutants and has been a cause of confusion. When performing TSAs, the EPA Regional Offices review the flow rate verification information. There are cases where it is difficult to find the flow rate verification information to ascertain completeness, data quality, and whether corrective actions have been implemented in the case of flow rate verification failures. In addition, the EPA Regions have mentioned that some of the monitoring organizations have been voluntarily reporting these data to AQS in an effort to increase transparency and reliability in data quality. In a recent review of 2012 data, out of the 1,110 SLAMS $PM_{2.5}$ samplers providing flow rate audit data (which are required to be reported), flow rate verification data were also reported for 543 samplers or about 49 percent for the samplers with flow rate audit data. With the development of a new QA transaction in AQS, we believe that the reporting of flow rate verification data would improve the evaluation of data quality for data certification and at national levels, provide consistent interpretation in the regulation for all PM pollutants without being overly burdensome (approximately 12 data points per sampler per year).

The EPA received one state comment in support of this revision and no adverse comments. Therefore, the EPA is finalizing this revision as proposed.

In addition, the flow rate verification requirements for all the particulate monitors suggest randomization of the implementation of flow rate verifications with respect to time of day, day of the week and routine service and

adjustments. Since this is a suggestion, the EPA proposed to remove this language from the regulation and instead include it in QA guidance.

The EPA noted that one consulting firm voiced concern about removing the suggestion for randomizing flow rate verifications. They stated that the ''randomization of QC procedures is a critical aspect of QA currently unacknowledged by the EPA, and that single point (precision) checks of gaseous monitors and flow rate verification checks on PM samplers are crucial to characterizing the precision, bias and accuracy of the data arising from those instruments. Diurnal and weekly rhythms exist in solar radiation, temperature, humidity, electrical power and traffic patterns. As standards decrease and monitoring instrumentation becomes more sensitive, the likelihood increases that interferences will occur in those instruments. One means of detecting such biases involves randomized QC checks since they occur out-of-sync with daily/weekly rhythms.''

The EPA agrees with the technical rationale for randomization provided by the commenter, but also received comments that the regulation should provide requirements and that suggested practices should be referenced in guidance documents. Therefore, the EPA is finalizing this revision as proposed and will include the randomization suggestion in the next revision of the QA Handbook and in the $PM_{2.5}$ method.

The EPA proposed to add clarifying language to the $PM_{2.5}$ collocation requirements (current section 3.2.5) that a site can only count for the collocation of the method designation of the primary monitor at that site. Precision is estimated at the PQAO level and required at 15 percent of the primary monitor sites for each method designation. When developing the collocation requirements, the EPA intended to have the collocated monitors distributed to as many sites as possible in order to capture as much of the temporal and spatial variability in the PQAO given that only 15 percent of the primary monitors within a method designation are collocated. Therefore, since there can be only one primary monitor at a site for any given time period, it was originally intended that the primary monitor and the QA collocated monitor (for the primary) at a monitoring site count as one collocation. This revision does not change the current regulation and does not increase or decrease burden, but is intended to provide clarity on how the PQAO identifies the number and types of monitors needed to achieve the collocation requirements.

The EPA received one state and one consulting firm comment supporting this clarification and two state comments expressing concern.

One commenter expressing concern did not support specifically forbidding collocation of multiple particulate monitors at a single site and made the following points. As the NCore sites were designed to provide a large suite of monitoring, the commenter felt it was an ideal location to deploy a range of instruments. The commenter mentioned, ''where the array of $PM_{10-2.5}$ monitors at a monitoring site include a $PM_{2.5}$ FRM as the primary monitor, the operation of the continuous $PM_{2.5}$ FEM is advantageous for collocation across the network. For the EPA not to allow this collocation directly contradicts the goal of the proposed rule by placing additional compliance and operating burdens on monitoring organizations and network operators.'' A second commenter mentioned that the proposed ''new requirement could result with the discontinuing a sampler at one location and creating more upkeep and maintenance for the samplers at different locations.''

The EPA notes that the proposed language does not represent a new requirement, is not a revision to the current requirement, and merely represents a needed clarification of the current language because some monitoring organizations were misinterpreting the original language by allowing one site to provide multiple collocations. Since the original language identified that collocation for appendix A purposes requires the QA collocated monitor to be compared against the primary monitor at a site, and since there can only be one primary monitor at a site at any particular time, the EPA believes that the original language and intent were clear. Based on data assessments of collocated data in AQS, most monitoring organizations follow this requirement. Since the current requirement states that 15 percent of the primary monitors in each method designation must be collocated, and there can only be one primary monitor at a site, the current regulation (without the clarifying language) allows only one collocation to count for a given site. When the EPA became aware of potential confusion on this issue in 2010, we provided guidance to both the EPA Regions and monitoring community through the QA EYE newsletter (Issue 9, page 3).[34] The article and the table, which was based on the number of sites in a monitoring organization, were developed to articulate the intent of the regulation.

The EPA supports the use of multiple monitors at sites like NCore, as one commenter suggested, for testing and evaluation purposes but not for conforming to the appendix A original requirements. However, as articulated in the current appendix A regulation, a collocated monitor can be used to achieve collocation requirements for more than one pollutant. For example, collocated manual $PM_{10-2.5}$ monitors could be used to satisfy $PM_{2.5}$ collocation, PM_{10} collocation, as well as PM_{10}–Pb collocation. Therefore, the EPA is adding the clarification as proposed to ensure that the current requirement is not misinterpreted.

The EPA proposed to provide more flexibility to monitoring organizations when selecting sites for collocation. Appendix A (current section 3.2.5.3) had required that 80 percent of the collocated monitors be deployed at sites within ±20 percent of the NAAQS and if the monitoring organization did not have sites within that range, then 60 percent of the sites were to be deployed among the highest 25 percent of all sites within the network. Monitoring organizations found this difficult to achieve. Some monitoring organizations did not have many sites and, at times, due to permission, access, and limited space issues, the requirement was not always achievable.

Realizing that the collocated monitors provide precision estimates for the PQAO (since only 15 percent of the sites for each method designation are collocated), while also acknowledging that sites that measure concentrations close to the NAAQS are important, the EPA proposed to require that 50 percent (down from 80 percent) of the collocated monitors be deployed at sites within ±20 percent of the NAAQS and, if the PQAO did not have sites within that range, then 50 percent of the sites are to be deployed among the highest sites within the network. Although this requirement does not change the number of sites requiring collocation, it does provide the PQAO additional flexibility in its choice of collocated sites.

The EPA received three state comments and one consulting firm comment in general support of this proposal and no comments expressing concern.

As with the previous requirement, the EPA has a cut-off value of 3 $\mu g/m^3$ for data used in evaluations of precision and bias, meaning that only data equal to or greater than 3 $\mu g/m^3$ are used in estimates of precision and bias. This did

[34] *http://www.epa.gov/ttnamti1/qanews.html.*

not change in the proposed regulation. Our expectation is that monitoring organizations will site collocated monitors in such a manner that they will likely collect collocated samples from sites that have values equal to or greater than 3 μg/m3. One commenter was concerned about ''clean'' days that are below the 3 μg/m3 threshold since the employment of this threshold would affect data completeness by excluding pairs on cleaner days. The EPA notes, however, that completeness is not calculated solely on data pairs with concentrations equal to or greater than 3 μg/m3, but on all valid collocated pairs (valid pairs below 3 μg/m3 are expected to be reported to AQS). Therefore, as long as the monitoring agency collects and reports all collocated data at the required frequency, data completeness is not an issue.

Another state commenter, in support of the proposal, suggested that the highest concentration site be selected for the first collocation and, if a second site is needed, then the second highest site be selected, and so on. While this is an alternative approach, the initial rationale for the revision was to provide more flexibility in site selection in cases where some sites (for example the highest concentration site) had access problems or some other issue that did not make it a good candidate for collocation. The wording in the proposed regulation is meant to ensure that some of the sites selected for collocation represent the locations with the highest concentrations in the respective monitoring agencies network while providing the flexibility to choose among those sites.

Since there was general support for the proposal with no adverse comments, the EPA is finalizing this revision as proposed.

5. Calculations for Data Quality Assessment

In order to provide reasonable estimates of data quality, the EPA uses data above an established threshold concentration usually related to the detection limits of the measurement. Measurement pairs are selected for use in the precision and bias calculations only when both measurements are greater than or equal to a threshold concentration.

For many years, the threshold concentration for Pb precision and bias data was 0.02 μg/m3. The EPA promulgated a new Pb FRM (78 FR 40000) utilizing the Inductively Coupled Plasma Mass Spectrometry (ICP–MS) analysis technique in 2013 as a revision to appendix G of 40 CFR part 50.[35] This new FRM demonstrated MDLs[36] below 0.0002 μg/m3, which is well below the EPA requirement of 5 percent of the current Pb NAAQS level of 0.15 μg/m3, or 0.0075 μg/m3. As a result of the increased sensitivity inherent in this new FRM, the EPA proposed to lower the acceptable Pb concentration (current section 4) from the current value of 0.02 μg/m3 to 0.002 μg/m3 for measurements obtained using the new Pb FRM and other more recently approved equivalent methods that have the requisite increased sensitivity.[37] The current 0.02 μg/m3 value will be retained for the previous Pb FRM that has subsequently been re-designated as FEM EQLA–0813–803, as well as older equivalent methods that were approved prior to the more recent work on developing more sensitive methods. Since ambient Pb concentrations are lower and methods more sensitive, lowering the threshold concentration will allow more collocated data to be evaluated, which will provide more representative estimates of precision and bias at current ambient Pb levels.

The EPA received one state comment and one consulting firm comment in support of the proposal and one state comment expressing concern.

The comment expressing concern related to a perception that data would be lost due to the increased possibility that data quality objectives (DQO) would not be met with the decreased threshold concentration. The commenter believed the change would increase the likelihood that collocated data would not meet the 20 percent coefficient of variation (CV) limit for precision as specified in appendix A, section 2.3.1.3. This would in turn decrease data completeness and, if data loss is great enough, could potentially render the data from an entire monitoring location useless for NAAQS compliance determinations.

The EPA notes that invalidation of routine data based solely on the variability of collocated monitoring data is not required or recommended. The data validation guidance in the QA Handbook, which many monitoring organizations use to develop validation criteria, allows for these data to be reviewed in the context of other QC samples before decisions to invalidate data are made. Since the collocated data are only collected at approximately 15 percent of the monitoring sites, the data set is meant to reflect the precision of the PQAO monitoring network and not to evaluate the validity of data from individual sites. Site data can be used to troubleshoot causes of variability and to take corrective actions, but is not intended to invalidate routine monitoring data unless a significant systemic issue is discovered.

Based on the comment noted above, the EPA performed an evaluation of collocated Pb data collected in calendar years 2011–2013 to evaluate the amount of collocation information available when using the two reporting thresholds. In that time period, 7,063 collocated measurements were taken. Within this data set, there were 2,521 data pairs where both values were equal to or greater than 0.02 μg/m3 (*i.e.,* only about 35 percent of the information collected could be used to estimate precision). In the most pertinent examples, there were cases where monitoring organizations collected valid ambient data and no collocated data could be used due to the current higher threshold. For example, one monitoring organization collected 173 collocated measurements and no value was equal to or greater than 0.02 μg/m3 and, therefore, there was no estimate of precision reported for this monitoring organization for a 3-year period. There were eight monitoring organizations that could not use any collocated results for 2011–2013 and 22 monitoring organizations (about 50 percent of the monitoring organizations) that had less than 25 percent of their data used. In contrast, if the same data set is used, but the threshold is reduced to the proposed value of greater than or equal to 0.002 μg/m3, then 6,418 measurements are available, which increases precision data availability from 35 percent to 91 percent. As an example, the monitoring organization that had no collocated values (173 measurements) equal to or greater than 0.02 μg/m3 had the number of available pairs increased to 172 with the lower 0.002 μg/m3 threshold and had a precision estimate CV of 16.43, which is within the 3-year DQO goal of 20 percent.

The EPA acknowledges that using a lower threshold concentration will increase the estimate of precision since the required CV statistic is a derivation of the percent difference. When EPA evaluated the Pb data quality objectives to determine acceptable precision and bias for the new standard, we evaluated all collocated data in AQS including the

[35] See 78 FR 40000, July 3, 2013.

[36] MDL is described as the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero.

[37] FEMS approved on or after March 4, 2010, have the required sensitivity to utilize the 0.002 μg/m3 reporting limit with the exception of manual equivalent method EQLA–0813–803, the previous FRM based on flame atomic absorption spectroscopy.

lower concentration data.[38] Since the collocated data are actual samples, they include measurement uncertainty for all phases of the measurement system including variability in EPA-provided filters, sampling handling, sampler flow differences, plumes from sources, laboratory contamination, as well as other types of measurement uncertainty mentioned by one commenter. In fact, the goal of the collocation is to provide an estimate of overall measurement imprecision between two sampling systems that are, in theory, sampling the same air. So although the commenter identifies this as a concern, providing a measure of the overall precision of the measurement system is what the collocated data are intended to evaluate. The commenter mentioned that changing the threshold based solely on the estimated FRM detection limit may not translate to other FEMs that may have different detection limits. At a minimum, all approved Pb methods are required to meet the method detection limit to be approved as equivalent. Therefore, the 0.002 μg/m^3 threshold should be applicable to the newer methods and is the reason for the dual thresholds.

Based on our review and evaluations, the EPA set the precision goal of a 90 percent confidence limit for the CV of 20 percent as mentioned by the commenter. This CV estimate is determined by aggregating 3 years of collocated data. In the evaluation of the 2011–2013 data, the EPA evaluated data down to the lower threshold with the new methods capable of more sensitivity. The average 3-year precision estimate (2011–2013) for all monitoring organizations using the approved FRM and FEM methods and a threshold of 0.002 μg/m^3 was 16.31. The average 3-year CV for a threshold of 0.02 μg/m^3 was 11.09. This is an increase of imprecision on average of 5 percent, but a significant increase in data availability from 35 percent to 90 percent.

The commenter also suggested that the current threshold should remain in effect until a limit of quantitation (LOQ) test can be performed. Although there are a number of definitions for LOQ, some have defined it to be three times (3x) to ten times (10x) the MDL. The new Pb FRM by ICP–MS promulgated in 2013 in 40 CFR part 50, appendix G, showed that the MDLs were below 0.0002 μg/m^3. Therefore, the EPA took the 10x definition of LOQ and calculated 0.002 μg/m^3 as the level of the new threshold.

[38] *http://www.epa.gov/ttnamti1/files/ambient/pb/QAQA.pdf.*

Two commenters made similar points that, due to the fact that the CV is based on individual sample pair percent differences, the CV tends to increase at lower concentrations for a constant absolute difference. The EPA acknowledges this fact. On a related issue, when developing the 10 audit levels for annual performance evaluation checks, the EPA provided guidance on the two lower audit levels allowing for an absolute difference criteria as well as a percent difference criteria. Rather than eliminate close to 55 percent of the collocated data, which is what is occurring now with the higher threshold, the EPA is finalizing the two thresholds as proposed and will also evaluate the use of an absolute difference acceptance criteria at lower concentration levels.

The EPA proposed to remove the TSP threshold concentration for precision and bias since TSP is no longer a NAAQS-required pollutant and the EPA no longer has QC requirements for it.

The EPA received one comment in support of this proposal and no adverse comments and is finalizing this revision as proposed.

The EPA proposed to remove the statistical check currently described in section 4.1.5 of appendix A. The check was developed to perform a comparison of the one-point QC checks and the annual performance evaluation data performed by the same PQAO on gaseous instruments. The section suggests that 95 percent of all the bias estimates from the annual performance evaluation (reported as a percent difference) should fall within the 95 percent probability interval developed using the one-point QC checks. The problem with this specific statistical check is that PQAOs with very good repeatability on the one-point QC check data had a hard time meeting this requirement since the probability interval became very tight, making it more difficult for better performing PQAOs to meet the requirement when comparing the one-point QC checks and performance evaluation data. Separate statistics to evaluate the one-point QC checks and the performance evaluations are already promulgated, so the removal of this check does not affect data quality assessments.

The EPA received one comment in support of this proposal and no adverse comments and is finalizing this revision as proposed.

Similar to the statistical comparison of performance evaluations data, the EPA proposed to remove the statistical check (current section 4.2.4) to compare the flow rate audit data and flow rate verification data for PM monitors. The existing language suggests that 95 percent of all the flow rate audit data results (reported as percent difference) should fall within the 95 percent probability interval developed from the flow rate verification data for the PQAO. The problem, as with the one-point QC check comparison requirement for gaseous monitors, was that monitoring organizations with very good repeatability on the flow rate verifications had a hard time meeting this requirement since the probability interval became very tight, making it difficult for better performing PQAOs to meet the requirement. Separate statistics to evaluate the flow rate verifications and flow rate audits are already promulgated, so the removal of this check does not affect data quality assessments.

The EPA received one comment in support of this proposal and no adverse comments and is finalizing this revision as proposed.

B. Quality Assurance Requirements for Monitors Used in Evaluations of Prevention of Significant Deterioration Projects—Appendix B

The EPA proposed to create appendix B to specify the minimum quality assurance requirements for the control and assessment of the quality of the ambient air monitoring data submitted to a PSD reviewing authority or the EPA by an organization operating an air monitoring station, or network of stations, operated in order to comply with Part 51 New Source Review—Prevention of Significant Deterioration (PSD). These proposed revisions to the quality assurance requirements applicable to PSD are, in the majority of cases, identical to the revisions proposed in appendix A. The majority of comments received for this rule focused on the appendix A requirements and were discussed in the previous section. Due to the similarity of the proposed changes for appendix A and appendix B, the EPA assumes that comments submitted in response to proposed appendix A revisions also reflect the sentiment of commenters concerning the proposed language in appendix B. Therefore, the preamble discussions that include responses to comments for appendix A should, in most cases, also apply to appendix B. Accordingly, the EPA will not duplicate those discussions in the following sections pertaining to appendix B, and we refer the reader back to the relevant appendix A discussions in section III.A. of the preamble, above. In the few cases where comments were made specifically for appendix B sections, those

comments are discussed in the appropriate sections below.

1. General Information

The following changes to monitoring requirements impact Part 58—Ambient Air Quality Surveillance; Appendix B—Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring. Changes that affect the overall appendix are discussed in this section of the preamble while changes specific to the various sections of the appendix will be addressed in subsequent sections of the preamble. Since the PSD QA requirements have been included in appendix A since 2006, section headings refer to the current appendix A sections.

The QA requirements in appendix B have been developed for measuring the criteria pollutants of O_3, NO_2, SO_2, CO, $PM_{2.5}$, PM_{10} and Pb and are minimum QA requirements for the control and assessment of the quality of the PSD ambient air monitoring data submitted to the PSD reviewing authority [39] or the EPA by an organization operating a network of PSD stations.

In the 2006 monitoring rule revisions, the PSD QA requirements, which were previously in appendix B, were consolidated with appendix A and appendix B was reserved. The PSD requirements, in most cases, parallel appendix A in structure and content but because PSD monitoring is only required for a period of 1 year or less, some of the frequencies of implementation of the QC requirements for PSD are higher than the corresponding appendix A requirements. In addition, the agencies governing the implementation, assessment and approval of the QA requirements can be different: The PSD reviewing authorities for PSD monitoring and the EPA Regions for ambient air monitoring for NAAQS decisions. Since 2006, the combined regulations have caused confusion or misinterpretations of the regulations among the public and monitoring organizations implementing NAAQS or PSD requirements, and have resulted in failure, in some cases, to perform the necessary QC requirements. Accordingly, the EPA proposed that the PSD QA requirements be removed from appendix A and returned to appendix B. Separating the two sets of QA requirements would clearly distinguish the PSD QA requirements and allow more flexibility for future revisions to either monitoring program.

With this final rule, the EPA would not change most of the QA requirements for PSD. Therefore, the discussion that follows will cover those sections of the PSD requirements that the EPA proposed to change from the current appendix A requirements.

Commenters supported moving the PSD QA requirements to a distinct section with no adverse comments received, so the EPA is finalizing as proposed.

The applicability section of appendix B clarifies that the PSD QA requirements are not assumed to be minimum requirements for data use in NAAQS attainment decisions. One reason for this distinction is in the flexibility allowed in PSD monitoring for the NPEP (current appendix A, section 2.4). The proposed PSD requirements allow the PSD reviewing authority to decide whether implementation of the NPEP will be performed. The NPEP, which is described in appendix A, includes the NPAP, the $PM_{2.5}$ Performance Evaluation Program ($PM_{2.5}$–PEP), and the Pb–PEP. Accordingly, under the proposed revision, if a PSD reviewing authority intended to use PSD data for any official comparison to the NAAQS beyond the permitting application, such as for attainment/nonattainment designations or clean data determinations, then all requirements in appendix B including implementation of the NPEP would apply. In this case, monitoring would more closely conform to the appendix A requirements. The EPA proposed this flexibility for PSD because the NPEP requires either federal implementation or implementation by a qualified individual, group or organization that is not part of the organization directly performing and accountable for the work being assessed. The NPEP may require specialized equipment, certified auditors and a number of activities which are enumerated in the sections associated with these programs. Arranging this type of support service may be more difficult for the operator of a single or small number of PSD monitoring stations operating for only a year or less.

The EPA cannot accept funding from private contractors or industry, and federal implementation of the NPEP for PSD would face several funding and logistical hurdles. This creates an inequity in the NPEP implementation options available to the PSD monitoring organizations compared to the state/local/tribal monitoring organizations for NAAQS compliance. The EPA has had success in training and certifying private contractors in various categories of performance evaluations conducted under NPEP, but many have not made the necessary investments in capital equipment to implement all categories of the performance evaluations. Since the monitoring objectives for the collection of data for PSD are not necessarily the same as the appendix A monitoring objectives, the EPA proposed to allow the PSD reviewing authority to determine whether a PSD monitoring project must implement the NPEP.

The EPA only received comments in support of this proposed change, and is finalizing the change as proposed.

The EPA proposed to clarify the definition of PSD PQAO. The PQAO was first defined in appendix A in 2006 (current appendix A, section 3.1.1), when the PSD requirements were combined with appendix A. The definition is not substantially changed for PSD, but the EPA proposed to clarify that a PSD PQAO can only be associated with one PSD reviewing authority. Distinguishing among the PSD PQAOs that coordinate with a PSD reviewing authority would be consistent with discrete jurisdictions for PSD permitting, and it would simplify oversight of the QA requirements for each PSD network.

Given that companies may apply for PSD permits throughout the U.S., it is expected that some PSD monitoring organizations will work with multiple reviewing authorities. The PSD PQAO code that may appear in the AQS data base and other records defines the PSD monitoring organization or a coordinated aggregation of such organizations that is responsible for a set of stations within one PSD reviewing authority that monitors the same pollutant and for which data quality assessments will be pooled. The PSD monitoring organizations that work with multiple PSD reviewing authorities would have individual PSD PQAO codes for each PSD reviewing authority. This approach will allow flexibility to develop appropriate quality systems for each PSD reviewing authority.

The EPA did not receive any comment on this process and is finalizing the requirement as proposed.

The EPA proposed to add definitions of ''PSD monitoring organization'' and ''PSD monitoring network'' to 40 CFR 58.1. The definitions have been developed to improve understanding of the appendix B regulations.

Because the EPA uses the term ''monitoring organization'' frequently in the NAAQS-associated ambient air regulations, the EPA wanted to provide a better definition of the term in the PSD

[39] Permitting authority and reviewing authority are often used synonymously in PSD permitting. Since reviewing authority has been defined in 40 CFR 51.166(b), it is used throughout appendix B.

QA requirements. Therefore, the EPA proposed the term ''PSD monitoring organization'' to identify ''a source owner/operator, a government agency, or a contractor of the source or agency that operates an ambient air pollution monitoring network for PSD purposes.''

The EPA also proposed to define ''PSD monitoring network'' in order to distinguish ''a set of stations that provide concentration information for a specific PSD permit.'' The EPA will place both definitions in 40 CFR 58.1. The EPA did not receive any comment on these changes and is finalizing them as proposed.

2. Quality System Requirements

The EPA proposed to remove the $PM_{10-2.5}$ requirements for flow rate verifications, semi-annual flow rate audits, collocated sampling procedures and $PM_{10-2.5}$ PEP from appendix B (current appendix A, sections 3.2.6, 3.2.8, 3.3.6, 3.3.8, 4.3). In 2006, the EPA proposed a $PM_{10-2.5}$ NAAQS along with requisite QA requirements in appendix A. While the $PM_{10-2.5}$ NAAQS was not promulgated, $PM_{10-2.5}$ monitoring was required to be performed at NCore sites and the EPA proposed requisite QA requirements in appendix A. Since PSD monitoring is distinct from monitoring at NCore sites and $PM_{10-2.5}$ is not a criteria pollutant, it will be removed from the PSD QA requirements. The EPA did not receive any comment on this proposed revision and is finalizing the requirement as proposed.

The EPA proposed that the Pb QA requirements of collocated sampling (current appendix A, section 3.3.4.3) and Pb performance evaluation procedures (current appendix A, section 3.3.4.4) for non-source oriented NCore sites be eliminated for PSD. The 2010 Pb rule in 40 CFR part 58, appendix D, section 4.5(b) added a requirement to conduct non-source oriented Pb monitoring at each NCore site in a CBSA with a population of 500,000 or more. Since PSD does not implement NCore sites, the EPA proposed to eliminate the Pb QA language specific to non-source oriented NCore sites from PSD while retaining the PSD QA requirements for routine Pb monitoring.

The EPA received three supportive comments for the removal of this requirement and no adverse comments. Therefore, the EPA is finalizing the requirement as proposed.

The EPA proposed that elements of QMPs and QAPPs which are separate documents described in appendix A, sections 2.1.1 and 2.1.2, can be combined into a single document for PSD monitoring networks. The QMP provides a ''blueprint'' of a PSD monitoring organization's quality system. It includes quality policies and describes how the organization as a whole manages and implements its quality system regardless of what monitoring is being performed. The QAPP includes details for implementing a specific PSD monitoring activity. For PSD monitoring, the EPA believes the project-specific QAPP takes priority, but there are important aspects of the QMP that could be incorporated into the QAPP. The current appendix A requirements allow smaller organizations or organizations that do infrequent work with EPA to combine the QMP with the QAPP based on negotiations with the funding agency and provided guidance [40] on a graded approach to developing these documents. In the case of PSD QMPs and QAPPs, the EPA proposed that the PSD reviewing authority, which has the approval authority for these documents, also have the flexibility for allowing the PSD PQAO to combine pertinent elements of the QMP into the QAPP rather than requiring the submission of both QMP and QAPP documents separately. The EPA did not receive any comment on this and is finalizing the requirement as proposed.

The EPA proposed to add language to the appendix B version of the DQO section (current appendix A, section 2.3.1) which allows flexibility for the PSD reviewing authority and the PSD monitoring organization to determine if adherence to the DQOs specified in appendix A, which are the DQO goals for NAAQS decisions, are appropriate or whether project-specific goals are necessary. Allowing the PSD reviewing authority and the PSD monitoring organization flexibility to change the DQOs does not change the implementation requirements for the types and frequency of the QC checks in appendix B, but does give some flexibility in the acceptance of data for use in specific projects for which the PSD data are collected. As an example, the goal for acceptable measurement uncertainty for the collection of O_3 data for NAAQS determinations is defined for precision as an upper 90 percent confidence limit for CV of 7 percent and for bias as an upper 95 percent confidence limit for the absolute bias of 7 percent. The precision and bias estimates are made with 3 years of one-point QC check data. A single or a few one-point QC checks over 7 percent would not have a significant effect on meeting the DQO goal. The PSD monitoring DQO, depending on the objectives of the PSD monitoring network, may require a stricter DQO goal or one less restrictive. Since PSD monitoring covers a period of 1 year or less, one-point QC checks over 7 percent will increase the likelihood of failing to meet the DQO goal since there would be fewer QC checks available in the monitoring period to estimate precision and bias. With fewer checks, any individual check will statistically have more influence over the precision or bias estimate. Realizing that PSD monitoring may have different monitoring objectives, the EPA proposed to add language that would allow decisions on DQOs to be determined through consultation between the appropriate PSD reviewing authority and PSD monitoring organization. The EPA did not receive any comment on this and is finalizing the requirement as proposed.

The EPA proposed to add some clarifying language to the section describing the NPEP (current appendix A, section 2.4) to explain self-implementation of the performance evaluation by the PSD monitoring organization. Self-implementation of NPEP has always been an option for monitoring organizations but the requirements for self-implementation were described in the technical implementation documents (*i.e.,* implementation plans and QAPPs) for the program and in an annual self-implementation decision memo that is distributed to monitoring organizations.[41] These major requirements for self-implementation are proposed to be included in the appendix B sections pertaining to the NPEP program (NPAP, $PM_{2.5}$–PEP and Pb–PEP).

The NPEP clarification also adds a definition of ''independent assessment.'' The proposed definition is derived from the NPEP (NPAP, $PM_{2.5}$–PEP, and Pb–PEP) QAPPs and guidance; it also appears in the annual self-implementation memo described above. The clarification is not a new requirement but consolidates this information.

Refer to comments related to NPEP in appendix A in III.A. As there were no comments specifically related to PSD, the EPA is finalizing the requirement as proposed.

The EPA proposed to require PSD PQAOs to provide information to the PSD reviewing authority on the vendors of gas standards that they use (or will use) for the duration of the PSD monitoring project. A QAPP or monitoring plan may incorporate this

[40] Graded approach to Tribal QAPP and QMPs *http://www.epa.gov/ttn/amtic/cpreldoc.html.*

[41] *http://www.epa.gov/ttn/amtic/npepqa.html.*

information. However, that document must then be updated if there is a change in the vendor used. The current regulation (current appendix A, section 2.6.1) requires any gas vendor advertising and distributing ''EPA Protocol Gas'' to participate in the AA–PGVP. The EPA posts a list of these vendors on the AMTIC Web site.[42] This is not expected to be a burden since information of this type is normally included in a QAPP or standard operating procedure for a monitoring activity.

There were no adverse comments in appendix A or appendix B related to identifying vendors used to supply monitoring organization with gas standards. Therefore, the EPA is finalizing the requirement as proposed.

3. Measurement Quality Checks for Gases

The EPA proposed to lower the audit concentrations (current appendix A, section 3.2.1) of the one-point QC checks to 0.005 and 0.08 ppm for SO_2, NO_2, and O_3 (currently 0.01 to 0.1 ppm), and to between 0.5 and 5 ppm for CO monitors (currently 1 and 10 ppm). With the development of more sensitive monitoring instruments with lower detection limits, technical improvements in calibrators, and lower ambient air concentrations in general, the EPA believes this revision will better reflect the precision and bias of the routinely-collected ambient air data. Because the audit concentrations are selected using the mean or median concentration of typical ambient air data (guidance on this is provided in the QA Handbook [43]), the EPA proposed to add some clarification to the current language by requiring PSD monitoring organizations to select either the highest or lowest concentration in the ranges identified if the mean or median values of the routinely-collected concentrations are above or below the prescribed range.

The EPA received a number of comments on this proposed requirement. Please refer to the appendix A comments in III.A. In light of the comments received, the EPA will maintain the concentration ranges as proposed: 0.005 to 0.08 ppm for SO_2, NO_2, and O_3, and between the prescribed range of 0.5 and 5 ppm for CO monitors. However, rather than requiring that the range selected be at the mean or median concentration range at the site or the agencies network of sites, the QC check gas concentration selected within the prescribed range can be related to the monitoring objective of the site, with those monitors primarily intended for NAAQS compliance utilizing concentrations at or near the level of the NAAQS (higher end of the required range), and trace gas monitors operating at background or trends sites related to the mean or median of the ambient air concentrations normally measured at those sites in order to appropriately reflect the precision and bias at these routine concentration ranges. If the mean or median concentrations at trace gas sites are below the MDL of the instrument or above the prescribed range, the agency can select the lowest or highest concentration in the range that can be practically achieved. In the case of PSD monitoring, the EPA will add language requiring the PSD monitoring organization to consult with the PSD reviewing authority on the most appropriate one-point QC concentration based on the objectives of the monitoring activity. In addition, the EPA will keep language suggesting that an additional QC check point is encouraged for those organizations that may have occasional high values or would like to confirm the monitors' linearity at the higher end of the operational range.

In addition, to alleviate concerns about failing the acceptance criteria at lower QC concentrations, the EPA will evaluate suggestions by monitoring organizations to raise acceptance criteria or look at alternative acceptance criteria (*e.g.,* difference instead of percent difference). Since acceptance criteria is included in guidance, the EPA will have the opportunity to perform the evaluations without effecting the regulation.

The EPA proposed to remove the existing reference to zero and span adjustments (current appendix A, section 3.2.1.1) and to revise the one-point QC language to simply require that the QC check be conducted before making any calibration or adjustment to the monitor. Recent revisions of the QA Handbook discourage the practice of making frequent span adjustments, so the proposed language helps to clarify that no adjustment be made prior to implementation of the one-point QC check. There were no comments made on this proposed revision, so the EPA is finalizing this revision as proposed.

The current annual performance evaluation language (current appendix A, section 3.2.2.1) requires that the audits be conducted by selecting three consecutive audit levels (currently, appendix A recognizes five audit levels). Due to the implementation of the NCore network, the inception of trace gas monitors, and lower ambient air concentrations being measured under typical circumstances, there is a need for audit levels at lower concentrations to more accurately represent the uncertainties present in the ambient air data. The EPA proposed to expand the audit levels from five to ten and remove the requirement to audit three consecutive levels. The current regulation also requires that the three audit levels should bracket 80 percent of the ambient air concentrations measured by the analyzer. This current ''bracketing language'' has caused some confusion, and monitoring organizations have requested the use of an audit point to establish monitor accuracy around the NAAQS levels. Therefore, the EPA proposed to revise the language so that two of the audit levels selected represent 10 to 80 percent of routinely-collected ambient concentrations either measured by the monitor or in the PSD PQAOs network of monitors. The proposed revision allows the third point to be selected at a concentration that is consistent with PSD-specific DQOs (*e.g.,* the 75 ppb NAAQS level for SO_2).

The EPA received a number of comments on this proposal. Please refer to the appendix A comments in III.A.

In addition to comments related to appendix A, the EPA received comments specific to PSD on this section. A commenter mentioned that for PSD, the performance evaluation (PE) is performed quarterly since PSD monitoring may occur for only 1 year. The current language required the audit to occur each calendar quarter and since PSD monitoring does not necessarily follow calendar quarters, it was suggested to revise the term ''calendar quarter'' to ''quarterly.'' The EPA will revise the PSD language to reflect implementing the quarterly PE on a quarter or 90-day frequency. A commenter felt that the requirement that PE personnel will be required to meet PE training and certification requirements was in error because the requirement for certification applies only to NPEP audits, not to quarterly performance evaluation audits, and there is no further regulatory discussion to support such an assertion. Because the EPA has provided more flexibility on implementing NPEP at PSD sites, we believed there needed to be an additional requirement that the personnel implementing these audits be trained and certified. However, as the commenter mentioned, there is no additional instruction on this, nor is there any mention of the organization required to do this training and certification. It is expected that any

[42] *http://www.epa.gov/ttn/amtic/aapgvp.html.*

[43] QA Handbook for Air Pollution Measurement Vol. II Ambient Air Quality Monitoring Program at: *http://www.epa.gov/ttn/amtic/qalist.html.*

entity performing this activity would be trained and capable of performing these audits. Therefore, the EPA will remove the last sentence requiring training and certification.

The EPA received a comment that suggested the PE language was not consistent with an earlier section (2.7) that only required the use of reference and equivalent method monitors as opposed to trace gas analyzers regardless of the concentrations measured. The commenter's contention was that based upon the proposed language related to the selection of PE concentration, the PSD monitoring agency would be required to acquire trace gas instruments due to their sensitivity and the fact that their ambient air concentrations were low. They used examples of annual mean NO_2 values around 1.9 ppb and SO_2 concentrations of 1.0 ppb. However, the proposed PE language is consistent with the reference and equivalent language described in section 2.7 since trace gas analyzers are in fact reference and equivalent instruments and, therefore, are included in that description. Regardless of the proposed PE concentration range, it would seem that PSD monitoring organizations that are required to monitor at the low concentration ranges would want to select FRM or FEM instruments more capable of reliably measuring these concentrations.

Based on the comments received related to appendices A and B, the EPA will revise the proposed language to require three points to be selected: One point around two to three times the method detection limit of the instruments within the PQAO network, a second point less than the 99 percentile of the data at the site or the network of sites within a PQAO or the next highest audit concentration level, and the third point around the primary NAAQS or the highest 3-year concentration at the site or the network of sites in the PQAO. This provides two audit points that reflect 99 percent of the monitoring data and a third point at the highest 3-year concentration or the NAAQS, whichever concentration the PSD monitoring organization chooses.

The EPA proposed to revise the language (current appendix A, section 3.2.2.2(a)) addressing the limits on excess NO that must be followed during GPT procedures involving NO_2 audits. The current NO limit (maintaining at least 0.08 ppm) is very restrictive and requires auditors to make numerous mid-audit adjustments during a GPT that result in making the NO_2 audit a very time-consuming procedure. Monitoring agency staff have advised us that the observance of such excess NO limits has no apparent effect on NO_2 calibrations being conducted with modern-day GPT-capable calibration equipment and, therefore, the requirements in the context of performing audits is unnecessary.[44] We also note the increasing availability of the EPA-approved direct NO_2 methods that do not utilize converters, rendering the use of GPT techniques that require the output of NO and NO_X to be a potentially diminishingly used procedure in the future. Accordingly, we have proposed a more general statement regarding GPT that acknowledges the ongoing usage of monitoring agency procedures and guidance documents that have successfully supported NO_2 calibration activities. The EPA believes that if such procedures have been successfully used during calibrations when instrument adjustments are potentially being made, then such procedures are appropriate for audit use when instruments are not subject to adjustment.

The EPA received only supportive comments endorsing the proposed revision to the language on excess NO. Therefore, the EPA is finalizing this revision as proposed.

The EPA proposed to remove language (current appendix A, section 3.2.2.2(b)) in the annual performance evaluation section that requires Regional approval for audit gases for any monitors operating at ranges higher that 1.0 ppm for O_3, SO_2 and NO_2 and greater than 50 ppm for CO. The EPA does not need to approve a monitoring organization's use of audit gases to audit above proposed concentration levels since the EPA has identified the requirements for all audit gases used in the program in current appendix A, section 2.6.1. There should be very few cases where a PE needs to be performed above level 10, but there may be some legitimate instances (*e.g.,* an SO_2 audit in areas impacted by volcanic emissions). Since data reported to AQS above the highest level may be rejected (if PSD PE data are reported to AQS), the EPA proposes that PQAOs notify the PSD reviewing authority of sites auditing at concentrations above level 10 so that reporting accommodations can be made. There were no comments made on this proposed revision, so the EPA is finalizing this revision as proposed.

The EPA proposed to describe the NPAP (current appendix A, section 2.4) in more detail. The NPAP is a long-standing program for the ambient air monitoring community. The NPAP is a performance evaluation, which is a type of audit where quantitative data are collected independently in order to evaluate the proficiency of an analyst, monitoring instrument or laboratory. This program has been briefly mentioned in section 2.4 of the current appendix A requirements. In appendix A, the EPA proposed to add language consistent with an annual decision memorandum[45] distributed to all state and local monitoring organizations in order to determine whether the monitoring organization plans to self-implement the NPAP program or utilize the federally implemented program. In order to make this decision, the NPAP adequacy and independence requirements are described in the decision memorandum. The EPA proposed to include these same requirements in appendix B in a separate section for NPAP. As described in the applicability section, the implementation of NPAP is at the discretion of the PSD reviewing authority but must be implemented if data are used in any NAAQS determinations. Since PSD monitoring is implemented at shorter intervals (usually a year) and with fewer monitors, if NPAP is performed, it is required to be performed annually on each monitor operated in the PSD network.

See appendix A for comments and discussions related to this section. The EPA is finalizing this revision as proposed.

4. Measurement Quality Checks for Particulate Monitors

The EPA proposed to have one flow rate verification frequency requirement for all PM PSD monitors. The current regulations (current appendix A, table A–2) provide for monthly flow rate verifications for most samplers used to monitor $PM_{2.5}$, PM_{10} and Pb and quarterly flow rate verifications for high-volume PM_{10} or TSP samplers (for Pb). With longer duration NAAQS monitoring, the quarterly verification frequencies are adequate for these high-volume PM_{10} or TSP samplers. However, with the short duration of PSD monitoring, the EPA believes that monthly flow rate verifications are more appropriate to ensure that any sampler flow rate problems are identified more quickly and to reduce the potential for a significant amount of data invalidation that could extend monitoring activities.

The EPA received one comment in support of this revision and no adverse

[44] See supporting information in Excess NO Issue paper, Mike Papp and Lewis Weinstock, Docket number EPA–HQ–OAR–2013–0619.

[45] *http://www3.epa.gov/ttn/amtic/npepqa.html.*

comments. Therefore, the EPA is finalizing this revision as proposed.

The EPA proposed to grant more flexibility to PSD monitoring organizations when selecting $PM_{2.5}$ method designations for sites that require collocation. Appendix A (current section 3.2.5.2(b)) requires that if a primary monitor is a FEM, then the first QC collocated monitor must be a FRM monitor. Most of the FEM monitors are continuous monitors while the FRM monitors are filter-based. Continuous monitors (which are all FEMs) may be advantageous for use at the more remote PSD monitoring locations, since the site operator would not need to visit a site as often to retrieve filters (current FRMs are filter-based). The current collocation requirements for FEMs require a filter-based FRM for collocation, which would mean a visit to retrieve the FRM filters at least 1 week after the QC collocated monitor operated. Therefore, the EPA proposed that the FRM be selected as the QC collocated monitor unless the PSD PQAO submits a waiver request to the PSD reviewing authority to allow for collocation with a FEM. If the request for a waiver is approved, then the QC monitor must be the same method designation as the primary FEM monitor. The EPA did not receive any comments on this proposal and is finalizing this revision as proposed.

The EPA proposed to allow the PSD reviewing authority to waive the $PM_{2.5}$ 3 $\mu g/m^3$ concentration validity threshold for implementation of the $PM_{2.5}$–PEP in the last quarter of PSD monitoring. The $PM_{2.5}$–PEP (current appendix A, section 3.2.7) requires five valid $PM_{2.5}$–PEP audits per year for $PM_{2.5}$ monitoring networks with less than or equal to five sites and eight valid $PM_{2.5}$–PEP audits per year with $PM_{2.5}$ monitoring networks greater than five sites. Any PEP samples collected with a concentration less than 3 $\mu g/m^3$ are not considered valid, since they cannot be used for bias estimates, and re-sampling is required at a later date. With NAAQS-related monitoring, which aggregates the $PM_{2.5}$–PEP data over a 3-year period, re-sampling is easily accomplished. Due to the relatively short-term nature of most PSD monitoring, the likelihood of measuring low concentrations in many areas attaining the $PM_{2.5}$ standard and the time required to weigh filters collected in performance evaluations, a PSD monitoring organization's QAPP may contain a provision to waive the 3 $\mu g/m^3$ threshold for validity of performance evaluations conducted in the last quarter of monitoring, subject to approval by the PSD reviewing authority. The EPA did not receive any comments on this proposed waiver and is finalizing this revision as proposed.

5. Calculations for Data Quality Assessment

In order to allow reasonable estimates of data quality, the EPA uses data above an established threshold concentration usually related to the detection limits of the measurement method. Measurement pairs are selected for use in the precision and bias calculations only when both measurements are above a threshold concentration.

For many years, the threshold concentration for Pb precision and bias data has been 0.02 $\mu g/m^3$. The EPA promulgated a new Pb FRM utilizing the ICP–MS analysis technique in 2013 as a revision to appendix G of 40 CFR part 50.[46] This new FRM demonstrated MDLs[47] below 0.0002 $\mu g/m^3$, which is well below the EPA requirement of five percent of the current Pb NAAQS level of 0.15 $\mu g/m^3$, or 0.0075 $\mu g/m^3$. As a result of the increased sensitivity inherent in this new FRM, the EPA proposed to lower the acceptable Pb concentration (current section 4) from the current value of 0.02 $\mu g/m^3$ to 0.002 $\mu g/m^3$ for measurements obtained using the new Pb FRM and other more recently approved equivalent methods that have the requisite increased sensitivity.[48] The current 0.02 $\mu g/m^3$ value will be retained for the previous Pb FRM that has subsequently been re-designated as FEM EQLA–0813–803 as well as older equivalent methods that were approved prior to the more recent work on developing more sensitive methods. Since ambient Pb concentrations are lower and methods more sensitive, lowering the threshold concentration will allow much more collocated information to be evaluated, which will provide more representative estimates of precision and bias.

See comments related to this proposal in the appendix A section. The EPA will establish two thresholds as proposed and will evaluate the use of an absolute difference acceptance criteria at lower concentration levels.

The EPA also proposed to remove the TSP threshold concentration since TSP is no longer a NAAQS-required pollutant and the EPA no longer has QC requirements for it. The EPA received one comment in support of this proposed change and no adverse comments and is finalizing this revision as proposed.

The EPA proposed to remove the statistical check currently described in section 4.1.5 of appendix A. The check was developed to perform a comparison of the one-point QC checks and the annual performance evaluation data performed by the same PQAO. The section suggests that 95 percent of all the bias estimates of the annual performance evaluations (reported as a percent difference) should fall within the 95 percent probability interval developed using the one-point QC checks. The problem with this check is that PQAOs with very good repeatability on the one-point QC check data had a hard time meeting this requirement since the probability interval became very tight, making it more difficult for better performing PQAOs to meet the requirement. Separate statistics to evaluate the one-point QC checks and the performance evaluations are already promulgated, so the removal of this check does not affect data quality assessments. The EPA received one comment in support of this proposal and no adverse comments and is finalizing this revision as proposed.

Similar to the statistical comparison of performance evaluation data, the EPA proposed to remove the statistical check (current appendix A, section 4.2.4) to compare the flow rate audit data and flow rate verification data. The existing language suggests that 95 percent of all the flow rate audit data (reported as percent difference) should fall within the 95 percent probability interval developed from the flow rate verification data for the PQAO. The problem, as with the one-point QC check, was that monitoring organizations with very good repeatability on the flow rate verifications had a hard time meeting this requirement since the probability interval became very tight, making it difficult for better performing PQAOs to meet the requirement. Separate statistics to evaluate the flow rate verifications and flow rate audits are already promulgated, so the removal of this check does not affect data quality assessments. The EPA received one comment in support of this proposal and no adverse comments and is finalizing this revision as proposed.

The EPA proposed to remove the reporting requirements that are currently in section 5 of appendix A because they do not pertain to PSD monitoring (current sections 5.1, 5.1.1 and 5.1.2.1). Since PSD organizations

[46] See 78 FR 40000, July 3, 2013.

[47] MDL is described as the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero.

[48] FEMs approved on or after March 4, 2010, have the required sensitivity to utilize the 0.002 $\mu g/m^3$ reporting limit with the exception of manual equivalent method EQLA–0813–803, the previous FRM based on flame atomic absorption spectroscopy.

are not required to certify their data to the EPA nor report to AQS, the EPA will remove language related to these requirements and language that required the EPA to calculate and report the measurement uncertainty for the entire calendar year. The EPA will retain the quarterly PSD reporting requirements (current section 5.2 in appendix A) and require that those requirements be consistent with 40 CFR 58.16 as it pertains to PSD ambient air quality data and QC data, as described in appendix B. The EPA did not receive any comment on this revision and is finalizing this revision as proposed.

IV. Statutory and Executive Order Reviews

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. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0084. While the EPA believes that the net effect of the requirement changes is a decrease in overall burden, the current information collection request calculation tools examine key air monitoring tasks on somewhat of a macro level and are therefore not sufficiently detailed to show a material change in burden compared with the existing requirements.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action finalizes minor changes and clarifications to existing monitoring requirements and definitions.

D. Unfunded Mandates Reform Act

This action does not contain an unfunded federal mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The revisions to the monitoring requirements impose no enforceable duty on any state, local, or tribal governments or the private sector beyond those duties already established in the CAA.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Tribes have the opportunity to seek treatment in a manner similar to a state for the purpose of installing and operating a monitoring network consisting of one or more monitors and to then install and operate such a network, but are not required to do so. With regard to any tribes that may currently be operating a monitoring network, as well as any tribes that may operate a monitoring network in the future, this action finalizes minor changes and clarifications to existing monitoring requirements and will not materially impact the time required to operate monitoring networks. Thus, consultation under the Executive Order 13175 is not required for this action. The EPA will work through tribal resources such as the Tribal Air Monitoring Support Center to ensure a complete understanding of these revisions.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. 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.

I. National Technology Transfer and Advancement Act

This action does not involve technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This action finalizes minor changes and clarifications to existing monitoring requirements and definitions.

K. Congressional Review Act

This action is subject to the CRA, and 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).

List of Subjects in 40 CFR Part 58

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations.

Dated: March 10, 2016.

Gina McCarthy,

Administrator.

Part 58, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 58—AMBIENT AIR QUALITY SURVEILLANCE

■ 1. The authority citation for part 58 continues to read as follows:

Authority: 42 U.S.C. 7403, 7405, 7410, 7414, 7601, 7611, 7614, and 7619.

■ 2. Revise § 58.1 to read as follows:

§ 58.1 Definitions.

As used in this part, all terms not defined herein have the meaning given them in the Clean Air Act.

AADT means the annual average daily traffic.

Act means the Clean Air Act as amended (42 U.S.C. 7401, *et seq.*)

Additive and multiplicative bias means the linear regression intercept and slope of a linear plot fitted to corresponding candidate and reference method mean measurement data pairs.

Administrator means the Administrator of the Environmental Protection Agency (EPA) or his or her authorized representative.

Air quality system (AQS) means the EPA's computerized system for storing and reporting of information relating to ambient air quality data.

Approved regional method (ARM) means a continuous $PM_{2.5}$ method that has been approved specifically within a

state or local air monitoring network for purposes of comparison to the NAAQS and to meet other monitoring objectives.

AQCR means air quality control region.

Area-wide means all monitors sited at neighborhood, urban, and regional scales, as well as those monitors sited at either micro- or middle-scale that are representative of many such locations in the same CBSA.

Certifying agency means a state, local, or tribal agency responsible for meeting the data certification requirements in accordance with § 58.15 for a unique set of monitors.

Chemical Speciation Network (CSN) includes Speciation Trends Network stations (STN) as specified in paragraph 4.7.4 of appendix D of this part and supplemental speciation stations that provide chemical species data of fine particulate.

CO means carbon monoxide.

Combined statistical area (CSA) is defined by the U.S. Office of Management and Budget as a geographical area consisting of two or more adjacent Core Based Statistical Areas (CBSA) with employment interchange of at least 15 percent. Combination is automatic if the employment interchange is 25 percent and determined by local opinion if more than 15 but less than 25 percent.

Core-based statistical area (CBSA) is defined by the U.S. Office of Management and Budget, as a statistical geographic entity consisting of the county or counties associated with at least one urbanized area/urban cluster of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration. Metropolitan Statistical Areas (MSAs) and micropolitan statistical areas are the two categories of CBSA (metropolitan areas have populations greater than 50,000; and micropolitan areas have populations between 10,000 and 50,000). In the case of very large cities where two or more CBSAs are combined, these larger areas are referred to as combined statistical areas (CSAs)

Corrected concentration pertains to the result of an accuracy or precision assessment test of an open path analyzer in which a high-concentration test or audit standard gas contained in a short test cell is inserted into the optical measurement beam of the instrument. When the pollutant concentration measured by the analyzer in such a test includes both the pollutant concentration in the test cell and the concentration in the atmosphere, the atmospheric pollutant concentration must be subtracted from the test measurement to obtain the corrected concentration test result. The corrected concentration is equal to the measured concentration minus the average of the atmospheric pollutant concentrations measured (without the test cell) immediately before and immediately after the test.

Design value means the calculated concentration according to the applicable appendix of part 50 of this chapter for the highest site in an attainment or nonattainment area.

EDO means environmental data operations.

Effective concentration pertains to testing an open path analyzer with a high-concentration calibration or audit standard gas contained in a short test cell inserted into the optical measurement beam of the instrument. Effective concentration is the equivalent ambient-level concentration that would produce the same spectral absorbance over the actual atmospheric monitoring path length as produced by the high-concentration gas in the short test cell. Quantitatively, effective concentration is equal to the actual concentration of the gas standard in the test cell multiplied by the ratio of the path length of the test cell to the actual atmospheric monitoring path length.

Federal equivalent method (FEM) means a method for measuring the concentration of an air pollutant in the ambient air that has been designated as an equivalent method in accordance with part 53 of this chapter; it does not include a method for which an equivalent method designation has been canceled in accordance with § 53.11 or § 53.16.

Federal reference method (FRM) means a method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to part 50 of this chapter, or a method that has been designated as a reference method in accordance with this part; it does not include a method for which a reference method designation has been canceled in accordance with § 53.11 or § 53.16 of this chapter.

HNO_3 means nitric acid.

Implementation plan means an implementation plan approved or promulgated by the EPA pursuant to section 110 of the Act.

Local agency means any local government agency, other than the state agency, which is charged by a state with the responsibility for carrying out a portion of the annual monitoring network plan required by § 58.10.

Meteorological measurements means measurements of wind speed, wind direction, barometric pressure, temperature, relative humidity, solar radiation, ultraviolet radiation, and/or precipitation that occur at SLAMS stations including the NCore and PAMS networks.

Metropolitan Statistical Area (MSA) means a CBSA associated with at least one urbanized area of 50,000 population or greater. The central-county, plus adjacent counties with a high degree of integration, comprise the area.

Monitor means an instrument, sampler, analyzer, or other device that measures or assists in the measurement of atmospheric air pollutants and which is acceptable for use in ambient air surveillance under the applicable provisions of appendix C to this part.

Monitoring agency means a state, local or tribal agency responsible for meeting the requirements of this part.

Monitoring organization means a monitoring agency responsible for operating a monitoring site for which the quality assurance regulations apply.

Monitoring path for an open path analyzer means the actual path in space between two geographical locations over which the pollutant concentration is measured and averaged.

Monitoring path length of an open path analyzer means the length of the monitoring path in the atmosphere over which the average pollutant concentration measurement (path-averaged concentration) is determined. See also, *optical measurement path length.*

Monitoring planning area (MPA) means a contiguous geographic area with established, well-defined boundaries, such as a CBSA, county or state, having a common area that is used for planning monitoring locations for $PM_{2.5}$. A MPA may cross state boundaries, such as the Philadelphia PA–NJ MSA, and be further subdivided into community monitoring zones. The MPAs are generally oriented toward CBSAs or CSAs with populations greater than 200,000, but for convenience, those portions of a state that are not associated with CBSAs can be considered as a single MPA.

NATTS means the national air toxics trends stations. This network provides hazardous air pollution ambient data.

NCore means the National Core multipollutant monitoring stations. Monitors at these sites are required to measure particles ($PM_{2.5}$ speciated $PM_{2.5}$, $PM_{10–2.5}$), O_3, SO_2, CO, nitrogen oxides (NO/NO_y), and meteorology (wind speed, wind direction, temperature, relative humidity).

Near-road monitor means any approved monitor meeting the applicable specifications described in 40 CFR part 58, appendix D (sections 4.2.1, 4.3.2, 4.7.1(b)(2)) and appendix E

(section 6.4(a), Table E–4) for near-road measurement of $PM_{2.5}$, CO, or NO_2.

Network means all stations of a given type or types.

Network Plan means the Annual Monitoring Network Plan described in § 58.10.

NH_3 means ammonia.

NO_2 means nitrogen dioxide.

NO means nitrogen oxide.

NO_X means the sum of the concentrations of NO_2 and NO.

NO_y means the sum of all total reactive nitrogen oxides, including NO, NO_2, and other nitrogen oxides referred to as NO_Z.

O_3 means ozone.

Open path analyzer means an automated analytical method that measures the average atmospheric pollutant concentration in situ along one or more monitoring paths having a monitoring path length of 5 meters or more and that has been designated as a reference or equivalent method under the provisions of part 53 of this chapter.

Optical measurement path length means the actual length of the optical beam over which measurement of the pollutant is determined. The path-integrated pollutant concentration measured by the analyzer is divided by the optical measurement path length to determine the path-averaged concentration. Generally, the optical measurement path length is:

(1) Equal to the monitoring path length for a (bistatic) system having a transmitter and a receiver at opposite ends of the monitoring path;

(2) Equal to twice the monitoring path length for a (monostatic) system having a transmitter and receiver at one end of the monitoring path and a mirror or retroreflector at the other end; or

(3) Equal to some multiple of the monitoring path length for more complex systems having multiple passes of the measurement beam through the monitoring path.

PAMS means photochemical assessment monitoring stations.

Pb means lead.

PM means particulate matter, including but not limited to PM_{10}, PM_{10C}, $PM_{2.5}$, and $PM_{10-2.5}$.

$PM_{2.5}$ means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on appendix L of part 50 and designated in accordance with part 53 of this chapter, by an equivalent method designated in accordance with part 53, or by an approved regional method designated in accordance with appendix C to this part.

PM_{10} means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on appendix J of part 50 of this chapter and designated in accordance with part 53 of this chapter or by an equivalent method designated in accordance with part 53.

PM_{10C} means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on appendix O of part 50 of this chapter and designated in accordance with part 53 of this chapter or by an equivalent method designated in accordance with part 53.

$PM_{10-2.5}$ means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers and greater than a nominal 2.5 micrometers as measured by a reference method based on appendix O to part 50 of this chapter and designated in accordance with part 53 of this chapter or by an equivalent method designated in accordance with part 53.

Point analyzer means an automated analytical method that measures pollutant concentration in an ambient air sample extracted from the atmosphere at a specific inlet probe point, and that has been designated as a reference or equivalent method in accordance with part 53 of this chapter.

Primary monitor means the monitor identified by the monitoring organization that provides concentration data used for comparison to the NAAQS. For any specific site, only one monitor for each pollutant can be designated in AQS as primary monitor for a given period of time. The primary monitor identifies the default data source for creating a combined site record for purposes of NAAQS comparisons.

Primary quality assurance organization (PQAO) means a monitoring organization, a group of monitoring organizations or other organization that is responsible for a set of stations that monitor the same pollutant and for which data quality assessments can be pooled. Each criteria pollutant sampler/monitor at a monitoring station must be associated with only one PQAO.

Probe means the actual inlet where an air sample is extracted from the atmosphere for delivery to a sampler or point analyzer for pollutant analysis.

PSD monitoring network means a set of stations that provide concentration information for a specific PSD permit.

PSD monitoring organization means a source owner/operator, a government agency, or a contractor of the source or agency that operates an ambient air pollution monitoring network for PSD purposes.

PSD reviewing authority means the state air pollution control agency, local agency, other state agency, tribe, or other agency authorized by the Administrator to carry out a permit program under §§ 51.165 and 51.166 of this chapter, or the Administrator in the case of EPA-implemented permit programs under § 52.21 of this chapter.

PSD station means any station operated for the purpose of establishing the effect on air quality of the emissions from a proposed source for purposes of prevention of significant deterioration as required by § 51.24(n) of this chapter.

Regional Administrator means the Administrator of one of the ten EPA Regional Offices or his or her authorized representative.

Reporting organization means an entity, such as a state, local, or tribal monitoring agency, that reports air quality data to the EPA.

Site means a geographic location. One or more stations may be at the same site.

SLAMS means state or local air monitoring stations. The SLAMS include the ambient air quality monitoring sites and monitors that are required by appendix D of this part and are needed for the monitoring objectives of appendix D, including NAAQS comparisons, but may serve other data purposes. The SLAMS includes NCore, PAMS, CSN, and all other state or locally operated criteria pollutant monitors, operated in accordance to this part, that have not been designated and approved by the Regional Administrator as SPM stations in an annual monitoring network plan.

SO_2 means sulfur dioxide.

Special purpose monitor (SPM) station means a monitor included in an agency's monitoring network that the agency has designated as a special purpose monitor station in its annual monitoring network plan and in the AQS, and which the agency does not count when showing compliance with the minimum requirements of this subpart for the number and siting of monitors of various types. Any SPM operated by an air monitoring agency must be included in the periodic assessments and annual monitoring network plan required by § 58.10 and approved by the Regional Administrator.

State agency means the air pollution control agency primarily responsible for development and implementation of a State Implementation Plan under the Act.

Station means a single monitor, or a group of monitors, located at a particular site.

STN station means a $PM_{2.5}$ chemical speciation station designated to be part of the speciation trends network. This network provides chemical species data of fine particulate.

Supplemental speciation station means a $PM_{2.5}$ chemical speciation station that is operated for monitoring agency needs and not part of the STN.

Traceable means that a local standard has been compared and certified, either directly or via not more than one intermediate standard, to a National Institute of Standards and Technology (NIST)-certified primary standard such as a NIST-traceable Reference Material (NTRM) or a NIST-certified Gas Manufacturer's Internal Standard (GMIS).

TSP (total suspended particulates) means particulate matter as measured by the method described in appendix B of Part 50.

Urbanized area means an area with a minimum residential population of at least 50,000 people and which generally includes core census block groups or blocks that have a population density of at least 1,000 people per square mile and surrounding census blocks that have an overall density of at least 500 people per square mile. The Census Bureau notes that under certain conditions, less densely settled territory may be part of each Urbanized Area.

VOCs means volatile organic compounds.

■ 3. In § 58.10:

■ a. Revise paragraphs (a)(1) and (a)(2).

■ b. Add paragraph (a)(12).

The revisions and addition read as follows:

§ 58.10 Annual monitoring network plan and periodic network assessment.

(a)(1) Beginning July 1, 2007, the state, or where applicable local, agency shall submit to the Regional Administrator an annual monitoring network plan which shall provide for the documentation of the establishment and maintenance of an air quality surveillance system that consists of a network of SLAMS monitoring stations that can include FRM, FEM, and ARM monitors that are part of SLAMS, NCore, CSN, PAMS, and SPM stations. The plan shall include a statement of whether the operation of each monitor meets the requirements of appendices A, B, C, D, and E of this part, where applicable. The Regional Administrator may require additional information in support of this statement. The annual monitoring network plan must be made available for public inspection and comment for at least 30 days prior to submission to the EPA and the submitted plan shall include and address, as appropriate, any received comments.

(2) Any annual monitoring network plan that proposes network modifications (including new or discontinued monitoring sites, new determinations that data are not of sufficient quality to be compared to the NAAQS, and changes in identification of monitors as suitable or not suitable for comparison against the annual $PM_{2.5}$ NAAQS) to SLAMS networks is subject to the approval of the EPA Regional Administrator, who shall approve or disapprove the plan within 120 days of submission of a complete plan to the EPA.

* * * * *

(12) A detailed description of the PAMS network being operated in accordance with the requirements of appendix D to this part shall be submitted as part of the annual monitoring network plan for review by the EPA Administrator. The PAMS Network Description described in section 5 of appendix D may be used to meet this requirement.

* * * * *

■ 4. In § 58.11, revise paragraph (a)(3) to read as follows:

§ 58.11 Network technical requirements.

(a) * * *

(3) The owner or operator of an existing or a proposed source shall follow the quality assurance criteria in appendix B to this part that apply to PSD monitoring when operating a PSD site.

* * * * *

■ 5. In § 58.12:

■ a. Revise paragraph (d)(1).

■ b. Revise paragraph (d)(3).

The revisions read as follows:

§ 58.12 Operating schedules.

* * * * *

(d) * * *

(1)(i) Manual $PM_{2.5}$ samplers at required SLAMS stations without a collocated continuously operating $PM_{2.5}$ monitor must operate on at least a 1-in-3 day schedule unless a waiver for an alternative schedule has been approved per paragraph (d)(1)(ii) of this section.

(ii) For SLAMS $PM_{2.5}$ sites with both manual and continuous $PM_{2.5}$ monitors operating, the monitoring agency may request approval for a reduction to 1-in-6 day $PM_{2.5}$ sampling or for seasonal sampling from the EPA Regional Administrator. Other requests for a reduction to 1-in-6 day $PM_{2.5}$ sampling or for seasonal sampling may be approved on a case-by-case basis. The EPA Regional Administrator may grant sampling frequency reductions after consideration of factors (including but not limited to the historical $PM_{2.5}$ data quality assessments, the location of current $PM_{2.5}$ design value sites, and their regulatory data needs) if the Regional Administrator determines that the reduction in sampling frequency will not compromise data needed for implementation of the NAAQS. Required SLAMS stations whose measurements determine the design value for their area and that are within ±10 percent of the annual NAAQS, and all required sites where one or more 24-hour values have exceeded the 24-hour NAAQS each year for a consecutive period of at least 3 years are required to maintain at least a 1-in-3 day sampling frequency until the design value no longer meets these criteria for 3 consecutive years. A continuously operating FEM or ARM $PM_{2.5}$ monitor satisfies this requirement unless it is identified in the monitoring agency's annual monitoring network plan as not appropriate for comparison to the NAAQS and the EPA Regional Administrator has approved that the data from that monitor may be excluded from comparison to the NAAQS.

(iii) Required SLAMS stations whose measurements determine the 24-hour design value for their area and whose data are within ±5 percent of the level of the 24-hour $PM_{2.5}$ NAAQS must have an FRM or FEM operate on a daily schedule if that area's design value for the annual NAAQS is less than the level of the annual $PM_{2.5}$ standard. A continuously operating FEM or ARM $PM_{2.5}$ monitor satisfies this requirement unless it is identified in the monitoring agency's annual monitoring network plan as not appropriate for comparison to the NAAQS and the EPA Regional Administrator has approved that the data from that monitor may be excluded from comparison to the NAAQS. The daily schedule must be maintained until the referenced design value no longer meets these criteria for 3 consecutive years.

(iv) Changes in sampling frequency attributable to changes in design values shall be implemented no later than January 1 of the calendar year following the certification of such data as described in § 58.15.

* * * * *

(3) Manual $PM_{2.5}$ speciation samplers at STN stations must operate on at least a 1-in-3 day sampling frequency unless a reduction in sampling frequency has been approved by the EPA Administrator based on factors such as area's design value, the role of the particular site in national health studies, the correlation of the site's species data

with nearby sites, and presence of other leveraged measurements.

* * * * *

■ 6. In § 58.14, revise paragraph (a) to read as follows:

§ 58.14 System modification.

(a) The state, or where appropriate local, agency shall develop a network modification plan and schedule to modify the ambient air quality monitoring network that addresses the findings of the network assessment required every 5 years by § 58.10(d). The network modification plan shall be submitted as part of the Annual Monitoring Network Plan that is due no later than the year after submittal of the network assessment.

* * * * *

■ 7. Revise § 58.15 to read as follows:

§ 58.15 Annual air monitoring data certification.

(a) The state, or where appropriate local, agency shall submit to the EPA Regional Administrator an annual air monitoring data certification letter to certify data collected by FRM, FEM, and ARM monitors at SLAMS and SPM sites that meet criteria in appendix A to this part from January 1 to December 31 of the previous year. The head official in each monitoring agency, or his or her designee, shall certify that the previous year of ambient concentration and quality assurance data are completely submitted to AQS and that the ambient concentration data are accurate to the best of her or his knowledge, taking into consideration the quality assurance findings. The annual data certification letter is due by May 1 of each year.

(b) Along with each certification letter, the state shall submit to the Regional Administrator an annual summary report of all the ambient air quality data collected by FRM, FEM, and ARM monitors at SLAMS and SPM sites. The annual report(s) shall be submitted for data collected from January 1 to December 31 of the previous year. The annual summary serves as the record of the specific data that is the object of the certification letter.

(c) Along with each certification letter, the state shall submit to the Regional Administrator a summary of the precision and accuracy data for all ambient air quality data collected by FRM, FEM, and ARM monitors at SLAMS and SPM sites. The summary of precision and accuracy shall be submitted for data collected from January 1 to December 31 of the previous year.

■ 8. In § 58.16, revise paragraphs (a), (c), and (d) to read as follows:

§ 58.16 Data submittal and archiving requirements.

(a) The state, or where appropriate, local agency, shall report to the Administrator, via AQS all ambient air quality data and associated quality assurance data for SO_2; CO; O_3; NO_2; NO; NO_y; NO_X; Pb–TSP mass concentration; Pb–PM_{10} mass concentration; PM_{10} mass concentration; $PM_{2.5}$ mass concentration; for filter-based $PM_{2.5}$ FRM/FEM, the field blank mass; chemically speciated $PM_{2.5}$ mass concentration data; $PM_{10-2.5}$ mass concentration; meteorological data from NCore and PAMS sites; and metadata records and information specified by the AQS Data Coding Manual (*https://www.epa.gov/sites/production/files/2015-09/documents/aqs_data_coding_manual_0.pdf*). Air quality data and information must be submitted directly to the AQS via electronic transmission on the specified schedule described in paragraphs (b) and (d) of this section.

* * * * *

(c) Air quality data submitted for each reporting period must be edited, validated, and entered into the AQS (within the time limits specified in paragraphs (b) and (d) of this section) pursuant to appropriate AQS procedures. The procedures for editing and validating data are described in the AQS Data Coding Manual and in each monitoring agency's quality assurance project plan.

(d) The state shall report VOC and if collected, carbonyl, NH_3, and HNO_3 data from PAMS sites, and chemically speciated $PM_{2.5}$ mass concentration data to AQS within 6 months following the end of each quarterly reporting period listed in paragraph (b) of this section.

* * * * *

■ 9. Revise Appendix A to part 58 to read as follows:

Appendix A to Part 58—Quality Assurance Requirements for Monitors used in Evaluations of National Ambient Air Quality Standards

1. General Information

1.1 *Applicability.* (a) This appendix specifies the minimum quality system requirements applicable to SLAMS and other monitor types whose data are intended to be used to determine compliance with the NAAQS (*e.g.,* SPMs, tribal, CASTNET, NCore, industrial, etc.), unless the EPA Regional Administrator has reviewed and approved the monitor for exclusion from NAAQS use and these quality assurance requirements.

(b) Primary quality assurance organizations are encouraged to develop and maintain quality systems more extensive than the required minimums. Additional guidance for the requirements reflected in this appendix can be found in the ''Quality Assurance Handbook for Air Pollution Measurement Systems,'' Volume II (see reference 10 of this appendix) and at a national level in references 1, 2, and 3 of this appendix.

1.2 *Primary Quality Assurance Organization (PQAO).* A PQAO is defined as a monitoring organization or a group of monitoring organizations or other organization that is responsible for a set of stations that monitors the same pollutant and for which data quality assessments will be pooled. Each criteria pollutant sampler/monitor must be associated with only one PQAO. In some cases, data quality is assessed at the PQAO level.

1.2.1 Each PQAO shall be defined such that measurement uncertainty among all stations in the organization can be expected to be reasonably homogeneous as a result of common factors. Common factors that should be considered in defining PQAOs include:

(a) Operation by a common team of field operators according to a common set of procedures;

(b) Use of a common quality assurance project plan (QAPP) or standard operating procedures;

(c) Common calibration facilities and standards;

(d) Oversight by a common quality assurance organization; and

(e) Support by a common management organization (*i.e.,* state agency) or laboratory.

Since data quality assessments are made and data certified at the PQAO level, the monitoring organization identified as the PQAO will be responsible for the oversight of the quality of data of all monitoring organizations within the PQAO.

1.2.2 Monitoring organizations having difficulty describing its PQAO or in assigning specific monitors to primary quality assurance organizations should consult with the appropriate EPA Regional Office. Any consolidation of monitoring organizations to PQAOs shall be subject to final approval by the appropriate EPA Regional Office.

1.2.3 Each PQAO is required to implement a quality system that provides sufficient information to assess the quality of the monitoring data. The quality system must, at a minimum, include the specific requirements described in this appendix. Failure to conduct or pass a required check or procedure, or a series of required checks or procedures, does not by itself invalidate data for regulatory decision making. Rather, PQAOs and the EPA shall use the checks and procedures required in this appendix in combination with other data quality information, reports, and similar documentation that demonstrate overall compliance with Part 58. Accordingly, the EPA and PQAOs shall use a ''weight of evidence'' approach when determining the suitability of data for regulatory decisions.

The EPA reserves the authority to use or not use monitoring data submitted by a monitoring organization when making regulatory decisions based on the EPA's assessment of the quality of the data. Consensus built validation templates or validation criteria already approved in QAPPs should be used as the basis for the weight of evidence approach.

1.3 *Definitions.*

(a) *Measurement Uncertainty.* A term used to describe deviations from a true concentration or estimate that are related to the measurement process and not to spatial or temporal population attributes of the air being measured.

(b) *Precision.* A measurement of mutual agreement among individual measurements of the same property usually under prescribed similar conditions, expressed generally in terms of the standard deviation.

(c) *Bias.* The systematic or persistent distortion of a measurement process which causes errors in one direction.

(d) *Accuracy.* The degree of agreement between an observed value and an accepted reference value. Accuracy includes a combination of random error (imprecision) and systematic error (bias) components which are due to sampling and analytical operations.

(e) *Completeness.* A measure of the amount of valid data obtained from a measurement system compared to the amount that was expected to be obtained under correct, normal conditions.

(f) *Detection Limit.* The lowest concentration or amount of target analyte that can be determined to be different from zero by a single measurement at a stated level of probability.

1.4 *Measurement Quality Checks.* The measurement quality checks described in section 3 of this appendix shall be reported to AQS and are included in the data required for certification.

1.5 *Assessments and Reports.* Periodic assessments and documentation of data quality are required to be reported to the EPA. To provide national uniformity in this assessment and reporting of data quality for all networks, specific assessment and reporting procedures are prescribed in detail in sections 3, 4, and 5 of this appendix. On the other hand, the selection and extent of the quality assurance and quality control activities used by a monitoring organization depend on a number of local factors such as field and laboratory conditions, the objectives for monitoring, the level of data quality needed, the expertise of assigned personnel, the cost of control procedures, pollutant concentration levels, etc. Therefore, quality system requirements in section 2 of this appendix are specified in general terms to allow each monitoring organization to develop a quality system that is most efficient and effective for its own circumstances while achieving the data quality objectives described in this appendix.

2. Quality System Requirements

A quality system (reference 1 of this appendix) is the means by which an organization manages the quality of the monitoring information it produces in a systematic, organized manner. It provides a framework for planning, implementing, assessing and reporting work performed by an organization and for carrying out required quality assurance and quality control activities.

2.1 *Quality Management Plans and Quality Assurance Project Plans.* All PQAOs must develop a quality system that is described and approved in quality management plans (QMP) and QAPPs to ensure that the monitoring results:

(a) Meet a well-defined need, use, or purpose (reference 5 of this appendix);

(b) Provide data of adequate quality for the intended monitoring objectives;

(c) Satisfy stakeholder expectations;

(d) Comply with applicable standards specifications;

(e) Comply with statutory (and other legal) requirements; and

(f) Reflect consideration of cost and economics.

2.1.1 The QMP describes the quality system in terms of the organizational structure, functional responsibilities of management and staff, lines of authority, and required interfaces for those planning, implementing, assessing and reporting activities involving environmental data operations (EDO). The QMP must be suitably documented in accordance with EPA requirements (reference 2 of this appendix), and approved by the appropriate Regional Administrator, or his or her representative. The quality system described in the QMP will be reviewed during the systems audits described in section 2.5 of this appendix. Organizations that implement long-term monitoring programs with EPA funds should have a separate QMP document. Smaller organizations, organizations that do infrequent work with the EPA or have monitoring programs of limited size or scope may combine the QMP with the QAPP if approved by, and subject to any conditions of the EPA. Additional guidance on this process can be found in reference 10 of this appendix. Approval of the recipient's QMP by the appropriate Regional Administrator or his or her representative may allow delegation of authority to the PQAOs independent quality assurance function to review and approve environmental data collection activities adequately described and covered under the scope of the QMP and documented in appropriate planning documents (QAPP). Where a PQAO or monitoring organization has been delegated authority to review and approve their QAPP, an electronic copy must be submitted to the EPA region at the time it is submitted to the PQAO/monitoring organization's QAPP approving authority. The QAPP will be reviewed by the EPA during systems audits or circumstances related to data quality. The QMP submission and approval dates for PQAOs/monitoring organizations must be reported to AQS either by the monitoring organization or the EPA Region.

2.1.2 The QAPP is a formal document describing, in sufficient detail, the quality system that must be implemented to ensure that the results of work performed will satisfy the stated objectives. PQAOs must develop QAPPs that describe how the organization intends to control measurement uncertainty to an appropriate level in order to achieve the data quality objectives for the EDO. The quality assurance policy of the EPA requires every EDO to have a written and approved QAPP prior to the start of the EDO. It is the responsibility of the PQAO/monitoring organization to adhere to this policy. The QAPP must be suitably documented in accordance with EPA requirements (reference 3 of this appendix) and include standard operating procedures for all EDOs either within the document or by appropriate reference. The QAPP must identify each PQAO operating monitors under the QAPP as well as generally identify the sites and monitors to which it is applicable either within the document or by appropriate reference. The QAPP submission and approval dates must be reported to AQS either by the monitoring organization or the EPA Region.

2.1.3 The PQAO/monitoring organization's quality system must have adequate resources both in personnel and funding to plan, implement, assess and report on the achievement of the requirements of this appendix and it's approved QAPP.

2.2 *Independence of Quality Assurance.* The PQAO must provide for a quality assurance management function, that aspect of the overall management system of the organization that determines and implements the quality policy defined in a PQAO's QMP. Quality management includes strategic planning, allocation of resources and other systematic planning activities (*e.g.,* planning, implementation, assessing and reporting) pertaining to the quality system. The quality assurance management function must have sufficient technical expertise and management authority to conduct independent oversight and assure the implementation of the organization's quality system relative to the ambient air quality monitoring program and should be organizationally independent of environmental data generation activities.

2.3. *Data Quality Performance Requirements.*

2.3.1 *Data Quality Objectives.* The DQOs, or the results of other systematic planning processes, are statements that define the appropriate type of data to collect and specify the tolerable levels of potential decision errors that will be used as a basis for establishing the quality and quantity of data needed to support the monitoring objectives (reference 5 of this appendix). The DQOs will be developed by the EPA to support the primary regulatory objectives for each criteria pollutant. As they are developed, they will be added to the regulation. The quality of the conclusions derived from data interpretation can be affected by population uncertainty (spatial or temporal uncertainty) and measurement uncertainty (uncertainty associated with collecting, analyzing, reducing and reporting concentration data). This appendix focuses on assessing and controlling measurement uncertainty.

2.3.1.1 *Measurement Uncertainty for Automated and Manual $PM_{2.5}$ Methods.* The goal for acceptable measurement uncertainty is defined for precision as an upper 90

percent confidence limit for the coefficient of variation (CV) of 10 percent and ±10 percent for total bias.

2.3.1.2 *Measurement Uncertainty for Automated O_3 Methods.* The goal for acceptable measurement uncertainty is defined for precision as an upper 90 percent confidence limit for the CV of 7 percent and for bias as an upper 95 percent confidence limit for the absolute bias of 7 percent.

2.3.1.3 *Measurement Uncertainty for Pb Methods.* The goal for acceptable measurement uncertainty is defined for precision as an upper 90 percent confidence limit for the CV of 20 percent and for bias as an upper 95 percent confidence limit for the absolute bias of 15 percent.

2.3.1.4 *Measurement Uncertainty for NO_2.* The goal for acceptable measurement uncertainty is defined for precision as an upper 90 percent confidence limit for the CV of 15 percent and for bias as an upper 95 percent confidence limit for the absolute bias of 15 percent.

2.3.1.5 *Measurement Uncertainty for SO_2.* The goal for acceptable measurement uncertainty for precision is defined as an upper 90 percent confidence limit for the CV of 10 percent and for bias as an upper 95 percent confidence limit for the absolute bias of 10 percent.

2.4 *National Performance Evaluation Programs.* The PQAO shall provide for the implementation of a program of independent and adequate audits of all monitors providing data for NAAQS compliance purposes including the provision of adequate resources for such audit programs. A monitoring plan (or QAPP) which provides for PQAO participation in the EPA's National Performance Audit Program (NPAP), the $PM_{2.5}$ Performance Evaluation Program ($PM_{2.5}$-PEP) program and the Pb Performance Evaluation Program (Pb-PEP) and indicates the consent of the PQAO for the EPA to apply an appropriate portion of the grant funds, which the EPA would otherwise award to the PQAO for these QA activities, will be deemed by the EPA to meet this requirement. For clarification and to participate, PQAOs should contact either the appropriate EPA regional quality assurance (QA) coordinator at the appropriate EPA Regional Office location, or the NPAP coordinator at the EPA Air Quality Assessment Division, Office of Air Quality Planning and Standards, in Research Triangle Park, North Carolina. The PQAOs that plan to implement these programs (self-implement) rather than use the federal programs must meet the adequacy requirements found in the appropriate sections that follow, as well as meet the definition of independent assessment that follows.

2.4.1 *Independent assessment.* An assessment performed by a qualified individual, group, or organization that is not part of the organization directly performing and accountable for the work being assessed. This auditing organization must not be involved with the generation of the ambient air monitoring data. An organization can conduct the performance evaluation (PE) if it can meet this definition and has a management structure that, at a minimum, will allow for the separation of its routine sampling personnel from its auditing personnel by two levels of management. In addition, the sample analysis of audit filters must be performed by a laboratory facility and laboratory equipment separate from the facilities used for routine sample analysis. Field and laboratory personnel will be required to meet PE field and laboratory training and certification requirements to establish comparability to federally implemented programs.

2.5 *Technical Systems Audit Program.* Technical systems audits of each PQAO shall be conducted at least every 3 years by the appropriate EPA Regional Office and reported to the AQS. If a PQAO is made up of more than one monitoring organization, all monitoring organizations in the PQAO should be audited within 6 years (two TSA cycles of the PQAO). As an example, if a state has five local monitoring organizations that are consolidated under one PQAO, all five local monitoring organizations should receive a technical systems audit within a 6-year period. Systems audit programs are described in reference 10 of this appendix.

2.6 *Gaseous and Flow Rate Audit Standards.*

2.6.1 Gaseous pollutant concentration standards (permeation devices or cylinders of compressed gas) used to obtain test concentrations for CO, SO_2, NO, and NO_2 must be traceable to either a National Institute of Standards and Technology (NIST) Traceable Reference Material (NTRM) or a NIST-certified Gas Manufacturer's Internal Standard (GMIS), certified in accordance with one of the procedures given in reference 4 of this appendix. Vendors advertising certification with the procedures provided in reference 4 of this appendix and distributing gases as ''EPA Protocol Gas'' for ambient air monitoring purposes must participate in the EPA Ambient Air Protocol Gas Verification Program or not use ''EPA'' in any form of advertising. Monitoring organizations must provide information to the EPA on the gas producers they use on an annual basis and those PQAOs purchasing standards will be obligated, at the request of the EPA, to participate in the program at least once every 5 years by sending a new unused standard to a designated verification laboratory.

2.6.2 Test concentrations for O_3 must be obtained in accordance with the ultraviolet photometric calibration procedure specified in appendix D to Part 50 of this chapter and by means of a certified NIST-traceable O_3 transfer standard. Consult references 7 and 8 of this appendix for guidance on transfer standards for O_3.

2.6.3 Flow rate measurements must be made by a flow measuring instrument that is NIST-traceable to an authoritative volume or other applicable standard. Guidance for certifying some types of flowmeters is provided in reference 10 of this appendix.

2.7 *Primary Requirements and Guidance.* Requirements and guidance documents for developing the quality system are contained in references 1 through 11 of this appendix, which also contain many suggested procedures, checks, and control specifications. Reference 10 describes specific guidance for the development of a quality system for data collected for comparison to the NAAQS. Many specific quality control checks and specifications for methods are included in the respective reference methods described in Part 50 of this chapter or in the respective equivalent method descriptions available from the EPA (reference 6 of this appendix). Similarly, quality control procedures related to specifically designated reference and equivalent method monitors are contained in the respective operation or instruction manuals associated with those monitors.

3. Measurement Quality Check Requirements

This section provides the requirements for PQAOs to perform the measurement quality checks that can be used to assess data quality. Data from these checks are required to be submitted to the AQS within the same time frame as routinely-collected ambient concentration data as described in 40 CFR 58.16. Table A–1 of this appendix provides a summary of the types and frequency of the measurement quality checks that will be described in this section.

3.1. *Gaseous Monitors of SO_2, NO_2, O_3, and CO.*

3.1.1 *One-Point Quality Control (QC) Check for SO_2, NO_2, O_3, and CO.* (a) A one-point QC check must be performed at least once every 2 weeks on each automated monitor used to measure SO_2, NO_2, O_3 and CO. With the advent of automated calibration systems, more frequent checking is strongly encouraged. See Reference 10 of this appendix for guidance on the review procedure. The QC check is made by challenging the monitor with a QC check gas of known concentration (effective concentration for open path monitors) between the prescribed range of 0.005 and 0.08 parts per million (ppm) for SO_2, NO_2, and O_3, and between the prescribed range of 0.5 and 5 ppm for CO monitors. The QC check gas concentration selected within the prescribed range should be related to the monitoring objectives for the monitor. If monitoring at an NCore site or for trace level monitoring, the QC check concentration should be selected to represent the mean or median concentrations at the site. If the mean or median concentrations at trace gas sites are below the MDL of the instrument the agency can select the lowest concentration in the prescribed range that can be practically achieved. If the mean or median concentrations at trace gas sites are above the prescribed range the agency can select the highest concentration in the prescribed range. An additional QC check point is encouraged for those organizations that may have occasional high values or would like to confirm the monitors' linearity at the higher end of the operational range or around NAAQS concentrations. If monitoring for NAAQS decisions, the QC concentration can be selected at a higher concentration within the prescribed range but should also consider precision points around mean or median monitor concentrations.

(b) Point analyzers must operate in their normal sampling mode during the QC check and the test atmosphere must pass through all filters, scrubbers, conditioners and other components used during normal ambient sampling and as much of the ambient air inlet system as is practicable. The QC check

must be conducted before any calibration or adjustment to the monitor.

(c) Open path monitors are tested by inserting a test cell containing a QC check gas concentration into the optical measurement beam of the instrument. If possible, the normally used transmitter, receiver, and as appropriate, reflecting devices should be used during the test, and the normal monitoring configuration of the instrument should be altered as little as possible to accommodate the test cell for the test. However, if permitted by the associated operation or instruction manual, an alternate local light source or an alternate optical path that does not include the normal atmospheric monitoring path may be used. The actual concentration of the QC check gas in the test cell must be selected to produce an effective concentration in the range specified earlier in this section. Generally, the QC test concentration measurement will be the sum of the atmospheric pollutant concentration and the QC test concentration. As such, the result must be corrected to remove the atmospheric concentration contribution. The corrected concentration is obtained by subtracting the average of the atmospheric concentrations measured by the open path instrument under test immediately before and immediately after the QC test from the QC check gas concentration measurement. If the difference between these before and after measurements is greater than 20 percent of the effective concentration of the test gas, discard the test result and repeat the test. If possible, open path monitors should be tested during periods when the atmospheric pollutant concentrations are relatively low and steady.

(d) Report the audit concentration of the QC gas and the corresponding measured concentration indicated by the monitor to AQS. The percent differences between these concentrations are used to assess the precision and bias of the monitoring data as described in sections 4.1.2 (precision) and 4.1.3 (bias) of this appendix.

3.1.2 *Annual performance evaluation for SO_2, NO_2, O_3, or CO.* A performance evaluation must be conducted on each primary monitor once a year. This can be accomplished by evaluating 25 percent of the primary monitors each quarter. The evaluation should be conducted by a trained experienced technician other than the routine site operator.

3.1.2.1 The evaluation is made by challenging the monitor with audit gas standards of known concentration from at least three audit levels. One point must be within two to three times the method detection limit of the instruments within the PQAOs network, the second point will be less than or equal to the 99th percentile of the data at the site or the network of sites in the PQAO or the next highest audit concentration level. The third point can be around the primary NAAQS or the highest 3-year concentration at the site or the network of sites in the PQAO. An additional 4th level is encouraged for those agencies that would like to confirm the monitors' linearity at the higher end of the operational range. In rare circumstances, there may be sites measuring concentrations above audit level 10. Notify the appropriate EPA region and the AQS program in order to make accommodations for auditing at levels above level 10.

Audit level	Concentration Range, ppm			
	O_3	SO_2	NO_2	CO
1	0.004–0.0059	0.0003–0.0029	0.0003–0.0029	0.020–0.059
2	0.006–0.019	0.0030–0.0049	0.0030–0.0049	0.060–0.199
3	0.020–0.039	0.0050–0.0079	0.0050–0.0079	0.200–0.899
4	0.040–0.069	0.0080–0.0199	0.0080–0.0199	0.900–2.999
5	0.070–0.089	0.0200–0.0499	0.0200–0.0499	3.000–7.999
6	0.090–0.119	0.0500–0.0999	0.0500–0.0999	8.000–15.999
7	0.120–0.139	0.1000–0.1499	0.1000–0.2999	16.000–30.999
8	0.140–0.169	0.1500–0.2599	0.3000–0.4999	31.000–39.999
9	0.170–0.189	0.2600–0.7999	0.5000–0.7999	40.000–49.999
10	0.190–0.259	0.8000–1.000	0.8000–1.000	50.000–60.000

3.1.2.2 The NO_2 audit techniques may vary depending on the ambient monitoring method. For chemiluminescence-type NO_2 analyzers, gas phase titration (GPT) techniques should be based on EPA guidance documents and monitoring agency experience. The NO_2 gas standards may be more appropriate than GPT for direct NO_2 methods that do not employ converters. Care should be taken to ensure the stability of such gas standards prior to use.

3.1.2.3 The standards from which audit gas test concentrations are obtained must meet the specifications of section 2.6.1 of this appendix. The gas standards and equipment used for the performance evaluation must not be the same as the standards and equipment used for one-point QC, calibrations, span evaluations or NPAP.

3.1.2.4 For point analyzers, the evaluation shall be carried out by allowing the monitor to analyze the audit gas test atmosphere in its normal sampling mode such that the test atmosphere passes through all filters, scrubbers, conditioners, and other sample inlet components used during normal ambient sampling and as much of the ambient air inlet system as is practicable.

3.1.2.5 Open-path monitors are evaluated by inserting a test cell containing the various audit gas concentrations into the optical measurement beam of the instrument. If possible, the normally used transmitter, receiver, and, as appropriate, reflecting devices should be used during the evaluation, and the normal monitoring configuration of the instrument should be modified as little as possible to accommodate the test cell for the evaluation. However, if permitted by the associated operation or instruction manual, an alternate local light source or an alternate optical path that does not include the normal atmospheric monitoring path may be used. The actual concentrations of the audit gas in the test cell must be selected to produce effective concentrations in the evaluation level ranges specified in this section of this appendix. Generally, each evaluation concentration measurement result will be the sum of the atmospheric pollutant concentration and the evaluation test concentration. As such, the result must be corrected to remove the atmospheric concentration contribution. The corrected concentration is obtained by subtracting the average of the atmospheric concentrations measured by the open path instrument under test immediately before and immediately after the evaluation test (or preferably before and after each evaluation concentration level) from the evaluation concentration measurement. If the difference between the before and after measurements is greater than 20 percent of the effective concentration of the test gas standard, discard the test result for that concentration level and repeat the test for that level. If possible, open path monitors should be evaluated during periods when the atmospheric pollutant concentrations are relatively low and steady. Also, if the open-path instrument is not installed in a permanent manner, the monitoring path length must be reverified to be within ±3 percent to validate the evaluation since the monitoring path length is critical to the determination of the effective concentration.

3.1.2.6 Report both the evaluation concentrations (effective concentrations for open-path monitors) of the audit gases and the corresponding measured concentration (corrected concentrations, if applicable, for open path monitors) indicated or produced by the monitor being tested to AQS. The percent differences between these concentrations are used to assess the quality of the monitoring data as described in section 4.1.1 of this appendix.

3.1.3 *National Performance Audit Program (NPAP).*

The NPAP is a performance evaluation which is a type of audit where quantitative data are collected independently in order to evaluate the proficiency of an analyst, monitoring instrument or laboratory. Due to the implementation approach used in the

program, NPAP provides a national independent assessment of performance while maintaining a consistent level of data quality. Details of the program can be found in reference 11 of this appendix. The program requirements include:

3.1.3.1 Performing audits of the primary monitors at 20 percent of monitoring sites per year, and 100 percent of the sites every 6 years. High-priority sites may be audited more frequently. Since not all gaseous criteria pollutants are monitored at every site within a PQAO, it is not required that 20 percent of the primary monitors for each pollutant receive an NPAP audit each year only that 20 percent of the PQAOs monitoring sites receive an NPAP audit. It is expected that over the 6-year period all primary monitors for all gaseous pollutants will receive an NPAP audit.

3.1.3.2 Developing a delivery system that will allow for the audit concentration gasses to be introduced to the probe inlet where logistically feasible.

3.1.3.3 Using audit gases that are verified against the NIST standard reference methods or special review procedures and validated annually for CO, SO_2 and NO_2, and at the beginning of each quarter of audits for O_3.

3.1.3.4 As described in section 2.4 of this appendix, the PQAO may elect, on an annual basis, to utilize the federally implemented NPAP program. If the PQAO plans to self-implement NPAP, the EPA will establish training and other technical requirements for PQAOs to establish comparability to federally implemented programs. In addition to meeting the requirements in sections 3.1.3.1 through 3.1.3.3 of this appendix, the PQAO must:

(a) Utilize an audit system equivalent to the federally implemented NPAP audit system and is separate from equipment used in annual performance evaluations.

(b) Perform a whole system check by having the NPAP system tested against an independent and qualified EPA lab, or equivalent.

(c) Evaluate the system with the EPA NPAP program through collocated auditing at an acceptable number of sites each year (at least one for an agency network of five or less sites; at least two for a network with more than five sites).

(d) Incorporate the NPAP in the PQAO's quality assurance project plan.

(e) Be subject to review by independent, EPA-trained personnel.

(f) Participate in initial and update training/certification sessions.

3.1.3.5 OAQPS, in consultation with the relevant EPA Regional Office, may approve the PQAO's plan to self-implement NPAP if the OAQPS determines that the PQAO's self-implementation plan is equivalent to the federal programs and adequate to meet the objectives of national consistency and data quality.

3.2 $PM_{2.5}$.

3.2.1 *Flow Rate Verification for $PM_{2.5}$.* A one-point flow rate verification check must be performed at least once every month (each verification minimally separated by 14 days) on each monitor used to measure $PM_{2.5}$. The verification is made by checking the operational flow rate of the monitor. If the verification is made in conjunction with a flow rate adjustment, it must be made prior to such flow rate adjustment. For the standard procedure, use a flow rate transfer standard certified in accordance with section 2.6 of this appendix to check the monitor's normal flow rate. Care should be used in selecting and using the flow rate measurement device such that it does not alter the normal operating flow rate of the monitor. Report the flow rate of the transfer standard and the corresponding flow rate measured by the monitor to AQS. The percent differences between the audit and measured flow rates are used to assess the bias of the monitoring data as described in section 4.2.2 of this appendix (using flow rates in lieu of concentrations).

3.2.2 *Semi-Annual Flow Rate Audit for $PM_{2.5}$.* Audit the flow rate of the particulate monitor twice a year. The two audits should ideally be spaced between 5 and 7 months apart. The EPA strongly encourages more frequent auditing. The audit should (preferably) be conducted by a trained experienced technician other than the routine site operator. The audit is made by measuring the monitor's normal operating flow rate(s) using a flow rate transfer standard certified in accordance with section 2.6 of this appendix. The flow rate standard used for auditing must not be the same flow rate standard used for verifications or to calibrate the monitor. However, both the calibration standard and the audit standard may be referenced to the same primary flow rate or volume standard. Care must be taken in auditing the flow rate to be certain that the flow measurement device does not alter the normal operating flow rate of the monitor. Report the audit flow rate of the transfer standard and the corresponding flow rate measured by the monitor to AQS. The percent differences between these flow rates are used to evaluate monitor performance.

3.2.3 *Collocated Quality Control Sampling Procedures for $PM_{2.5}$.* For each pair of collocated monitors, designate one sampler as the primary monitor whose concentrations will be used to report air quality for the site, and designate the other as the quality control monitor. There can be only one primary monitor at a monitoring site for a given time period.

3.2.3.1 For each distinct monitoring method designation (FRM or FEM) that a PQAO is using for a primary monitor, the PQAO must have 15 percent of the primary monitors of each method designation collocated (values of 0.5 and greater round up); and have at least one collocated quality control monitor (if the total number of monitors is less than three). The first collocated monitor must be a designated FRM monitor.

3.2.3.2 In addition, monitors selected for collocation must also meet the following requirements:

(a) A primary monitor designated as an EPA FRM shall be collocated with a quality control monitor having the same EPA FRM method designation.

(b) For each primary monitor designated as an EPA FEM used by the PQAO, 50 percent of the monitors designated for collocation, or the first if only one collocation is necessary, shall be collocated with a FRM quality control monitor and 50 percent of the monitors shall be collocated with a monitor having the same method designation as the FEM primary monitor. If an odd number of collocated monitors is required, the additional monitor shall be a FRM quality control monitor. An example of the distribution of collocated monitors for each unique FEM is provided below. Table A–2 of this appendix demonstrates the collocation procedure with a PQAO having one type of primary FRM and multiple primary FEMs.

#Primary FEMS of a unique method designation	#Collocated	#Collocated with an FRM	#Collocated with same method designation
1–9	1	1	0
10–16	2	1	1
17–23	3	2	1
24–29	4	2	2
30–36	5	3	2
37–43	6	3	3

3.2.3.3 Since the collocation requirements are used to assess precision of the primary monitors and there can only be one primary monitor at a monitoring site, a site can only count for the collocation of the method designation of the primary monitor at that site.

3.2.3.4 The collocated monitors should be deployed according to the following protocol:

(a) Fifty percent of the collocated quality control monitors should be deployed at sites with annual average or daily concentrations estimated to be within plus or minus 20 percent of either the annual or 24-hour NAAQS and the remainder at the PQAOs discretion;

(b) If an organization has no sites with annual average or daily concentrations within ±20 percent of the annual NAAQS or 24-hour NAAQS, 50 percent of the collocated quality control monitors should be deployed at those sites with the annual mean concentrations or 24-hour concentrations among the highest for all sites in the network and the remainder at the PQAOs discretion.

(c) The two collocated monitors must be within 4 meters (inlet to inlet) of each other and at least 2 meters apart for flow rates greater than 200 liters/min or at least 1 meter apart for samplers having flow rates less than 200 liters/min to preclude airflow interference. A waiver allowing up to 10 meters horizontal distance and up to 3 meters vertical distance (inlet to inlet) between a primary and collocated sampler may be approved by the Regional Administrator for sites at a neighborhood or larger scale of representation during the annual network plan approval process. Sampling and analytical methodologies must be the consistently implemented for both primary and collocated quality control samplers and for all other samplers in the network.

(d) Sample the collocated quality control monitor on a 1-in-12 day schedule. Report the measurements from both primary and collocated quality control monitors at each collocated sampling site to AQS. The calculations for evaluating precision between the two collocated monitors are described in section 4.2.1 of this appendix.

3.2.4 *$PM_{2.5}$ Performance Evaluation Program (PEP) Procedures.* The PEP is an independent assessment used to estimate total measurement system bias. These evaluations will be performed under the NPEP as described in section 2.4 of this appendix or a comparable program. Performance evaluations will be performed annually within each PQAO. For PQAOs with less than or equal to five monitoring sites, five valid performance evaluation audits must be collected and reported each year. For PQAOs with greater than five monitoring sites, eight valid performance evaluation audits must be collected and reported each year. A valid performance evaluation audit means that both the primary monitor and PEP audit concentrations are valid and above 3 $\mu g/m^3$. Siting of the PEP monitor must be consistent with section 3.2.3.4(c). However, any horizontal distance greater than 4 meters and any vertical distance greater than one meter must be reported to the EPA regional PEP coordinator. Additionally for every monitor designated as a primary monitor, a primary quality assurance organization must:

3.2.4.1 Have each method designation evaluated each year; and,

3.2.4.2 Have all FRM, FEM or ARM samplers subject to a PEP audit at least once every 6 years, which equates to approximately 15 percent of the monitoring sites audited each year.

3.2.4.3. Additional information concerning the PEP is contained in reference 10 of this appendix. The calculations for evaluating bias between the primary monitor and the performance evaluation monitor for $PM_{2.5}$ are described in section 4.2.5 of this appendix.

3.3 *PM_{10}.*

3.3.1 *Flow Rate Verification for PM_{10} Low Volume Samplers (less than 200 liter/minute).* A one-point flow rate verification check must be performed at least once every month (each verification minimally separated by 14 days) on each monitor used to measure PM_{10}. The verification is made by checking the operational flow rate of the monitor. If the verification is made in conjunction with a flow rate adjustment, it must be made prior to such flow rate adjustment. For the standard procedure, use a flow rate transfer standard certified in accordance with section 2.6 of this appendix to check the monitor's normal flow rate. Care should be taken in selecting and using the flow rate measurement device such that it does not alter the normal operating flow rate of the monitor. The percent differences between the audit and measured flow rates are reported to AQS and used to assess the bias of the monitoring data as described in section 4.2.2 of this appendix (using flow rates in lieu of concentrations).

3.3.2 *Flow Rate Verification for PM_{10} High Volume Samplers (greater than 200 liters/minute).* For PM_{10} high volume samplers, the verification frequency is one verification every 90 days (quarter) with 4 in a year. Other than verification frequency, follow the same technical procedure as described in section 3.3.1 of this appendix.

3.3.3 *Semi-Annual Flow Rate Audit for PM_{10}.* Audit the flow rate of the particulate monitor twice a year. The two audits should ideally be spaced between 5 and 7 months apart. The EPA strongly encourages more frequent auditing. The audit should (preferably) be conducted by a trained experienced technician other than the routine site operator. The audit is made by measuring the monitor's normal operating flow rate using a flow rate transfer standard certified in accordance with section 2.6 of this appendix. The flow rate standard used for auditing must not be the same flow rate standard used for verifications or to calibrate the monitor. However, both the calibration standard and the audit standard may be referenced to the same primary flow rate or volume standard. Care must be taken in auditing the flow rate to be certain that the flow measurement device does not alter the normal operating flow rate of the monitor. Report the audit flow rate of the transfer standard and the corresponding flow rate measured by the monitor to AQS. The percent differences between these flow rates are used to evaluate monitor performance.

3.3.4 *Collocated Quality Control Sampling Procedures for Manual PM_{10}.* Collocated sampling for PM_{10} is only required for manual samplers. For each pair of collocated monitors, designate one sampler as the primary monitor whose concentrations will be used to report air quality for the site and designate the other as the quality control monitor.

3.3.4.1 For manual PM_{10} samplers, a PQAO must:

(a) Have 15 percent of the primary monitors collocated (values of 0.5 and greater round up); and

(b) Have at least one collocated quality control monitor (if the total number of monitors is less than three).

3.3.4.2 The collocated quality control monitors should be deployed according to the following protocol:

(a) Fifty percent of the collocated quality control monitors should be deployed at sites with daily concentrations estimated to be within plus or minus 20 percent of the applicable NAAQS and the remainder at the PQAOs discretion;

(b) If an organization has no sites with daily concentrations within plus or minus 20 percent of the NAAQS, 50 percent of the collocated quality control monitors should be deployed at those sites with the daily mean concentrations among the highest for all sites in the network and the remainder at the PQAOs discretion.

(c) The two collocated monitors must be within 4 meters (inlet to inlet) of each other and at least 2 meters apart for flow rates greater than 200 liters/min or at least 1 meter apart for samplers having flow rates less than 200 liters/min to preclude airflow interference. A waiver allowing up to 10 meters horizontal distance and up to 3 meters vertical distance (inlet to inlet) between a primary and collocated sampler may be approved by the Regional Administrator for sites at a neighborhood or larger scale of representation. This waiver may be approved during the annual network plan approval process. Sampling and analytical methodologies must be the consistently implemented for both collocated samplers and for all other samplers in the network.

(d) Sample the collocated quality control monitor on a 1-in-12 day schedule. Report the measurements from both primary and collocated quality control monitors at each collocated sampling site to AQS. The calculations for evaluating precision between the two collocated monitors are described in section 4.2.1 of this appendix.

(e) In determining the number of collocated quality control sites required for PM_{10}, monitoring networks for lead (Pb–PM_{10}) should be treated independently from networks for particulate matter (PM), even though the separate networks may share one or more common samplers. However, a single quality control monitor that meets the collocation requirements for Pb-PM_{10} and PM_{10} may serve as a collocated quality control monitor for both networks. Extreme care must be taken when using the filter from a quality control monitor for both PM_{10} and Pb analysis. A PM_{10} filter weighing should occur prior to any Pb analysis.

3.4 *Pb.*

3.4.1 *Flow Rate Verification for Pb–PM_{10} Low Volume Samplers (less than 200 liter/minute).* A one-point flow rate verification check must be performed at least once every month (each verification minimally separated by 14 days) on each monitor used to measure Pb. The verification is made by checking the operational flow rate of the monitor. If the verification is made in conjunction with a flow rate adjustment, it must be made prior to such flow rate adjustment. For the standard procedure, use a flow rate transfer standard certified in accordance with section 2.6 of this appendix to check the monitor's normal flow rate. Care should be taken in selecting and using the flow rate measurement device such that it does not

alter the normal operating flow rate of the monitor. The percent differences between the audit and measured flow rates are reported to AQS and used to assess the bias of the monitoring data as described in section 4.2.2 of this appendix (using flow rates in lieu of concentrations).

3.4.2 *Flow Rate Verification for Pb High Volume Samplers (greater than 200 liters/minute).* For high volume samplers, the verification frequency is one verification every 90 days (quarter) with four in a year. Other than verification frequency, follow the same technical procedure as described in section 3.4.1 of this appendix.

3.4.3 *Semi-Annual Flow Rate Audit for Pb.* Audit the flow rate of the particulate monitor twice a year. The two audits should ideally be spaced between 5 and 7 months apart. The EPA strongly encourages more frequent auditing. The audit should (preferably) be conducted by a trained experienced technician other than the routine site operator. The audit is made by measuring the monitor's normal operating flow rate using a flow rate transfer standard certified in accordance with section 2.6 of this appendix. The flow rate standard used for auditing must not be the same flow rate standard used for verifications or to calibrate the monitor. However, both the calibration standard and the audit standard may be referenced to the same primary flow rate or volume standard. Care must be taken in auditing the flow rate to be certain that the flow measurement device does not alter the normal operating flow rate of the monitor. Report the audit flow rate of the transfer standard and the corresponding flow rate measured by the monitor to AQS. The percent differences between these flow rates are used to evaluate monitor performance.

3.4.4 Collocated Quality Control Sampling for TSP Pb for monitoring sites other than non-source oriented NCore. For each pair of collocated monitors for manual TSP Pb samplers, designate one sampler as the primary monitor whose concentrations will be used to report air quality for the site, and designate the other as the quality control monitor.

3.4.4.1 A PQAO must:

(a) Have 15 percent of the primary monitors (not counting non-source oriented NCore sites in PQAO) collocated. Values of 0.5 and greater round up; and

(b) Have at least one collocated quality control monitor (if the total number of monitors is less than three).

3.4.4.2 The collocated quality control monitors should be deployed according to the following protocol:

(a) The first collocated Pb site selected must be the site measuring the highest Pb concentrations in the network. If the site is impractical, alternative sites, approved by the EPA Regional Administrator, may be selected. If additional collocated sites are necessary, collocated sites may be chosen that reflect average ambient air Pb concentrations in the network.

(b) The two collocated monitors must be within 4 meters (inlet to inlet) of each other and at least 2 meters apart for flow rates greater than 200 liters/min or at least 1 meter apart for samplers having flow rates less than 200 liters/min to preclude airflow interference.

(c) Sample the collocated quality control monitor on a 1-in-12 day schedule. Report the measurements from both primary and collocated quality control monitors at each collocated sampling site to AQS. The calculations for evaluating precision between the two collocated monitors are described in section 4.2.1 of this appendix.

3.4.5 Collocated Quality Control Sampling for Pb–PM_{10} at monitoring sites other than non-source oriented NCore. If a PQAO is monitoring for Pb–PM_{10} at sites other than at a non-source oriented NCore site then the PQAO must:

3.4.5.1 Have 15 percent of the primary monitors (not counting non-source oriented NCore sites in PQAO) collocated. Values of 0.5 and greater round up; and

3.4.5.2 Have at least one collocated quality control monitor (if the total number of monitors is less than three).

3.4.5.3 The collocated monitors should be deployed according to the following protocol:

(a) Fifty percent of the collocated quality control monitors should be deployed at sites with the highest 3-month average concentrations and the remainder at the PQAOs discretion.

(b) The two collocated monitors must be within 4 meters (inlet to inlet) of each other and at least 2 meters apart for flow rates greater than 200 liters/min or at least 1 meter apart for samplers having flow rates less than 200 liters/min to preclude airflow interference. A waiver allowing up to 10 meters horizontal distance and up to 3 meters vertical distance (inlet to inlet) between a primary and collocated sampler may be approved by the Regional Administrator for sites at a neighborhood or larger scale of representation. This waiver may be approved during the annual network plan approval process. Sampling and analytical methodologies must be the consistently implemented for both collocated samplers and for all other samplers in the network.

(c) Sample the collocated quality control monitor on a 1-in-12 day schedule. Report the measurements from both primary and collocated quality control monitors at each collocated sampling site to AQS. The calculations for evaluating precision between the two collocated monitors are described in section 4.2.1 of this appendix.

(d) In determining the number of collocated quality control sites required for Pb–PM_{10}, monitoring networks for PM_{10} should be treated independently from networks for Pb–PM_{10}, even though the separate networks may share one or more common samplers. However, a single quality control monitor that meets the collocation requirements for Pb–PM_{10} and PM_{10} may serve as a collocated quality control monitor for both networks. Extreme care must be taken when using a using the filter from a quality control monitor for both PM_{10} and Pb analysis. A PM_{10} filter weighing should occur prior to any Pb analysis.

3.4.6 *Pb Analysis Audits.* Each calendar quarter, audit the Pb reference or equivalent method analytical procedure using filters containing a known quantity of Pb. These audit filters are prepared by depositing a Pb standard on unexposed filters and allowing them to dry thoroughly. The audit samples must be prepared using batches of reagents different from those used to calibrate the Pb analytical equipment being audited. Prepare audit samples in the following concentration ranges:

Range	Equivalent ambient Pb concentration, $\mu g/m^3$
1	30–100% of Pb NAAQS.
2	200–300% of Pb NAAQS.

(a) Extract the audit samples using the same extraction procedure used for exposed filters.

(b) Analyze three audit samples in each of the two ranges each quarter samples are analyzed. The audit sample analyses shall be distributed as much as possible over the entire calendar quarter.

(c) Report the audit concentrations (in µg Pb/filter or strip) and the corresponding measured concentrations (in µg Pb/filter or strip) to AQS using AQS unit code 077. The percent differences between the concentrations are used to calculate analytical accuracy as described in section 4.2.6 of this appendix.

3.4.7 Pb PEP Procedures for monitoring sites other than non-source oriented NCore. The PEP is an independent assessment used to estimate total measurement system bias. These evaluations will be performed under the NPEP described in section 2.4 of this appendix or a comparable program. Each year, one performance evaluation audit must be performed at one Pb site in each primary quality assurance organization that has less than or equal to five sites and two audits at PQAOs with greater than five sites. Non-source oriented NCore sites are not counted. Siting of the PEP monitor must be consistent with section 3.4.5.3(b). However, any horizontal distance greater than 4 meters and any vertical distance greater than 1 meter must be reported to the EPA regional PEP coordinator. In addition, each year, four collocated samples from PQAOs with less than or equal to five sites and six collocated samples at PQAOs with greater than five sites must be sent to an independent laboratory, the same laboratory as the performance evaluation audit, for analysis. The calculations for evaluating bias between the primary monitor and the performance evaluation monitor for Pb are described in section 4.2.4 of this appendix.

4. Calculations for Data Quality Assessments

(a) Calculations of measurement uncertainty are carried out by the EPA according to the following procedures. The PQAOs must report the data to AQS for all measurement quality checks as specified in this appendix even though they may elect to perform some or all of the calculations in this section on their own.

(b) The EPA will provide annual assessments of data quality aggregated by site and PQAO for SO_2, NO_2, O_3 and CO and by PQAO for PM_{10}, $PM_{2.5}$, and Pb.

(c) At low concentrations, agreement between the measurements of collocated quality control samplers, expressed as

relative percent difference or percent difference, may be relatively poor. For this reason, collocated measurement pairs are selected for use in the precision and bias calculations only when both measurements are equal to or above the following limits:

(1) Pb: 0.002 µg/m³ (Methods approved after 3/04/2010, with exception of manual equivalent method EQLA–0813–803).

(2) Pb: 0.02 µg/m³ (Methods approved before 3/04/2010, and manual equivalent method EQLA–0813–803).

(3) PM_{10} (Hi-Vol): 15 µg/m³.

(4) PM_{10} (Lo-Vol): 3 µg/m³.

(5) $PM_{2.5}$: 3 µg/m³.

4.1 *Statistics for the Assessment of QC Checks for* SO_2, NO_2, O_3 and CO.

4.1.1 *Percent Difference.* Many of the measurement quality checks start with a comparison of an audit concentration or value (flow rate) to the concentration/value measured by the monitor and use percent difference as the comparison statistic as described in equation 1 of this section. For each single point check, calculate the percent difference, d_i, as follows:

Equation 1

$$d_i = \frac{meas - audit}{audit} \cdot 100$$

where *meas* is the concentration indicated by the PQAO's instrument and *audit* is the audit concentration of the standard used in the QC check being measured.

4.1.2 *Precision Estimate.* The precision estimate is used to assess the one-point QC checks for SO_2, NO_2, O_3, or CO described in section 3.1.1 of this appendix. The precision estimator is the coefficient of variation upper bound and is calculated using equation 2 of this section:

Equation 2

$$CV = \sqrt{\frac{n \cdot \sum_{i=1}^{n} d_i^2 - \left(\sum_{i=1}^{n} d_i\right)^2}{n(n-1)}} \cdot \sqrt{\frac{n-1}{\chi^2_{0.1,n-1}}}$$

where n is the number of single point checks being aggregated; $X^2_{0.1,n-1}$ is the 10th percentile of a chi-squared distribution with n–1 degrees of freedom.

4.1.3 *Bias Estimate.* The bias estimate is calculated using the one-point QC checks for SO_2, NO_2, O_3, or CO described in section 3.1.1 of this appendix. The bias estimator is an upper bound on the mean absolute value of the percent differences as described in equation 3 of this section:

Equation 3

$$|bias| = AB + t_{0.95,n-1} \cdot \frac{AS}{\sqrt{n}}$$

where n is the number of single point checks being aggregated; $t_{0.95,n-1}$ is the 95th quantile of a t-distribution with n–1 degrees of freedom; the quantity *AB* is the mean of the absolute values of the $d_{i's}$ and is calculated using equation 4 of this section:

Equation 4

$$AB = \frac{1}{n} \cdot \sum_{i=1}^{n} |d_i|$$

and the quantity *AS* is the standard deviation of the absolute value of the $d_{i's}$ and is calculated using equation 5 of this section:

Equation 5

$$AS = \sqrt{\frac{n \cdot \sum_{i=1}^{n} |d_i|^2 - \left(\sum_{i=1}^{n} |d_i|\right)^2}{n(n-1)}}$$

4.1.3.1 *Assigning a sign (positive/negative) to the bias estimate.* Since the bias statistic as calculated in equation 3 of this appendix uses absolute values, it does not have a tendency (negative or positive bias) associated with it. A sign will be designated by rank ordering the percent differences of the QC check samples from a given site for a particular assessment interval.

4.1.3.2 Calculate the 25th and 75th percentiles of the percent differences for each site. The absolute bias upper bound should be flagged as positive if both percentiles are positive and negative if both percentiles are negative. The absolute bias upper bound would not be flagged if the 25th and 75th percentiles are of different signs.

4.2 *Statistics for the Assessment of* PM_{10}, $PM_{2.5}$, and Pb.

4.2.1 *Collocated Quality Control Sampler Precision Estimate for* PM_{10}, $PM_{2.5}$ *and Pb.* Precision is estimated via duplicate measurements from collocated samplers. It is recommended that the precision be aggregated at the PQAO level quarterly, annually, and at the 3-year level. The data pair would only be considered valid if both concentrations are greater than or equal to the minimum values specified in section 4(c) of this appendix. For each collocated data pair, calculate the relative percent difference, d_i, using equation 6 of this appendix:

Equation 6

$$d_i = \frac{X_i - Y_i}{(X_i + Y_i)/2} \cdot 100$$

where X_i is the concentration from the primary sampler and Y_i is the concentration value from the audit sampler. The coefficient of variation upper bound is calculated using equation 7 of this appendix:

Equation 7

$$CV = \sqrt{\frac{n \cdot \sum_{i=1}^{n} d_i^2 - \left(\sum_{i=1}^{n} d_i\right)^2}{2n(n-1)}} \cdot \sqrt{\frac{n-1}{X^2_{0.1,n-1}}}$$

where *n* is the number of valid data pairs being aggregated, and $X^2_{0.1,n-1}$ is the 10th percentile of a chi-squared distribution with n–1 degrees of freedom. The factor of 2 in the denominator adjusts for the fact that each d_i is calculated from two values with error.

4.2.2 *One-Point Flow Rate Verification Bias Estimate for PM_{10}, $PM_{2.5}$ and Pb.* For each one-point flow rate verification, calculate the percent difference in volume using equation 1 of this appendix where *meas* is the value indicated by the sampler's volume measurement and *audit* is the actual volume indicated by the auditing flow meter. The absolute volume bias upper bound is then calculated using equation 3, where *n* is the number of flow rate audits being aggregated; $t_{0.95,n-1}$ is the 95th quantile of a t-distribution with n-1 degrees of freedom, the quantity *AB* is the mean of the absolute values of the $d_{i's}$ and is calculated using equation 4 of this appendix, and the quantity *AS* in equation 3 of this appendix is the standard deviation of the absolute values if the $d_{i's}$ and is calculated using equation 5 of this appendix.

4.2.3 *Semi-Annual Flow Rate Audit Bias Estimate for PM_{10}, $PM_{2.5}$ and Pb.* Use the same procedure described in section 4.2.2 for the evaluation of flow rate audits.

4.2.4 *Performance Evaluation Programs Bias Estimate for Pb.* The Pb bias estimate is calculated using the paired routine and the PEP monitor as described in section 3.4.7. Use the same procedures as described in section 4.1.3 of this appendix.

4.2.5 *Performance Evaluation Programs Bias Estimate for $PM_{2.5}$.* The bias estimate is calculated using the PEP audits described in section 4.1.3 of this appendix. The bias estimator is based on the mean percent differences (Equation 1). The mean percent difference, *D,* is calculated by Equation 8 below.

Equation 8

$$D = \frac{1}{n_j} \cdot \sum_{i=1}^{n_j} d_i$$

where n_j is the number of pairs and $d_1, d_2, \ldots d_{nj}$ are the biases for each pair to be averaged.

4.2.6 *Pb Analysis Audit Bias Estimate.* The bias estimate is calculated using the analysis audit data described in section 3.4.6. Use the same bias estimate procedure as described in section 4.1.3 of this appendix.

5. Reporting Requirements

5.1 *Reporting Requirements.* For each pollutant, prepare a list of all monitoring sites and their AQS site identification codes in each PQAO and submit the list to the appropriate EPA Regional Office, with a copy to AQS. Whenever there is a change in this list of monitoring sites in a PQAO, report this change to the EPA Regional Office and to AQS.

5.1.1 *Quarterly Reports.* For each quarter, each PQAO shall report to AQS directly (or via the appropriate EPA Regional Office for organizations not direct users of AQS) the results of all valid measurement quality checks it has carried out during the quarter. The quarterly reports must be submitted consistent with the data reporting requirements specified for air quality data as set forth in 40 CFR 58.16. The EPA strongly encourages early submission of the quality assurance data in order to assist the PQAOs ability to control and evaluate the quality of the ambient air data.

5.1.2 *Annual Reports.*

5.1.2.1 When the PQAO has certified relevant data for the calendar year, the EPA will calculate and report the measurement uncertainty for the entire calendar year.

6. References

(1) American National Standard—Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs. ANSI/ASQC E4–2014. February 2014. Available from American Society for Quality Control, 611 East Wisconsin Avenue, Milwaukee, WI 53202.

(2) EPA Requirements for Quality Management Plans. EPA QA/R–2. EPA/240/B–01/002. March 2001, Reissue May 2006. Office of Environmental Information, Washington DC 20460. *http://www.epa.gov/quality/agency-wide-quality-system-documents.*

(3) EPA Requirements for Quality Assurance Project Plans for Environmental Data Operations. EPA QA/R–5. EPA/240/B–01/003. March 2001, Reissue May 2006. Office of Environmental Information, Washington DC 20460. *http://www.epa.gov/quality/agency-wide-quality-system-documents.*

(4) EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards. EPA–600/R–12/531. May, 2012. Available from U.S. Environmental Protection Agency, National Risk Management Research Laboratory, Research Triangle Park NC 27711. *http://cfpub.epa.gov/si/si_public_record_report.cfm?dirEntryId=245292.*

(5) Guidance for the Data Quality Objectives Process. EPA QA/G–4. EPA/240/B–06/001. February, 2006. Office of Environmental Information, Washington DC 20460. *http://www.epa.gov/quality/agency-wide-quality-system-documents.*

(6) List of Designated Reference and Equivalent Methods. Available from U.S. Environmental Protection Agency, National Exposure Research Laboratory, Human Exposure and Atmospheric Sciences Division, MD–D205–03, Research Triangle Park, NC 27711. *http://www3.epa.gov/ttn/amtic/criteria.html.*

(7) Transfer Standards for the Calibration of Ambient Air Monitoring Analyzers for Ozone. EPA–454/B–13–004 U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, October, 2013. *http://www3.epa.gov/ttn/amtic/qapollutant.html.*

(8) Paur, R.J. and F.F. McElroy. Technical Assistance Document for the Calibration of Ambient Ozone Monitors. EPA–600/4–79–057. U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, September, 1979. *http://www.epa.gov/ttn/amtic/cpreldoc.html.*

(9) Quality Assurance Handbook for Air Pollution Measurement Systems, Volume 1—A Field Guide to Environmental Quality Assurance. EPA–600/R–94/038a. April 1994. Available from U.S. Environmental Protection Agency, ORD Publications Office, Center for Environmental Research Information (CERI), 26 W. Martin Luther King Drive, Cincinnati, OH 45268. *http://www3.epa.gov/ttn/amtic/qalist.html.*

(10) Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II: Ambient Air Quality Monitoring Program Quality System Development. EPA–454/B–13–003. *http://www3.epa.gov/ttn/amtic/qalist.html.*

(11) National Performance Evaluation Program Standard Operating Procedures. *http://www3.epa.gov/ttn/amtic/npapsop.html.*

TABLE A–1 OF APPENDIX A TO PART 58—MINIMUM DATA ASSESSMENT REQUIREMENTS FOR NAAQS RELATED CRITERIA POLLUTANT MONITORS

Method	Assessment method	Coverage	Minimum frequency	Parameters reported	AQS assessment type
Gaseous Methods (CO, NO_2, SO_2, O_3)					
One-Point QC for SO_2, NO_2, O3, CO.	Response check at concentration 0.005–0.08 ppm SO_2, NO_2, O3, and. 0.5 and 5 ppm CO	Each analyzer	Once per 2 weeks	Audit concentration [1] and measured concentration. [2]	One-Point QC.
Annual performance evaluation for SO_2, NO_2, O3, CO.	See section 3.1.2 of this appendix.	Each analyzer	Once per year	Audit concentration [1] and measured concentration [2] for each level.	Annual PE.
NPAP for SO_2, NO_2, O3, CO.	Independent Audit	20% of sites each year.	Once per year	Audit concentration [1] and measured concentration [2] for each level.	NPAP.
Particulate Methods					
Continuous [4] method—collocated quality control sampling $PM_{2.5}$.	Collocated samplers	15%	1-in-12 days	Primary sampler concentration and duplicate sampler concentration. [3]	No Transaction reported as raw data.
Manual method—collocated quality control sampling PM_{10}, $PM_{2.5}$, Pb–TSP, Pb–PM_{10}.	Collocated samplers	15%	1-in-12 days	Primary sampler concentration and duplicate sampler concentration. [3]	No Transaction reported as raw data.
Flow rate verification PM_{10} (low Vol) $PM_{2.5}$, Pb–PM_{10}.	Check of sampler flow rate.	Each sampler	Once every month	Audit flow rate and measured flow rate indicated by the sampler.	Flow Rate Verification.
Flow rate verification PM_{10} (High-Vol), Pb–TSP.	Check of sampler flow rate.	Each sampler	Once every quarter ...	Audit flow rate and measured flow rate indicated by the sampler.	Flow Rate Verification.
Semi-annual flow rate audit PM_{10}, TSP, PM_{10}–2.5, $PM_{2.5}$, Pb–TSP, Pb–PM_{10}.	Check of sampler flow rate using independent standard.	Each sampler, ...	Once every 6 months	Audit flow rate and measured flow rate indicated by the sampler.	Semi Annual Flow Rate Audit.
Pb analysis audits Pb–TSP, Pb–PM_{10}.	Check of analytical system with Pb audit strips/filters.	Analytical	Once each quarter	Measured value and audit value (ug Pb/filter) using AQS unit code 077.	Pb Analysis Audits.
Performance Evaluation Program $PM_{2.5}$.	Collocated samplers	(1) 5 valid audits for primary QA orgs, with <= 5 sites.. (2) 8 valid audits for primary QA orgs, with >5 sites.. (3) All samplers in 6 years.	Distributed over all 4 quarters.	Primary sampler concentration and performance evaluation sampler concentration.	PEP.
Performance Evaluation Program Pb–TSP, Pb–PM_{10}.	Collocated samplers	(1) 1 valid audit and 4 collocated samples for primary QA orgs, with <=5 sites.. (2) 2 valid audits and 6 collocated samples for primary QA orgs with >5 sites.	Distributed over all 4 quarters.	Primary sampler concentration and performance evaluation sampler concentration. Primary sampler concentration and duplicate sampler concentration.	PEP.

[1] Effective concentration for open path analyzers.
[2] Corrected concentration, if applicable for open path analyzers.
[3] Both primary and collocated sampler values are reported as raw data.
[4] $PM_{2.5}$ is the only particulate criteria pollutant requiring collocation of continuous and manual primary monitors.

TABLE A–2 OF APPENDIX A TO PART 58—SUMMARY OF $PM_{2.5}$ NUMBER AND TYPE OF COLLOCATION (15% COLLOCATION REQUIREMENT) REQUIRED USING AN EXAMPLE OF A PQAO THAT HAS 54 PRIMARY MONITORS (54 SITES) WITH ONE FEDERAL REFERENCE METHOD TYPE AND THREE TYPES OF APPROVED FEDERAL EQUIVALENT METHODS

Primary sampler method designation	Total No. of monitors	Total No. of collocated	No. of collocated with FRM	No. of collocated with same method designation as primary
FRM	20	3	3	3
FEM (A)	20	3	2	1
FEM (B)	2	1	1	0
FEM (C)	12	2	1	1

■ 10. Add Appendix B to part 58 to read as follows:

Appendix B to Part 58—Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring

1. General Information
2. Quality System Requirements
3. Measurement Quality Check Requirements
4. Calculations for Data Quality Assessments
5. Reporting Requirements
6. References

1. General Information

1.1 *Applicability.*

(a) This appendix specifies the minimum quality assurance requirements for the control and assessment of the quality of the ambient air monitoring data submitted to a PSD reviewing authority or the EPA by an organization operating an air monitoring station, or network of stations, operated in order to comply with Part 51 New Source Review—Prevention of Significant Deterioration (PSD). Such organizations are encouraged to develop and maintain quality assurance programs more extensive than the required minimum. Additional guidance for the requirements reflected in this appendix can be found in the ''Quality Assurance Handbook for Air Pollution Measurement Systems,'' Volume II (Ambient Air) and ''Quality Assurance Handbook for Air Pollution Measurement Systems,'' Volume IV (Meteorological Measurements) and at a national level in references 1, 2, and 3 of this appendix.

(b) It is not assumed that data generated for PSD under this appendix will be used in making NAAQS decisions. However, if all the requirements in this appendix are followed (including the NPEP programs) and reported to AQS, with review and concurrence from the EPA region, data may be used for NAAQS decisions. With the exception of the NPEP programs (NPAP, $PM_{2.5}$ PEP, Pb–PEP), for which implementation is at the discretion of the PSD reviewing authority, all other quality assurance and quality control requirements found in the appendix must be met.

1.2 *PSD Primary Quality Assurance Organization (PQAO).* A PSD PQAO is defined as a monitoring organization or a coordinated aggregation of such organizations that is responsible for a set of stations within one PSD reviewing authority that monitors the same pollutant and for which data quality assessments will be pooled. Each criteria pollutant sampler/monitor must be associated with only one PSD PQAO.

1.2.1 Each PSD PQAO shall be defined such that measurement uncertainty among all stations in the organization can be expected to be reasonably homogeneous, as a result of common factors. A PSD PQAO must be associated with only one PSD reviewing authority. Common factors that should be considered in defining PSD PQAOs include:

(a) Operation by a common team of field operators according to a common set of procedures;

(b) Use of a common QAPP and/or standard operating procedures;

(c) Common calibration facilities and standards;

(d) Oversight by a common quality assurance organization; and

(e) Support by a common management organization or laboratory.

1.2.2 PSD monitoring organizations having difficulty describing its PQAO or in assigning specific monitors to a PSD PQAO should consult with the PSD reviewing authority. Any consolidation of PSD PQAOs shall be subject to final approval by the PSD reviewing authority.

1.2.3 Each PSD PQAO is required to implement a quality system that provides sufficient information to assess the quality of the monitoring data. The quality system must, at a minimum, include the specific requirements described in this appendix. Failure to conduct or pass a required check or procedure, or a series of required checks or procedures, does not by itself invalidate data for regulatory decision making. Rather, PSD PQAOs and the PSD reviewing authority shall use the checks and procedures required in this appendix in combination with other data quality information, reports, and similar documentation that demonstrate overall compliance with parts 51, 52 and 58 of this chapter. Accordingly, the PSD reviewing authority shall use a ''weight of evidence'' approach when determining the suitability of data for regulatory decisions. The PSD reviewing authority reserves the authority to use or not use monitoring data submitted by a PSD monitoring organization when making regulatory decisions based on the PSD reviewing authority's assessment of the quality of the data. Generally, consensus built validation templates or validation criteria already approved in quality assurance project plans (QAPPs) should be used as the basis for the weight of evidence approach.

1.3 *Definitions.*

(a) *Measurement Uncertainty.* A term used to describe deviations from a true concentration or estimate that are related to the measurement process and not to spatial or temporal population attributes of the air being measured.

(b) *Precision.* A measurement of mutual agreement among individual measurements of the same property usually under prescribed similar conditions, expressed generally in terms of the standard deviation.

(c) *Bias.* The systematic or persistent distortion of a measurement process which causes errors in one direction.

(d) *Accuracy.* The degree of agreement between an observed value and an accepted reference value. Accuracy includes a combination of random error (imprecision) and systematic error (bias) components which are due to sampling and analytical operations.

(e) *Completeness.* A measure of the amount of valid data obtained from a measurement system compared to the amount that was expected to be obtained under correct, normal conditions.

(f) *Detectability.* The low critical range value of a characteristic that a method specific procedure can reliably discern.

1.4 *Measurement Quality Check Reporting.* The measurement quality checks described in section 3 of this appendix, are required to be submitted to the PSD reviewing authority within the same time frame as routinely-collected ambient concentration data as described in 40 CFR 58.16. The PSD reviewing authority may as well require that the measurement quality check data be reported to AQS.

1.5 *Assessments and Reports.* Periodic assessments and documentation of data quality are required to be reported to the PSD reviewing authority. To provide national uniformity in this assessment and reporting of data quality for all networks, specific assessment and reporting procedures are prescribed in detail in sections 3, 4, and 5 of this appendix.

2. Quality System Requirements

A quality system (reference 1 of this appendix) is the means by which an organization manages the quality of the monitoring information it produces in a

systematic, organized manner. It provides a framework for planning, implementing, assessing and reporting work performed by an organization and for carrying out required quality assurance and quality control activities.

2.1 *Quality Assurance Project Plans.* All PSD PQAOs must develop a quality system that is described and approved in quality assurance project plans (QAPP) to ensure that the monitoring results:

(a) Meet a well-defined need, use, or purpose (reference 5 of this appendix);

(b) Provide data of adequate quality for the intended monitoring objectives;

(c) Satisfy stakeholder expectations;

(d) Comply with applicable standards specifications;

(e) Comply with statutory (and other legal) requirements; and

(f) Assure quality assurance and quality control adequacy and independence.

2.1.1 The QAPP is a formal document that describes these activities in sufficient detail and is supported by standard operating procedures. The QAPP must describe how the organization intends to control measurement uncertainty to an appropriate level in order to achieve the objectives for which the data are collected. The QAPP must be documented in accordance with EPA requirements (reference 3 of this appendix).

2.1.2 The PSD PQAO's quality system must have adequate resources both in personnel and funding to plan, implement, assess and report on the achievement of the requirements of this appendix and it's approved QAPP.

2.1.3 Incorporation of quality management plan (QMP) elements into the QAPP. The QMP describes the quality system in terms of the organizational structure, functional responsibilities of management and staff, lines of authority, and required interfaces for those planning, implementing, assessing and reporting activities involving environmental data operations (EDO). The PSD PQAOs may combine pertinent elements of the QMP into the QAPP rather than requiring the submission of both QMP and QAPP documents separately, with prior approval of the PSD reviewing authority. Additional guidance on QMPs can be found in reference 2 of this appendix.

2.2 Independence of Quality Assurance Management. The PSD PQAO must provide for a quality assurance management function for its PSD data collection operation, that aspect of the overall management system of the organization that determines and implements the quality policy defined in a PSD PQAO's QAPP. Quality management includes strategic planning, allocation of resources and other systematic planning activities (*e.g.,* planning, implementation, assessing and reporting) pertaining to the quality system. The quality assurance management function must have sufficient technical expertise and management authority to conduct independent oversight and assure the implementation of the organization's quality system relative to the ambient air quality monitoring program and should be organizationally independent of environmental data generation activities.

2.3 *Data Quality Performance Requirements.*

2.3.1 *Data Quality Objectives (DQOs).* The DQOs, or the results of other systematic planning processes, are statements that define the appropriate type of data to collect and specify the tolerable levels of potential decision errors that will be used as a basis for establishing the quality and quantity of data needed to support air monitoring objectives (reference 5 of the appendix). The DQOs have been developed by the EPA to support attainment decisions for comparison to national ambient air quality standards (NAAQS). The PSD reviewing authority and the PSD monitoring organization will be jointly responsible for determining whether adherence to the EPA developed NAAQS DQOs specified in appendix A of this part are appropriate or if DQOs from a project-specific systematic planning process are necessary.

2.3.1.1 *Measurement Uncertainty for Automated and Manual $PM_{2.5}$ Methods.* The goal for acceptable measurement uncertainty for precision is defined as an upper 90 percent confidence limit for the coefficient of variation (CV) of 10 percent and plus or minus 10 percent for total bias.

2.3.1.2 *Measurement Uncertainty for Automated Ozone Methods.* The goal for acceptable measurement uncertainty is defined for precision as an upper 90 percent confidence limit for the CV of 7 percent and for bias as an upper 95 percent confidence limit for the absolute bias of 7 percent.

2.3.1.3 *Measurement Uncertainty for Pb Methods.* The goal for acceptable measurement uncertainty is defined for precision as an upper 90 percent confidence limit for the CV of 20 percent and for bias as an upper 95 percent confidence limit for the absolute bias of 15 percent.

2.3.1.4 *Measurement Uncertainty for NO_2.* The goal for acceptable measurement uncertainty is defined for precision as an upper 90 percent confidence limit for the CV of 15 percent and for bias as an upper 95 percent confidence limit for the absolute bias of 15 percent.

2.3.1.5 *Measurement Uncertainty for SO_2.* The goal for acceptable measurement uncertainty for precision is defined as an upper 90 percent confidence limit for the CV of 10 percent and for bias as an upper 95 percent confidence limit for the absolute bias of 10 percent.

2.4 *National Performance Evaluation Program.* Organizations operating PSD monitoring networks are required to implement the EPA's national performance evaluation program (NPEP) if the data will be used for NAAQS decisions and at the discretion of the PSD reviewing authority if PSD data are not used for NAAQS decisions. The NPEP includes the National Performance Audit Program (NPAP), the $PM_{2.5}$ Performance Evaluation Program ($PM_{2.5}$-PEP) and the Pb Performance Evaluation Program (Pb-PEP). The PSD QAPP shall provide for the implementation of NPEP including the provision of adequate resources for such NPEP if the data will be used for NAAQS decisions or if required by the PSD reviewing authority. Contact the PSD reviewing authority to determine the best procedure for implementing the audits which may include an audit by the PSD reviewing authority, a contractor certified for the activity, or through self-implementation which is described in sections below. A determination of which entity will be performing this audit program should be made as early as possible and during the QAPP development process. The PSD PQAOs, including contractors that plan to implement these programs on behalf of PSD PQAOs, that plan to implement these programs (self-implement) rather than use the federal programs, must meet the adequacy requirements found in the appropriate sections that follow, as well as meet the definition of independent assessment that follows.

2.4.1 *Independent Assessment.* An assessment performed by a qualified individual, group, or organization that is not part of the organization directly performing and accountable for the work being assessed. This auditing organization must not be involved with the generation of the routinely-collected ambient air monitoring data. An organization can conduct the performance evaluation (PE) if it can meet this definition and has a management structure that, at a minimum, will allow for the separation of its routine sampling personnel from its auditing personnel by two levels of management. In addition, the sample analysis of audit filters must be performed by a laboratory facility and laboratory equipment separate from the facilities used for routine sample analysis. Field and laboratory personnel will be required to meet the performance evaluation field and laboratory training and certification requirements. The PSD PQAO will be required to participate in the centralized field and laboratory standards certification and comparison processes to establish comparability to federally implemented programs.

2.5 *Technical Systems Audit Program.* The PSD reviewing authority or the EPA may conduct system audits of the ambient air monitoring programs or organizations operating PSD networks. The PSD monitoring organizations shall consult with the PSD reviewing authority to verify the schedule of any such technical systems audit. Systems audit programs are described in reference 10 of this appendix.

2.6 *Gaseous and Flow Rate Audit Standards.*

2.6.1 Gaseous pollutant concentration standards (permeation devices or cylinders of compressed gas) used to obtain test concentrations for carbon monoxide (CO), sulfur dioxide (SO_2), nitrogen oxide (NO), and nitrogen dioxide (NO_2) must be traceable to either a National Institute of Standards and Technology (NIST) Traceable Reference Material (NTRM) or a NIST-certified Gas Manufacturer's Internal Standard (GMIS), certified in accordance with one of the procedures given in reference 4 of this appendix. Vendors advertising certification with the procedures provided in reference 4 of this appendix and distributing gases as ''EPA Protocol Gas'' must participate in the EPA Protocol Gas Verification Program or not use ''EPA'' in any form of advertising. The PSD PQAOs must provide information to the PSD reviewing authority on the gas vendors they use (or will use) for the duration of the PSD monitoring project. This information can

be provided in the QAPP or monitoring plan, but must be updated if there is a change in the producer used.

2.6.2 Test concentrations for ozone (O_3) must be obtained in accordance with the ultraviolet photometric calibration procedure specified in appendix D to Part 50, and by means of a certified NIST-traceable O_3 transfer standard. Consult references 7 and 8 of this appendix for guidance on transfer standards for O_3.

2.6.3 Flow rate measurements must be made by a flow measuring instrument that is NIST-traceable to an authoritative volume or other applicable standard. Guidance for certifying some types of flow-meters is provided in reference 10 of this appendix.

2.7 Primary Requirements and Guidance. Requirements and guidance documents for developing the quality system are contained in references 1 through 11 of this appendix, which also contain many suggested procedures, checks, and control specifications. Reference 10 describes specific guidance for the development of a quality system for data collected for comparison to the NAAQS. Many specific quality control checks and specifications for methods are included in the respective reference methods described in Part 50 or in the respective equivalent method descriptions available from the EPA (reference 6 of this appendix). Similarly, quality control procedures related to specifically designated reference and equivalent method monitors are contained in the respective operation or instruction manuals associated with those monitors. For PSD monitoring, the use of reference and equivalent method monitors are required.

3. Measurement Quality Check Requirements

This section provides the requirements for PSD PQAOs to perform the measurement quality checks that can be used to assess data quality. Data from these checks are required to be submitted to the PSD reviewing authority within the same time frame as routinely-collected ambient concentration data as described in 40 CFR 58.16. Table B–1 of this appendix provides a summary of the types and frequency of the measurement quality checks that are described in this section. Reporting these results to AQS may be required by the PSD reviewing authority.

3.1 *Gaseous monitors of SO_2, NO_2, O_3, and CO.*

3.1.1 *One-Point Quality Control (QC) Check for SO_2, NO_2, O_3, and CO.* (a) A one-point QC check must be performed at least once every 2 weeks on each automated monitor used to measure SO_2, NO_2, O_3 and CO. With the advent of automated calibration systems, more frequent checking is strongly encouraged and may be required by the PSD reviewing authority. See Reference 10 of this appendix for guidance on the review procedure. The QC check is made by challenging the monitor with a QC check gas of known concentration (effective concentration for open path monitors) between the prescribed range of 0.005 and 0.08 parts per million (ppm) for SO_2, NO_2, and O_3, and between the prescribed range of 0.5 and 5 ppm for CO monitors. The QC check gas concentration selected within the prescribed range should be related to monitoring objectives for the monitor. If monitoring for trace level monitoring, the QC check concentration should be selected to represent the mean or median concentrations at the site. If the mean or median concentrations at trace gas sites are below the MDL of the instrument the agency can select the lowest concentration in the prescribed range that can be practically achieved. If the mean or median concentrations at trace gas sites are above the prescribed range the agency can select the highest concentration in the prescribed range. The PSD monitoring organization will consult with the PSD reviewing authority on the most appropriate one-point QC concentration based on the objectives of the monitoring activity. An additional QC check point is encouraged for those organizations that may have occasional high values or would like to confirm the monitors' linearity at the higher end of the operational range or around NAAQS concentrations. If monitoring for NAAQS decisions the QC concentration can be selected at a higher concentration within the prescribed range but should also consider precision points around mean or median concentrations.

(b) Point analyzers must operate in their normal sampling mode during the QC check and the test atmosphere must pass through all filters, scrubbers, conditioners and other components used during normal ambient sampling and as much of the ambient air inlet system as is practicable. The QC check must be conducted before any calibration or adjustment to the monitor.

(c) Open-path monitors are tested by inserting a test cell containing a QC check gas concentration into the optical measurement beam of the instrument. If possible, the normally used transmitter, receiver, and as appropriate, reflecting devices should be used during the test and the normal monitoring configuration of the instrument should be altered as little as possible to accommodate the test cell for the test. However, if permitted by the associated operation or instruction manual, an alternate local light source or an alternate optical path that does not include the normal atmospheric monitoring path may be used. The actual concentration of the QC check gas in the test cell must be selected to produce an effective concentration in the range specified earlier in this section. Generally, the QC test concentration measurement will be the sum of the atmospheric pollutant concentration and the QC test concentration. As such, the result must be corrected to remove the atmospheric concentration contribution. The corrected concentration is obtained by subtracting the average of the atmospheric concentrations measured by the open path instrument under test immediately before and immediately after the QC test from the QC check gas concentration measurement. If the difference between these before and after measurements is greater than 20 percent of the effective concentration of the test gas, discard the test result and repeat the test. If possible, open path monitors should be tested during periods when the atmospheric pollutant concentrations are relatively low and steady.

(d) Report the audit concentration of the QC gas and the corresponding measured concentration indicated by the monitor. The percent differences between these concentrations are used to assess the precision and bias of the monitoring data as described in sections 4.1.2 (precision) and 4.1.3 (bias) of this appendix.

3.1.2 *Quarterly performance evaluation for SO_2, NO_2, O_3, or CO.* Evaluate each primary monitor each monitoring quarter (or 90 day frequency) during which monitors are operated or a least once (if operated for less than one quarter). The quarterly performance evaluation (quarterly PE) must be performed by a qualified individual, group, or organization that is not part of the organization directly performing and accountable for the work being assessed. The person or entity performing the quarterly PE must not be involved with the generation of the routinely-collected ambient air monitoring data. A PSD monitoring organization can conduct the quarterly PE itself if it can meet this definition and has a management structure that, at a minimum, will allow for the separation of its routine sampling personnel from its auditing personnel by two levels of management. The quarterly PE also requires a set of equipment and standards independent from those used for routine calibrations or zero, span or precision checks.

3.1.2.1 The evaluation is made by challenging the monitor with audit gas standards of known concentration from at least three audit levels. One point must be within two to three times the method detection limit of the instruments within the PQAOs network, the second point will be less than or equal to the 99th percentile of the data at the site or the network of sites in the PQAO or the next highest audit concentration level. The third point can be around the primary NAAQS or the highest 3-year concentration at the site or the network of sites in the PQAO. An additional 4th level is encouraged for those PSD organizations that would like to confirm the monitor's linearity at the higher end of the operational range. In rare circumstances, there may be sites measuring concentrations above audit level 10. These sites should be identified to the PSD reviewing authority.

Audit level	Concentration range, ppm			
	O_3	SO_2	NO_2	CO
1	0.004–0.0059	0.0003–0.0029	0.0003–0.0029	0.020–0.059
2	0.006–0.019	0.0030–0.0049	0.0030–0.0049	0.060–0.199

Audit level	Concentration range, ppm			
	O_3	SO_2	NO_2	CO
3	0.020–0.039	0.0050–0.0079	0.0050–0.0079	0.200–0.899
4	0.040–0.069	0.0080–0.0199	0.0080–0.0199	0.900–2.999
5	0.070–0.089	0.0200–0.0499	0.0200–0.0499	3.000–7.999
6	0.090–0.119	0.0500–0.0999	0.0500–0.0999	8.000–15.999
7	0.120–0.139	0.1000–0.1499	0.1000–0.2999	16.000–30.999
8	0.140–0.169	0.1500–0.2599	0.3000–0.4999	31.000–39.999
9	0.170–0.189	0.2600–0.7999	0.5000–0.7999	40.000–49.999
10	0.190–0.259	0.8000–1.000	0.8000–1.000	50.000–60.000

3.1.2.2 The NO_2 audit techniques may vary depending on the ambient monitoring method. For chemiluminescence-type NO_2 analyzers, gas phase titration (GPT) techniques should be based on the EPA guidance documents and monitoring agency experience. The NO_2 gas standards may be more appropriate than GPT for direct NO_2 methods that do not employ converters. Care should be taken to ensure the stability of such gas standards prior to use.

3.1.2.3 The standards from which audit gas test concentrations are obtained must meet the specifications of section 2.6.1 of this appendix.

3.1.2.4 For point analyzers, the evaluation shall be carried out by allowing the monitor to analyze the audit gas test atmosphere in its normal sampling mode such that the test atmosphere passes through all filters, scrubbers, conditioners, and other sample inlet components used during normal ambient sampling and as much of the ambient air inlet system as is practicable.

3.1.2.5 Open-path monitors are evaluated by inserting a test cell containing the various audit gas concentrations into the optical measurement beam of the instrument. If possible, the normally used transmitter, receiver, and, as appropriate, reflecting devices should be used during the evaluation, and the normal monitoring configuration of the instrument should be modified as little as possible to accommodate the test cell for the evaluation. However, if permitted by the associated operation or instruction manual, an alternate local light source or an alternate optical path that does not include the normal atmospheric monitoring path may be used. The actual concentrations of the audit gas in the test cell must be selected to produce effective concentrations in the evaluation level ranges specified in this section of this appendix. Generally, each evaluation concentration measurement result will be the sum of the atmospheric pollutant concentration and the evaluation test concentration. As such, the result must be corrected to remove the atmospheric concentration contribution. The corrected concentration is obtained by subtracting the average of the atmospheric concentrations measured by the open-path instrument under test immediately before and immediately after the evaluation test (or preferably before and after each evaluation concentration level) from the evaluation concentration measurement. If the difference between the before and after measurements is greater than 20 percent of the effective concentration of the test gas standard, discard the test result for that concentration level and repeat the test for that level. If possible, open-path monitors should be evaluated during periods when the atmospheric pollutant concentrations are relatively low and steady. Also, if the open-path instrument is not installed in a permanent manner, the monitoring path length must be reverified to be within ±3 percent to validate the evaluation, since the monitoring path length is critical to the determination of the effective concentration.

3.1.2.6 Report both the evaluation concentrations (effective concentrations for open-path monitors) of the audit gases and the corresponding measured concentration (corrected concentrations, if applicable, for open-path monitors) indicated or produced by the monitor being tested. The percent differences between these concentrations are used to assess the quality of the monitoring data as described in section 4.1.1 of this appendix.

3.1.3 *National Performance Audit Program (NPAP).* As stated in sections 1.1 and 2.4, PSD monitoring networks may be subject to the NPEP, which includes the NPAP. The NPAP is a performance evaluation which is a type of audit where quantitative data are collected independently in order to evaluate the proficiency of an analyst, monitoring instrument and laboratory. Due to the implementation approach used in this program, NPAP provides for a national independent assessment of performance with a consistent level of data quality. The NPAP should not be confused with the quarterly PE program described in section 3.1.2. The PSD organizations shall consult with the PSD reviewing authority or the EPA regarding whether the implementation of NPAP is required and the implementation options available. Details of the EPA NPAP can be found in reference 11 of this appendix. The program requirements include:

3.1.3.1 Performing audits on 100 percent of monitors and sites each year including monitors and sites that may be operated for less than 1 year. The PSD reviewing authority has the authority to require more frequent audits at sites they consider to be high priority.

3.1.3.2 Developing a delivery system that will allow for the audit concentration gasses to be introduced at the probe inlet where logistically feasible.

3.1.3.3 Using audit gases that are verified against the National Institute for Standards and Technology (NIST) standard reference methods or special review procedures and validated annually for CO, SO_2 and NO_2, and at the beginning of each quarter of audits for O_3.

3.1.3.4 The PSD PQAO may elect to self-implement NPAP. In these cases, the PSD reviewing authority will work with those PSD PQAOs to establish training and other technical requirements to establish comparability to federally implemented programs. In addition to meeting the requirements in sections 3.1.1.3 through 3.1.3.3, the PSD PQAO must:

(a) Ensure that the PSD audit system is equivalent to the EPA NPAP audit system and is an entirely separate set of equipment and standards from the equipment used for quarterly performance evaluations. If this system does not generate and analyze the audit concentrations, as the EPA NPAP system does, its equivalence to the EPA NPAP system must be proven to be as accurate under a full range of appropriate and varying conditions as described in section 3.1.3.6.

(b) Perform a whole system check by having the PSD audit system tested at an independent and qualified EPA lab, or equivalent.

(c) Evaluate the system with the EPA NPAP program through collocated auditing at an acceptable number of sites each year (at least one for a PSD network of five or less sites; at least two for a network with more than five sites).

(d) Incorporate the NPAP into the PSD PQAO's QAPP.

(e) Be subject to review by independent, EPA-trained personnel.

(f) Participate in initial and update training/certification sessions.

3.2 *$PM_{2.5}$.*

3.2.1 *Flow Rate Verification for $PM_{2.5}$.* A one-point flow rate verification check must be performed at least once every month (each verification minimally separated by 14 days) on each monitor used to measure $PM_{2.5}$. The verification is made by checking the operational flow rate of the monitor. If the verification is made in conjunction with a flow rate adjustment, it must be made prior to such flow rate adjustment. For the standard procedure, use a flow rate transfer standard certified in accordance with section 2.6 of this appendix to check the monitor's normal flow rate. Care should be used in selecting and using the flow rate measurement device such that it does not alter the normal operating flow rate of the monitor. Flow rate verification results are to be reported to the PSD reviewing authority quarterly as described in section 5.1. Reporting these results to AQS is encouraged. The percent differences between the audit

and measured flow rates are used to assess the bias of the monitoring data as described in section 4.2.2 of this appendix (using flow rates in lieu of concentrations).

3.2.2 *Semi-Annual Flow Rate Audit for $PM_{2.5}$.* Every 6 months, audit the flow rate of the $PM_{2.5}$ particulate monitors. For short-term monitoring operations (those less than 1 year), the flow rate audits must occur at start up, at the midpoint, and near the completion of the monitoring project. The audit must be conducted by a trained technician other than the routine site operator. The audit is made by measuring the monitor's normal operating flow rate using a flow rate transfer standard certified in accordance with section 2.6 of this appendix. The flow rate standard used for auditing must not be the same flow rate standard used for verifications or to calibrate the monitor. However, both the calibration standard and the audit standard may be referenced to the same primary flow rate or volume standard. Care must be taken in auditing the flow rate to be certain that the flow measurement device does not alter the normal operating flow rate of the monitor. Report the audit flow rate of the transfer standard and the corresponding flow rate measured by the monitor. The percent differences between these flow rates are used to evaluate monitor performance.

3.2.3 *Collocated Sampling Procedures for $PM_{2.5}$.* A PSD PQAO must have at least one collocated monitor for each PSD monitoring network.

3.2.3.1 For each pair of collocated monitors, designate one sampler as the primary monitor whose concentrations will be used to report air quality for the site, and designate the other as the QC monitor. There can be only one primary monitor at a monitoring site for a given time period.

(a) If the primary monitor is a FRM, then the quality control monitor must be a FRM of the same method designation.

(b) If the primary monitor is a FEM, then the quality control monitor must be a FRM unless the PSD PQAO submits a waiver for this requirement, provides a specific reason why a FRM cannot be implemented, and the waiver is approved by the PSD reviewing authority. If the waiver is approved, then the quality control monitor must be the same method designation as the primary FEM monitor.

3.2.3.2 In addition, the collocated monitors should be deployed according to the following protocol:

(a) The collocated quality control monitor(s) should be deployed at sites with the highest predicted daily $PM_{2.5}$ concentrations in the network. If the highest $PM_{2.5}$ concentration site is impractical for collocation purposes, alternative sites approved by the PSD reviewing authority may be selected. If additional collocated sites are necessary, the PSD PQAO and the PSD reviewing authority should determine the appropriate location(s) based on data needs.

(b) The two collocated monitors must be within 4 meters of each other and at least 2 meters apart for flow rates greater than 200 liters/min or at least 1 meter apart for samplers having flow rates less than 200 liters/min to preclude airflow interference. A waiver allowing up to 10 meters horizontal distance and up to 3 meters vertical distance (inlet to inlet) between a primary and collocated quality control monitor may be approved by the PSD reviewing authority for sites at a neighborhood or larger scale of representation. This waiver may be approved during the QAPP review and approval process. Sampling and analytical methodologies must be the consistently implemented for both collocated samplers and for all other samplers in the network.

(c) Sample the collocated quality control monitor on a 6-day schedule for sites not requiring daily monitoring and on a 3-day schedule for any site requiring daily monitoring. Report the measurements from both primary and collocated quality control monitors at each collocated sampling site. The calculations for evaluating precision between the two collocated monitors are described in section 4.2.1 of this appendix.

3.2.4 *$PM_{2.5}$ Performance Evaluation Program (PEP) Procedures.* As stated in sections 1.1 and 2.4 of this appendix, PSD monitoring networks may be subject to the NPEP, which includes the $PM_{2.5}$ PEP. The PSD monitoring organizations shall consult with the PSD reviewing authority or the EPA regarding whether the implementation of $PM_{2.5}$ PEP is required and the implementation options available for the $PM_{2.5}$ PEP. For PSD PQAOs with less than or equal to five monitoring sites, five valid performance evaluation audits must be collected and reported each year. For PSD PQAOs with greater than five monitoring sites, eight valid performance evaluation audits must be collected and reported each year. Additionally, within the five or eight required audits, each type of method designation (FRM/FEM designation) used as a primary monitor in the PSD network shall be audited. For a PE to be valid, both the primary monitor and PEP audit measurements must meet quality control requirements and be above 3 $\mu g/m^3$ or a predefined lower concentration level determined by a systematic planning process and approved by the PSD reviewing authority. Due to the relatively short-term nature of most PSD monitoring, the likelihood of measuring low concentrations in many areas attaining the $PM_{2.5}$ standard and the time required to weigh filters collected in PEs, a PSD monitoring organization's QAPP may contain a provision to waive the 3 $\mu g/m^3$ threshold for validity of PEs conducted in the last quarter of monitoring, subject to approval by the PSD reviewing authority.

3.3 *PM_{10}.*

3.3.1 *Flow Rate Verification for PM_{10}.* A one-point flow rate verification check must be performed at least once every month (each verification minimally separated by 14 days) on each monitor used to measure PM_{10}. The verification is made by checking the operational flow rate of the monitor. If the verification is made in conjunction with a flow rate adjustment, it must be made prior to such flow rate adjustment. For the standard procedure, use a flow rate transfer standard certified in accordance with section 2.6 of this appendix to check the monitor's normal flow rate. Care should be taken in selecting and using the flow rate measurement device such that it does not alter the normal operating flow rate of the monitor. The percent differences between the audit and measured flow rates are used to assess the bias of the monitoring data as described in section 4.2.2 of this appendix (using flow rates in lieu of concentrations).

3.3.2 *Semi-Annual Flow Rate Audit for PM_{10}.* Every 6 months, audit the flow rate of the PM_{10} particulate monitors. For short-term monitoring operations (those less than 1 year), the flow rate audits must occur at start up, at the midpoint, and near the completion of the monitoring project. Where possible, the EPA strongly encourages more frequent auditing. The audit must be conducted by a trained technician other than the routine site operator. The audit is made by measuring the monitor's normal operating flow rate using a flow rate transfer standard certified in accordance with section 2.6 of this appendix. The flow rate standard used for auditing must not be the same flow rate standard used for verifications or to calibrate the monitor. However, both the calibration standard and the audit standard may be referenced to the same primary flow rate or volume standard. Care must be taken in auditing the flow rate to be certain that the flow measurement device does not alter the normal operating flow rate of the monitor. Report the audit flow rate of the transfer standard and the corresponding flow rate measured by the monitor. The percent differences between these flow rates are used to evaluate monitor performance

3.3.3 *Collocated Sampling Procedures for Manual PM_{10}.* A PSD PQAO must have at least one collocated monitor for each PSD monitoring network.

3.3.3.1 For each pair of collocated monitors, designate one sampler as the primary monitor whose concentrations will be used to report air quality for the site, and designate the other as the quality control monitor.

3.3.3.2 In addition, the collocated monitors should be deployed according to the following protocol:

(a) The collocated quality control monitor(s) should be deployed at sites with the highest predicted daily PM_{10} concentrations in the network. If the highest PM_{10} concentration site is impractical for collocation purposes, alternative sites approved by the PSD reviewing authority may be selected.

(b) The two collocated monitors must be within 4 meters of each other and at least 2 meters apart for flow rates greater than 200 liters/min or at least 1 meter apart for samplers having flow rates less than 200 liters/min to preclude airflow interference. A waiver allowing up to 10 meters horizontal distance and up to 3 meters vertical distance (inlet to inlet) between a primary and collocated sampler may be approved by the PSD reviewing authority for sites at a neighborhood or larger scale of representation. This waiver may be approved during the QAPP review and approval process. Sampling and analytical methodologies must be the consistently implemented for both collocated samplers and for all other samplers in the network.

(c) Sample the collocated quality control monitor on a 6-day schedule or 3-day schedule for any site requiring daily monitoring. Report the measurements from both primary and collocated quality control monitors at each collocated sampling site. The calculations for evaluating precision between the two collocated monitors are described in section 4.2.1 of this appendix.

(d) In determining the number of collocated sites required for PM_{10}, PSD monitoring networks for Pb-PM_{10} should be treated independently from networks for particulate matter (PM), even though the separate networks may share one or more common samplers. However, a single quality control monitor that meets the collocation requirements for Pb-PM_{10} and PM_{10} may serve as a collocated quality control monitor for both networks. Extreme care must be taken if using the filter from a quality control monitor for both PM_{10} and Pb analysis. PM_{10} filter weighing should occur prior to any Pb analysis.

3.4 *Pb.*

3.4.1 *Flow Rate Verification for Pb.* A one-point flow rate verification check must be performed at least once every month (each verification minimally separated by 14 days) on each monitor used to measure Pb. The verification is made by checking the operational flow rate of the monitor. If the verification is made in conjunction with a flow rate adjustment, it must be made prior to such flow rate adjustment. Use a flow rate transfer standard certified in accordance with section 2.6 of this appendix to check the monitor's normal flow rate. Care should be taken in selecting and using the flow rate measurement device such that it does not alter the normal operating flow rate of the monitor. The percent differences between the audit and measured flow rates are used to assess the bias of the monitoring data as described in section 4.2.2 of this appendix (using flow rates in lieu of concentrations).

3.4.2 *Semi-Annual Flow Rate Audit for Pb.* Every 6 months, audit the flow rate of the Pb particulate monitors. For short-term monitoring operations (those less than 1 year), the flow rate audits must occur at start up, at the midpoint, and near the completion of the monitoring project. Where possible, the EPA strongly encourages more frequent auditing. The audit must be conducted by a trained technician other than the routine site operator. The audit is made by measuring the monitor's normal operating flow rate using a flow rate transfer standard certified in accordance with section 2.6 of this appendix. The flow rate standard used for auditing must not be the same flow rate standard used to in verifications or to calibrate the monitor. However, both the calibration standard and the audit standard may be referenced to the same primary flow rate or volume standard. Great care must be taken in auditing the flow rate to be certain that the flow measurement device does not alter the normal operating flow rate of the monitor. Report the audit flow rate of the transfer standard and the corresponding flow rate measured by the monitor. The percent differences between these flow rates are used to evaluate monitor performance.

3.4.3 *Collocated Sampling for Pb.* A PSD PQAO must have at least one collocated monitor for each PSD monitoring network.

3.4.3.1 For each pair of collocated monitors, designate one sampler as the primary monitor whose concentrations will be used to report air quality for the site, and designate the other as the quality control monitor.

3.4.3.2 In addition, the collocated monitors should be deployed according to the following protocol:

(a) The collocated quality control monitor(s) should be deployed at sites with the highest predicted daily Pb concentrations in the network. If the highest Pb concentration site is impractical for collocation purposes, alternative sites approved by the PSD reviewing authority may be selected.

(b) The two collocated monitors must be within 4 meters of each other and at least 2 meters apart for flow rates greater than 200 liters/min or at least 1 meter apart for samplers having flow rates less than 200 liters/min to preclude airflow interference. A waiver allowing up to 10 meters horizontal distance and up to 3 meters vertical distance (inlet to inlet) between a primary and collocated sampler may be approved by the PSD reviewing authority for sites at a neighborhood or larger scale of representation. This waiver may be approved during the QAPP review and approval process. Sampling and analytical methodologies must be the consistently implemented for both collocated samplers and all other samplers in the network.

(c) Sample the collocated quality control monitor on a 6-day schedule if daily monitoring is not required or 3-day schedule for any site requiring daily monitoring. Report the measurements from both primary and collocated quality control monitors at each collocated sampling site. The calculations for evaluating precision between the two collocated monitors are described in section 4.2.1 of this appendix.

(d) In determining the number of collocated sites required for Pb-PM_{10}, PSD monitoring networks for PM_{10} should be treated independently from networks for Pb-PM_{10}, even though the separate networks may share one or more common samplers. However, a single quality control monitor that meets the collocation requirements for Pb-PM_{10} and PM_{10} may serve as a collocated quality control monitor for both networks. Extreme care must be taken if using a using the filter from a quality control monitor for both PM_{10} and Pb analysis. The PM_{10} filter weighing should occur prior to any Pb analysis.

3.4.4 *Pb Analysis Audits.* Each calendar quarter, audit the Pb reference or equivalent method analytical procedure using filters containing a known quantity of Pb. These audit filters are prepared by depositing a Pb standard on unexposed filters and allowing them to dry thoroughly. The audit samples must be prepared using batches of reagents different from those used to calibrate the Pb analytical equipment being audited. Prepare audit samples in the following concentration ranges:

Range	Equivalent ambient Pb concentration, µg/m³
1	30–100% of Pb NAAQS.
2	200–300% of Pb NAAQS.

(a) Audit samples must be extracted using the same extraction procedure used for exposed filters.

(b) Analyze three audit samples in each of the two ranges each quarter samples are analyzed. The audit sample analyses shall be distributed as much as possible over the entire calendar quarter.

(c) Report the audit concentrations (in µg Pb/filter or strip) and the corresponding measured concentrations (in µg Pb/filter or strip) using AQS unit code 077 (if reporting to AQS). The percent differences between the concentrations are used to calculate analytical accuracy as described in section 4.2.5 of this appendix.

3.4.5 *Pb Performance Evaluation Program (PEP) Procedures.* As stated in sections 1.1 and 2.4, PSD monitoring networks may be subject to the NPEP, which includes the Pb PEP. The PSD monitoring organizations shall consult with the PSD reviewing authority or the EPA regarding whether the implementation of Pb-PEP is required and the implementation options available for the Pb-PEP. The PEP is an independent assessment used to estimate total measurement system bias. Each year, one PE audit must be performed at one Pb site in each PSD PQAO network that has less than or equal to five sites and two audits for PSD PQAO networks with greater than five sites. In addition, each year, four collocated samples from PSD PQAO networks with less than or equal to five sites and six collocated samples from PSD PQAO networks with greater than five sites must be sent to an independent laboratory for analysis. The calculations for evaluating bias between the primary monitor and the PE monitor for Pb are described in section 4.2.4 of this appendix.

4. Calculations for Data Quality Assessments

(a) Calculations of measurement uncertainty are carried out by PSD PQAO according to the following procedures. The PSD PQAOs should report the data for all appropriate measurement quality checks as specified in this appendix even though they may elect to perform some or all of the calculations in this section on their own.

(b) At low concentrations, agreement between the measurements of collocated samplers, expressed as relative percent difference or percent difference, may be relatively poor. For this reason, collocated measurement pairs will be selected for use in the precision and bias calculations only when both measurements are equal to or above the following limits:

(1) Pb: 0.002 µg/m³ (Methods approved after 3/04/2010, with exception of manual equivalent method EQLA–0813–803).

(2) Pb: 0.02 µg/m³ (Methods approved before 3/04/2010, and manual equivalent method EQLA–0813–803).

(3) PM_{10} (Hi-Vol): 15 µg/m³.

(4) PM_{10} (Lo-Vol): 3 µg/m³.

(5) $PM_{2.5}$: 3 µg/m³.

(c) The $PM_{2.5}$ 3 μg/m³ limit for the $PM_{2.5}$ − PEP may be superseded by mutual agreement between the PSD PQAO and the PSD reviewing authority as specified in section 3.2.4 of the appendix and detailed in the approved QAPP.

4.1 *Statistics for the Assessment of QC Checks for SO_2, NO_2, O_3 and CO.*

4.1.1 *Percent Difference.* Many of the measurement quality checks start with a comparison of an audit concentration or value (flow-rate) to the concentration/value measured by the monitor and use percent difference as the comparison statistic as described in equation 1 of this section. For each single point check, calculate the percent difference, d_i, as follows:

Equation 1

$$d_i = \frac{meas - audit}{audit} \cdot 100$$

where *meas* is the concentration indicated by the PQAO's instrument and *audit* is the audit concentration of the standard used in the QC check being measured.

4.1.2 *Precision Estimate.* The precision estimate is used to assess the one-point QC checks for SO_2, NO_2, O_3, or CO described in section 3.1.1 of this appendix. The precision estimator is the coefficient of variation upper bound and is calculated using equation 2 of this section:

Equation 2

$$CV = \sqrt{\frac{n \cdot \sum_{i=1}^{n} d_i^2 - \left(\sum_{i=1}^{n} d_i\right)^2}{n(n-1)}} \cdot \sqrt{\frac{n-1}{\chi^2_{0.1,n-1}}}$$

where n is the number of single point checks being aggregated; $X^2_{0.1,n-1}$ is the 10th percentile of a chi-squared distribution with n−1 degrees of freedom.

4.1.3 *Bias Estimate.* The bias estimate is calculated using the one-point QC checks for SO_2, NO_2, O_3, or CO described in section 3.1.1 of this appendix. The bias estimator is an upper bound on the mean absolute value of the percent differences as described in equation 3 of this section:

Equation 3

$$|bias| = AB + t_{0.95,n-1} \cdot \frac{AS}{\sqrt{n}}$$

where n is the number of single point checks being aggregated; $t_{0.95,n-1}$ is the 95th quantile of a t-distribution with n−1 degrees of freedom; the quantity *AB* is the mean of the absolute values of the d_i's and is calculated using equation 4 of this section:

Equation 4

$$AB = \frac{1}{n} \cdot \sum_{i=1}^{n} |d_i|$$

and the quantity *AS* is the standard deviation of the absolute value of the d_i's and is calculated using equation 5 of this section:

Equation 5

$$AS = \sqrt{\frac{n \cdot \sum_{i=1}^{n} |d_i|^2 - \left(\sum_{i=1}^{n} |d_i|\right)^2}{n(n-1)}}$$

4.1.3.1 *Assigning a sign (positive/negative) to the bias estimate.* Since the bias statistic as calculated in equation 3 of this appendix uses absolute values, it does not have a tendency (negative or positive bias) associated with it. A sign will be designated by rank ordering the percent differences of the QC check samples from a given site for a particular assessment interval.

4.1.3.2 Calculate the 25th and 75th percentiles of the percent differences for each site. The absolute bias upper bound should be flagged as positive if both percentiles are positive and negative if both percentiles are negative. The absolute bias upper bound would not be flagged if the 25th and 75th percentiles are of different signs.

4.2 *Statistics for the Assessment of PM_{10}, $PM_{2.5}$, and Pb.*

4.2.1 *Collocated Quality Control Sampler Precision Estimate for PM_{10}, $PM_{2.5}$ and Pb.* Precision is estimated via duplicate measurements from collocated samplers. It is recommended that the precision be aggregated at the PQAO level quarterly, annually, and at the 3-year level. The data pair would only be considered valid if both concentrations are greater than or equal to the minimum values specified in section 4(c) of this appendix. For each collocated data pair, calculate the relative percent difference, d_i, using equation 6 of this appendix:

Equation 6

$$d_i = \frac{X_i - Y_i}{(X_i + Y_i)/2} \cdot 100$$

where X_i is the concentration from the primary sampler and Y_i is the concentration value from the audit sampler. The coefficient of variation upper bound is calculated using equation 7 of this appendix:

Equation 7

$$CV = \sqrt{\frac{n \cdot \sum_{i=1}^{n} d_i^2 - \left(\sum_{i=1}^{n} d_i\right)^2}{2n(n-1)}} \cdot \sqrt{\frac{n-1}{X^2_{0.1,n-1}}}$$

where n is the number of valid data pairs being aggregated, and $X^2_{0.1,n-1}$ is the 10th percentile of a chi-squared distribution with n–1 degrees of freedom. The factor of 2 in the denominator adjusts for the fact that each d_i is calculated from two values with error.

4.2.2 *One-Point Flow Rate Verification Bias Estimate for PM_{10}, $PM_{2.5}$ and Pb.* For each one-point flow rate verification, calculate the percent difference in volume using equation 1 of this appendix where *meas* is the value indicated by the sampler's volume measurement and *audit* is the actual volume indicated by the auditing flow meter. The absolute volume bias upper bound is then calculated using equation 3, where n is the number of flow rate audits being aggregated; $t_{0.95,n-1}$ is the 95th quantile of a t-distribution with n–1 degrees of freedom, the quantity *AB* is the mean of the absolute values of the d_i's and is calculated using equation 4 of this appendix, and the quantity *AS* in equation 3 of this appendix is the standard deviation of the absolute values if the d_i's and is calculated using equation 5 of this appendix.

4.2.3 *Semi-Annual Flow Rate Audit Bias Estimate for PM_{10}, $PM_{2.5}$ and Pb.* Use the same procedure described in section 4.2.2 for the evaluation of flow rate audits.

4.2.4 *Performance Evaluation Programs Bias Estimate for Pb.* The Pb bias estimate is calculated using the paired routine and the PEP monitor as described in section 3.4.5. Use the same procedures as described in section 4.1.3 of this appendix.

4.2.5 *Performance Evaluation Programs Bias Estimate for $PM_{2.5}$.* The bias estimate is calculated using the PEP audits described in section 4.1.3 of this appendix. The bias estimator is based on the mean percent differences (Equation 1). The mean percent difference, *D*, is calculated by Equation 8 below.

Equation 8

$$D = \frac{1}{n_j} \cdot \sum_{i=1}^{n_j} d_i$$

where n_j is the number of pairs and $d_1, d_2, \ldots d_{nj}$ are the biases for each pair to be averaged.

4.2.6 *Pb Analysis Audit Bias Estimate.* The bias estimate is calculated using the analysis audit data described in section 3.4.4. Use the same bias estimate procedure as described in section 4.1.3 of this appendix.

5. Reporting Requirements

5.1. *Quarterly Reports.* For each quarter, each PSD PQAO shall report to the PSD reviewing authority (and AQS if required by the PSD reviewing authority) the results of all valid measurement quality checks it has carried out during the quarter. The quarterly reports must be submitted consistent with the data reporting requirements specified for air quality data as set forth in 40 CFR 58.16 and pertain to PSD monitoring.

6. References

(1) American National Standard—Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs. ANSI/ASQC E4–2014. February 2014. Available from American Society for Quality Control, 611 East Wisconsin Avenue, Milwaukee, WI 53202.

(2) EPA Requirements for Quality Management Plans. EPA QA/R–2. EPA/240/B–01/002. March 2001, Reissue May 2006. Office of Environmental Information, Washington, DC 20460. *http://www.epa.gov/quality/agency-wide-quality-system-documents.*

(3) EPA Requirements for Quality Assurance Project Plans for Environmental Data Operations. EPA QA/R–5. EPA/240/B–01/003. March 2001, Reissue May 2006. Office of Environmental Information, Washington, DC 20460. *http://www.epa.gov/quality/agency-wide-quality-system-documents.*

(4) EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards. EPA–600/R–12/531. May, 2012. Available from U.S. Environmental Protection Agency, National Risk Management Research Laboratory, Research Triangle Park, NC 27711. *http://cfpub.epa.gov/si/si_public_record_report.cfm?dirEntryId=245292.*

(5) Guidance for the Data Quality Objectives Process. EPA QA/G–4. EPA/240/B–06/001. February, 2006. Office of Environmental Information, Washington, DC 20460. *http://www.epa.gov/quality/agency-wide-quality-system-documents.*

(6) List of Designated Reference and Equivalent Methods. Available from U.S. Environmental Protection Agency, National Exposure Research Laboratory, Human Exposure and Atmospheric Sciences Division, MD–D205–03, Research Triangle

Park, NC 27711. *http://www3.epa.gov/ttn/amtic/criteria.html.*

(7) Transfer Standards for the Calibration of Ambient Air Monitoring Analyzers for Ozone. EPA–454/B–13–004 U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, October, 2013. *http://www3.epa.gov/ttn/amtic/qapollutant.html.*

(8) Paur, R.J. and F.F. McElroy. Technical Assistance Document for the Calibration of Ambient Ozone Monitors. EPA–600/4–79–057. U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, September, 1979. *http://www.epa.gov/ttn/amtic/cpreldoc.html.*

(9) Quality Assurance Handbook for Air Pollution Measurement Systems, Volume 1—A Field Guide to Environmental Quality Assurance. EPA–600/R–94/038a. April 1994. Available from U.S. Environmental Protection Agency, ORD Publications Office, Center for Environmental Research Information (CERI), 26 W. Martin Luther King Drive, Cincinnati, OH 45268. *http://www3.epa.gov/ttn/amtic/qalist.html.*

(10) Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II: Ambient Air Quality Monitoring Program Quality System Development. EPA–454/B–13–003. *http://www3.epa.gov/ttn/amtic/qalist.html.*

(11) National Performance Evaluation Program Standard Operating Procedures. *http://www3.epa.gov/ttn/amtic/npapsop.html.*

TABLE B–1—MINIMUM DATA ASSESSMENT REQUIREMENTS FOR NAAQS RELATED CRITERIA POLLUTANT PSD MONITORS

Method	Assessment method	Coverage	Minimum frequency	Parameters reported	AQS Assessment type
Gaseous Methods (CO, NO_2, SO_2, O_3)					
One-Point QC for SO_2, NO_2, O_3, CO.	Response check at concentration 0.005–0.08 ppm SO_2, NO_2, O_3, & 0.5 and 5 ppm CO.	Each analyzer	Once per 2 weeks	Audit concentration [1] and measured concentration [2].	One-Point QC.
Quarterly performance evaluation for SO_2, NO_2, O_3, CO.	See section 3.1.2 of this appendix.	Each analyzer	Once per quarter	Audit concentration [1] and measured concentration [2] for each level.	Annual PE.
NPAP for SO_2, NO_2, O_3, CO [3].	Independent Audit	Each primary monitor	Once per year	Audit concentration [1] and measured concentration [2] for each level.	NPAP.
Particulate Methods					
Collocated sampling PM_{10}, $PM_{2.5}$, Pb.	Collocated samplers	1 per PSD Network per pollutant.	Every 6 days or every 3 days if daily monitoring required.	Primary sampler concentration and duplicate sampler concentration [4].	No Transaction reported as raw data.
Flow rate verification PM_{10}, $PM_{2.5}$, Pb.	Check of sampler flow rate	Each sampler	Once every month	Audit flow rate and measured flow rate indicated by the sampler.	Flow Rate Verification.
Semi-annual flow rate audit PM_{10}, $PM_{2.5}$, Pb.	Check of sampler flow rate using independent standard.	Each sampler	Once every 6 months or beginning, middle and end of monitoring.	Audit flow rate and measured flow rate indicated by the sampler.	Semi Annual Flow Rate Audit.
Pb analysis audits Pb-TSP, Pb-PM_{10}.	Check of analytical system with Pb audit strips/filters.	Analytical	Each quarter	Measured value and audit value (ug Pb/filter) using AQS unit code 077 for parameters: 14129—Pb (TSP) LC FRM/FEM 85129—Pb (TSP) LC Non-FRM/FEM.	Pb Analysis Audits.
Performance Evaluation Program $PM_{2.5}$ [3].	Collocated samplers	(1) 5 valid audits for PQAOs with <= 5 sites.. (2) 8 valid audits for PQAOs with > 5 sites. (3) All samplers in 6 years	Over all 4 quarters	Primary sampler concentration and performance evaluation sampler concentration.	PEP.
Performance Evaluation Program Pb [3].	Collocated samplers	(1) 1 valid audit and 4 collocated samples for PQAOs, with <=5 sites. (2) 2 valid audits and 6 collocated samples for PQAOs with >5 sites.	Over all 4 quarters	Primary sampler concentration and performance evaluation sampler concentration. Primary sampler concentration and duplicate sampler concentration.	PEP.

[1] Effective concentration for open path analyzers.
[2] Corrected concentration, if applicable for open path analyzers.
[3] NPAP, $PM_{2.5}$ PEP and Pb-PEP must be implemented if data is used for NAAQS decisions otherwise implementation is at PSD reviewing authority discretion.
[4] Both primary and collocated sampler values are reported as raw data.

■ 11. In Appendix D to part 58, revise paragraph 3(b), remove and reserve paragraph 4.5(b), and revise paragraph 4.5(c) to read as follows:

Appendix D to Part 58—Network Design Criteria for Ambient Air Quality Monitoring

* * * * *

3. * * *

(b) The NCore sites must measure, at a minimum, $PM_{2.5}$ particle mass using continuous and integrated/filter-based samplers, speciated $PM_{2.5}$, $PM_{10-2.5}$ particle mass, O_3, SO_2, CO, NO/NO_Y, wind speed, wind direction, relative humidity, and ambient temperature.

(1) Although the measurement of NO_y is required in support of a number of monitoring objectives, available commercial instruments may indicate little difference in their measurement of NO_y compared to the conventional measurement of NO_X, particularly in areas with relatively fresh sources of nitrogen emissions. Therefore, in areas with negligible expected difference between NO_y and NO_X measured concentrations, the Administrator may allow for waivers that permit NO_X monitoring to be substituted for the required NO_y monitoring at applicable NCore sites.

(2) The EPA recognizes that, in some cases, the physical location of the NCore site may not be suitable for representative meteorological measurements due to the site's physical surroundings. It is also possible that nearby meteorological measurements may be able to fulfill this data need. In these cases, the requirement for

meteorological monitoring can be waived by the Administrator.

* * * * *

4.5 * * *

(b) [Reserved]

(c) The EPA Regional Administrator may require additional monitoring beyond the minimum monitoring requirements contained in paragraph 4.5(a) of this appendix where the likelihood of Pb air quality violations is significant or where the emissions density, topography, or population locations are complex and varied. The EPA Regional Administrators may require additional monitoring at locations including, but not limited to, those near existing additional industrial sources of Pb, recently closed industrial sources of Pb, airports where piston-engine aircraft emit Pb, and other sources of re-entrained Pb dust.

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Migratory Bird Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2015–0034; FF09M21200–167–FXMB1231099BPP0]

RIN 1018–BA70

Migratory Bird Hunting; Final Frameworks for Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service or we) prescribes final frameworks from which States may select season dates, limits, and other options for the 2016–17 migratory bird hunting seasons. The effect of this final rule is to facilitate the States' selection of hunting seasons and to further the annual establishment of the migratory bird hunting regulations. We annually prescribe frameworks, or outer limits, for dates and times when hunting may occur and the number of birds that may be taken and possessed in hunting seasons. These frameworks are necessary to allow State selections of seasons and limits and to allow recreational harvest at levels compatible with population and habitat conditions.

DATES: This rule takes effect on March 28, 2016.

ADDRESSES: States should send their season selections to: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803. You may inspect comments received on the migratory bird hunting regulations during normal business hours at the Service's office at 5275 Leesburg Pike, Falls Church, VA 22041–3803. You may obtain copies of referenced reports from the street address above, or from the Division of Migratory Bird Management's Web site at *http://www.fws.gov/migratorybirds/,* or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2015–0034.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803; (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2016

On August 6, 2015, we published in the **Federal Register** (80 FR 47388) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2016–17 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in the August 6, 2015, proposed rule. Further, we explained that all sections of subsequent documents outlining hunting frameworks and guidelines were organized under numbered headings. Therefore, it is important to note that we omit those items requiring no attention, and remaining numbered items appear discontinuous and incomplete.

On October 20–21, 2015, we held open meetings with the Flyway Council Consultants, at which the participants reviewed information on the current status of migratory game birds and developed recommendations for the 2016–17 regulations for these species.

On December 11, 2015, we published in the **Federal Register** (80 FR 77088) the proposed frameworks for the 2016–17 season migratory bird hunting regulations. This document establishes final frameworks for migratory bird hunting regulations for the 2016–17 season. There are no substantive changes from the December 11 proposed rule. We will publish State selections in the **Federal Register** as amendments to §§ 20.101 through 20.107, and 20.109 of title 50 CFR part 20.

Status and Harvest

In the December 11 proposed rule we provided preliminary information on the status and harvest of migratory game birds excerpted from various reports. For more detailed information on methodologies and results, you may obtain complete copies of the various reports at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our Web site at *http://www.fws.gov/migratorybirds/NewsPublicationsReports.html.*

Review of Public Comments and Flyway Council Recommendations

The preliminary proposed rulemaking, which appeared in the August 6, 2015, **Federal Register**, opened the public comment period for migratory game bird hunting regulations. The December 11, 2015, **Federal Register** publication discussed and proposed the frameworks for the 2016–17 season migratory bird hunting regulations. Comments are summarized below and numbered in the order used in the August 6 **Federal Register**. We have included only the numbered items pertaining to issues for which we received written comments. Consequently, the issues do not follow in successive numerical order.

We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below. Wherever possible, they are discussed under headings corresponding to the numbered items in the August 6, 2015, **Federal Register** document.

General

Written Comments: A commenter protested the entire migratory bird hunting regulations process, the killing of all migratory birds, and status and habitat data on which the migratory bird hunting regulations are based. The commenter further stated that the general public was excluded from the process and that regulation-setting meetings are not announced and closed to the general public.

Service Response: Our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we believe that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. Additionally, we are obligated to, and do, give serious consideration to all information received as public comment. While there are problems inherent with any type of representative management of public-trust resources, we believe that the Flyway Council system of migratory game bird management has been a longstanding example of State-Federal cooperative management since its establishment in 1952. However, as always, we continue to seek new ways to streamline and improve the process.

Regarding the claims about excluding the general public from the regulations-setting process and holding closed meetings, we note that on May 27, 2015, we published in the **Federal Register** (80 FR 30205) a document concerning

the first Service Regulations Committee (SRC) meeting to discuss preliminary issues on the 2016–17 migratory bird hunting regulations. On August 6, 2015, we published in the **Federal Register** (80 FR 47388) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and identified major steps in the 2016–17 regulatory cycle relating to open public meetings and **Federal Register** notifications, including notice of the October 21–22, 2015, SRC meeting. On October 20–21, 2015, we held open meetings with the Flyway Council Consultants, at which the participants reviewed information on the current status of migratory game birds and developed recommendations for the 2016–17 regulations for these species. In accordance with Department of the Interior (hereinafter Department) policy regarding meetings of the SRC attended by any person outside the Department, these meetings are open to public observation. The Service is committed to providing access to this meeting for all participants.

1. Ducks

A. General Harvest Strategy

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended the adoption of the ''liberal'' regulatory alternative.

Service Response: We will continue using adaptive harvest management (AHM) to help determine appropriate duck-hunting regulations for the 2016–17 season. AHM permits sound resource decisions in the face of uncertain regulatory impacts and provides a mechanism for reducing that uncertainty over time. We use AHM to evaluate four alternative regulatory levels for duck hunting based on the population status of mallards. (We enact other hunting regulations for species of special concern, such as canvasbacks, scaup, and pintails).

The prescribed regulatory alternative for the Atlantic, Mississippi, Central, and Pacific Flyways is based on the status of mallard populations that contribute primarily to each Flyway. In the Atlantic Flyway, we set hunting regulations based on the population status of mallards breeding in eastern North America (Federal survey strata 51–54 and 56, and State surveys in New England and the mid-Atlantic region). In the Central and Mississippi Flyways, we set hunting regulations based on the status and dynamics of mid-continent mallards. Mid-continent mallards are those breeding in central North America (Federal survey strata 13–18, 20–50, and 75–77, and State surveys in Minnesota, Wisconsin, and Michigan). In the Pacific Flyway, we set hunting regulations based on the status and dynamics of western mallards. Western mallards are those breeding in Alaska and the northern Yukon Territory (as based on Federal surveys in strata 1–12), and in California and Oregon (as based on State-conducted surveys).

For the 2016–17 season, we will continue to use independent optimization to determine the optimal regulatory choice for each mallard stock. This means that we develop regulations for eastern mallards, mid-continent mallards, and western mallards independently, based upon the breeding stock that contributes primarily to each Flyway. We detailed implementation of this AHM decision framework for western and mid-continent mallards in the July 24, 2008, **Federal Register** (73 FR 43290) and for eastern mallards in the July 20, 2012, **Federal Register** (77 FR 42920). We further documented how adjustments were made to these decision frameworks in order to be compatible with the new regulatory schedule (*http://www.fws.gov/migratorybirds/pdf/management/AHM/SEIS&AHMReportFinal.pdf*).

For the 2016–17 hunting season, we considered the same regulatory alternatives as those used last year. The nature of the ''restrictive,'' ''moderate,'' and ''liberal'' alternatives has remained essentially unchanged since 1997, except that extended framework dates have been offered in the ''moderate'' and ''liberal'' regulatory alternatives since 2002 (67 FR 47224; July 17, 2002).

The optimal AHM strategies for mid-continent, eastern, and western mallards for the 2016–17 hunting season were calculated using: (1) Harvest-management objectives specific to each mallard stock; (2) the 2016–17 regulatory alternatives (see further discussion below under B. Regulatory Alternatives); and (3) current population models and associated weights. Based on ''liberal'' regulatory alternatives selected for the 2015 hunting season, the 2015 survey results of 11.79 million mid-continent mallards and 4.15 million ponds in Prairie Canada, 0.73 million eastern mallards (0.19 million and 0.54 million respectively in northeast Canada and the northeastern United States), and 0.73 million western mallards (0.26 million in California-Oregon and 0.47 million in Alaska), the optimal regulatory choice for all four Flyways is the ''liberal'' alternative. Therefore, we concur with the recommendations of the Atlantic, Mississippi, Central, and Pacific Flyway Councils regarding selection of the ''liberal'' regulatory alternative for the 2016–17 season and will adopt the ''liberal'' regulatory alternative, as described in the August 6, 2015, **Federal Register**.

B. Regulatory Alternatives

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended that the framework closing date for ducks be extended to January 31 in the ''moderate'' and ''liberal'' regulatory alternatives.

Written Comments: Several commenters expressed a desire for a later closing framework date, citing changes in climate and the migratory timing of birds. Several others recommended that States (in particular those in the upper Midwest) should shift their opening season dates later in order to allow more hunting in December.

Service Response: We do not support the Councils' recommendation, or the commenters' request, to extend the duck season framework closing date to January 31 at this time. We note that the current framework opening and closing dates were developed through a cooperative effort between all four Flyway Councils and that framework dates are only one of several components that comprise the regulatory packages utilized in AHM. Regulatory packages also consider season length, daily bag limits, and shooting hours. We believe the current regulatory packages in the Atlantic and Mississippi Flyways should remain unchanged until revisions to the AHM protocols, which are being undertaken by the Flyways, have been completed. Those efforts will include examination of duck harvest management objectives, model updates, and revisions to regulatory packages, including framework dates. We prefer that the issue of framework dates and any other component of the regulatory packages be addressed through this cooperative process and would prefer a comprehensive approach to revising regulatory packages rather than making incremental changes.

Regarding the timing of States' earlier opening season dates, we note that these dates are selected solely by the States (within the overall frameworks). Requests to move back the opening date should be directed to your State wildlife agency.

D. Special Seasons/Species Management

i. September Teal Seasons

For the 2016–17 season, we utilized the 2015 breeding population estimate

of 8.3 million blue-winged teal from the traditional survey area (Federal survey strata 1–18, 20–50, and 75–77) and the criteria developed for the teal season harvest strategy. Thus, a 16-day September teal season in the Atlantic, Central, and Mississippi Flyways is appropriate for the 2016 season.

iii. Black Ducks

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended that the Service continue to follow the International Black Duck AHM Strategy for the 2016–17 season.

Service Response: In 2012, we adopted the International Black Duck AHM Strategy (77 FR 49868; August 17, 2012). The formal strategy is the result of 14 years of technical and policy decisions developed and agreed upon by both Canadian and U.S. agencies and waterfowl managers. The strategy clarifies what harvest levels each country will manage for and reduces conflicts over country-specific regulatory policies. Further, the strategy allows for attainment of fundamental objectives of black duck management: Resource conservation, perpetuation of hunting tradition, and equitable access to the black duck resource between Canada and the United States while accommodating the fundamental sources of uncertainty, which includes partial controllability and observability, structural uncertainty, and environmental variation. The underlying model performance is assessed annually, with a comprehensive evaluation of the entire strategy (objectives and model set) planned after 6 years.

A copy of the strategy is available at the address indicated under **FOR FURTHER INFORMATION CONTACT**, or from our Web site at *http://www.fws.gov/migratorybirds/NewsPublicationsReports.html.*

For the 2016–17 season, the optimal country-specific regulatory strategies were calculated using: (1) The black duck harvest objective (98 percent of long-term cumulative harvest); (2) 2016–17 country-specific regulatory alternatives; (3) current parameter estimates for mallard competition and additive mortality; and (4) 2015 survey results of 0.54 million breeding black ducks and 0.41 million breeding mallards in the core survey area. The optimal regulatory choices for the 2016–17 season are the ''moderate'' package in Canada and the ''restrictive'' package in the United States.

iv. Canvasbacks

Council Recommendations: The Mississippi, Central, and Pacific Flyway Councils recommended a full season for canvasbacks with a 2-bird daily bag limit. The Atlantic Flyway Council recommended a full season for canvasbacks with a 1-bird daily bag limit. Season lengths would be 60 days in the Atlantic and Mississippi Flyways, 74 days in the Central Flyway, and 107 days in the Pacific Flyway.

Service Response: Since 1994, we have followed a canvasback harvest strategy whereby if canvasback population status and production are sufficient to permit a harvest of one canvasback per day nationwide for the entire length of the regular duck season, while still attaining an objective of 500,000 birds the following spring, the season on canvasbacks should be opened. A partial season would be allowed if the estimated allowable harvest was below that associated with a 1-bird daily bag limit for the entire season. If neither of these conditions can be met, the harvest strategy calls for a closed season on canvasbacks nationwide. In 2008 (73 FR 43290; July 24, 2008), we announced our decision to modify the canvasback harvest strategy to incorporate the option for a 2-bird daily bag limit for canvasbacks when the predicted breeding population the subsequent year exceeds 725,000 birds.

As we discussed in the August 6, 2015, proposed rule, the current harvest strategy relies on information that is not yet available under this new regulatory process. Thus, the current canvasback harvest management strategy is no longer usable for the 2016–17 season and beyond. We further stated that we do not yet have a new harvest strategy to propose for use in the future and that we would review the most recent information on canvasback populations, habitat conditions, and harvests with the goal of compiling the best information available for use in making a harvest management decision for the 2016–17 season.

As such, we support the Mississippi, Central, and Pacific Flyways' recommendation for a 2-canvasback daily bag limit for the 2016–17 season and will offer the opportunity to all four Flyways. This past year's spring survey resulted in an estimate of 757,000 canvasbacks and 4.15 million Canadian ponds. The former canvasback harvest strategy predicts a 2016 canvasback breeding population of 727,000 birds under the current 2015–16 ''liberal'' duck season with a 2-canvasback daily bag limit. Our analysis indicates that the expected harvest associated with a 2-bird bag limit during the 2016 season poses a very small possibility of the spring 2017 canvasback abundance falling below 500,000 birds given the current abundance of canvasbacks. However, we also recognize that in previous years where 2 canvasbacks per day were allowed in the daily bag limit, the following year required a more restrictive daily bag limit, and we are prepared to recommend restrictions for the 2017–18 season if necessary. Thus, we strongly encourage the Flyways to begin working with Service staff to develop a process for informing canvasback harvest management decisions prior to the Flyway meetings next March.

v. Pintails

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended a full season for pintails, consisting of a 2-bird daily bag limit and a 60-day season in the Atlantic and Mississippi Flyways, a 74-day season in the Central Flyway, and a 107-day season in the Pacific Flyway.

Service Response: The current derived pintail harvest strategy was adopted by the Service and Flyway Councils in 2010 (75 FR 44856; July 29, 2010). For the 2016–17 season, an optimal regulatory strategy for pintails was calculated with: (1) An objective of maximizing long-term cumulative harvest, including a closed-season constraint of 1.75 million birds; (2) the 2016–17 regulatory alternatives and associated predicted harvests; and (3) current population models and their relative weights. Based on a ''liberal'' regulatory alternative with a 2-bird daily bag limit in 2015, the 2015 survey results of 3.04 million pintails observed at a mean latitude of 55.9 and a latitude-adjusted breeding population of 4.16 million birds, the optimal regulatory choice for all four Flyways for the 2016–17 hunting season is the ''liberal'' alternative with a 2-bird daily bag limit.

vi. Scaup

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended use of the ''moderate'' regulation package, consisting of a 60-day season with a 2-bird daily bag in the Atlantic Flyway and a 3-bird daily bag in the Mississippi Flyway, a 74-day season with a 3-bird daily bag limit in the Central Flyway, and an 86-day season with a 3-bird daily bag limit in the Pacific Flyway.

Service Response: In 2008, we adopted and implemented a new scaup harvest strategy (73 FR 43290 on July

24, 2008, and 73 FR 51124 on August 29, 2008) with initial ''restrictive,'' ''moderate,'' and ''liberal'' regulatory packages adopted for each Flyway.

For scaup, optimal regulatory strategies for the 2016–17 season were calculated using: (1) An objective to achieve 95 percent of long-term cumulative harvest, (2) current scaup regulatory alternatives, and (3) updated model parameters and weights. Based on a ''moderate'' regulatory alternative selected in 2015 and the 2015 survey results of 4.40 million scaup, the optimal regulatory choice for the 2016–17 season for all four Flyways is the ''moderate'' regulatory alternative.

ix. Youth Hunt

Council Recommendations: The Atlantic Flyway Council recommended allowing the States to use their definitions of age for youth hunters as the age requirement for participation in youth hunting days.

The Mississippi and Central Flyway Councils recommended that we allow States to use their established definitions of age for youth hunters as the age requirement for participation in youth hunting days, not to include anyone over the age of 17.

The Pacific Flyway Council recommended striking the participation restriction that youth hunters must be 15 years of age or younger and allowing each State to use their established definition for the age of youth hunters as long as it is 17 years of age or younger. The Council further recommended retaining other participation restrictions requiring that an adult at least 18 years of age must accompany the youth hunter into the field.

Service Response: Since its inception in 1996, the Special Youth Waterfowl Hunting Days have fostered greater involvement of youth in waterfowl hunting and conservation. However, we recognize that many States allow individuals 17 years and younger to participate in youth hunting seasons other than those for waterfowl, whereas the current Federal framework for the Youth Waterfowl Hunting Days is 15 years and younger. We further recognize that this difference has caused some confusion and frustration from youth hunters, especially those between the ages of 15 and 17. Thus, we agree that allowing individual States to have a common definition of youth age for all of their different youth hunting seasons would simplify the issue for many States. States would still have the option to adopt an age restriction younger than 17 if they so choose. For those youth hunters 16 years of age and older, the requirement to possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp) would remain in effect, as would the requirement that any youth hunter must be accompanied by an adult at least 18 years of age.

2. Sea Ducks

Council Recommendations: The Atlantic Flyway Council recommended that sea ducks in the Atlantic Flyway be exposed to no more than 60 days of hunting in any Special Sea Duck Area, or regular duck hunting area or zone. They further recommended that in ''Special Sea Duck Areas,'' the bag limit for sea ducks would be 5, to include no more than 4 eiders, 4 scoters, or 4 long-tailed ducks. In regular duck season areas and in States with no special sea duck areas, sea ducks would count toward the total bag of 6 ducks, which could include no more than 4 eiders, 4 scoters, and 4 long-tailed ducks. Splits would be allowed in the Special Sea Duck Area if the sea duck season is set concurrently with the regular duck season; otherwise, season dates in the Special Sea Duck Area could not be split. Lastly, the Council recommended that the taking of crippled waterfowl under power be allowed to continue in Special Sea Duck Areas as they are currently delineated (50 CFR 20.105) (regardless of whether a special sea duck season is held).

Written Comments: The Massachusetts Division of Fisheries and Wildlife and several other commenters requested that we continue to allow the sea duck daily bag limit in the special sea duck area to be independent of the regular duck season daily bag limit, when the special sea duck season and the regular season are open concurrently. They noted that we have allowed this for more than 50 years, and stated that a change would result in both additional regulatory complexity and unnecessary loss of hunting opportunity in some Atlantic Ocean coastal areas.

Service Response: We agree with the Atlantic Flyway Council's recommendations to reduce the harvest of sea ducks. The recent Sea Duck Harvest Potential Assessment indicates that the likelihood of overharvest of scoter, Atlantic common eider, and long-tailed duck populations ranges from 48 percent (Eastern black scoter) to 95 percent (long-tailed duck) under current regulations. Further, sea ducks have a low reproduction rate, but a high longevity of adults. As such, hunting mortality is almost entirely additive. One of the incentives for sea duck hunting has been the opportunity for hunters to achieve a high daily bag limit (7 ducks). The Atlantic Flyway Council believes, and we concur, that reducing the general daily bag limit to 5 will reduce that incentive, but still allow special sea duck hunting opportunity. The recommended changes in season length, daily bag limits, and area restrictions are expected to achieve a harvest reduction of approximately 25 percent.

Regarding the commenters' request that we continue to allow hunters to take other ducks in addition to sea ducks in the special sea duck area when both seasons are open, we concur. We examined records of individual duck hunts from 2005–2014 that hunters reported to the annual Federal harvest surveys. Those records indicate that less than 1 percent of the reported daily duck bags that included sea ducks would have been illegal under our previous proposed change. Thus, reverting back to the status quo on this specific aspect from our previously identified proposed change would likely have minimal impact on the harvest of either sea ducks or other duck species while also removing any perceptions of additional regulatory complexity or unnecessary loss of hunting opportunities.

A copy of the sea duck harvest potential assessment is available at the address indicated under **FOR FURTHER INFORMATION CONTACT**, or from our Web site at *http://www.fws.gov/migratorybirds/NewsPublicationsReports.html.*

4. Canada Geese

A. Special [Early] Seasons

Council Recommendations: The Pacific Flyway Council recommended generalizing the special early Canada goose season frameworks in the Pacific Flyway to apply to all States except Alaska. Specifically, the Council recommended a Canada goose season of up to 15 days during September 1–20 with a daily bag limit of not more than 5 Canada geese, except in Pacific County, Washington, where the daily bag limit could not exceed 15 Canada geese. The Council recommended that all areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Service Response: We agree with the Pacific Flyway Council's recommendation to generalize the special early Canada goose season framework to apply to all Pacific Flyway States except Alaska. The special early Canada goose hunting season is generally designed to reduce or control

overabundant resident Canada goose populations. Early Canada goose seasons are currently allowed in 6 of 11 Pacific Flyway States excluding Alaska. Allowing a general season length of up to 15 days during September 1–20 and a bag limit of up to 5 Canada geese in all of the Pacific Flyway States except Alaska will simplify and standardize the early Canada goose season framework among Pacific Flyway States and provide a tool to help reduce or control the abundance of resident Canada geese in all Pacific Flyway States. The Flyway-wide framework is more consistent with the frameworks for other species and the special early Canada goose season frameworks in other Flyways.

B. Regular Seasons

Council Recommendations: The Mississippi Flyway Council recommended that the opening and closing framework dates for all geese in the Mississippi Flyway be September 1 to February 15 beginning in 2016. They also recommended that the frameworks for Canada geese in the Mississippi Flyway, beginning in 2016, allow 107 days with up to a 5-bird daily bag limit September 1–30 (except in the Intensive Harvest Zone in Minnesota, which may have up to a 10-bird daily bag limit) and a 3-bird daily bag limit for the remainder of the season. Seasons could be split into 4 segments.

Service Response: As we have previously indicated (77 FR 58444, September 20, 2012), we support the Mississippi Flyway Council recommendations to move from State-specific frameworks to Flyway-wide Canada goose frameworks. Management of Canada geese in the Mississippi Flyway is complicated by the need to balance potentially conflicting objectives for arctic, subarctic, and temperate (resident) breeding populations. Increased abundance of temperate-breeding Canada geese has caused conflicts with people and human activities, and regulations have been gradually liberalized to increase harvest of such birds to reduce those conflicts. The Council believes that hunting is an important means of controlling goose populations in the Mississippi Flyway, but notes that Canada goose harvest has declined since 2006, even with recent liberalizations enacted in the flyway. The Council believes the recommended season structure will allow State managers additional flexibility in days, dates, and bag limits to meet management needs and the desires of goose hunters in their State, and we concur.

We also agree with the Council's recommendation to adjust the opening and closing framework dates for all geese in the Mississippi Flyway to September 1 through February 15 beginning in 2016. The Council's recommendation to change the goose framework opening date from the Saturday nearest September 24 to September 1 is compatible with the recent change in our regulatory schedule that combines the early and late season regulations processes (see also 5. White-Fronted Geese and 7. Snow and Ross's (Light) Geese, below).

Lastly, we note that the Council is developing a general Canada Goose Management Plan for the Flyway, which will incorporate aspects of existing management plans for migrant populations (Eastern Prairie Population (EPP), Mississippi Valley Population (MVP), and Southern James Bay Population (SJBP)) and the temperate-nesting Giant Canada Goose population. Although the Flyway no longer recognizes zones for EPP, MVP and SJBP populations, we note that portions of the SJBP population migrate to the Atlantic Flyway. Therefore, we urge the Mississippi Flyway Council to consult with the Atlantic Flyway Council as the general Canada goose management plan is being developed for the Mississippi Flyway.

5. White-Fronted Geese

Council Recommendations: The Mississippi Flyway Council recommended that the opening and closing framework dates for all geese in the Mississippi Flyway be September 1 to February 15 beginning in 2016.

Service Response: We agree with the Mississippi Flyway Council's recommendation to adjust the opening and closing framework dates for all geese in the Mississippi Flyway to September 1 through February 15 beginning in 2016. Currently, framework dates for white-fronted geese are from the Saturday nearest September 24 to the Sunday nearest February 15. Adjusting the framework dates for other geese (snow and white-fronted geese) will allow States flexibility to open and/or close all goose seasons on the same date. Since the numbers of white-fronted geese present in the Mississippi Flyway in September are low, we expect no impacts from this change.

6. Brant

Council Recommendations: The Atlantic Flyway Council recommends that the 2016–17 season for Atlantic brant follow the Atlantic Flyway Brant Hunt plan pending the results of the 2016 Atlantic Flyway mid-winter waterfowl survey. The Council also recommended that if the results of the 2016 mid-winter survey are not available, then the results of the most recent mid-winter survey should be used.

Service Response: As we discussed in the August 6, 2015, proposed rule, the current harvest strategy used to determine the Atlantic brant season frameworks does not fit well within the new regulatory process, similar to the Rocky Mountain Population sandhill crane issue discussed below under 9. Sandhill Cranes. In developing the annual proposed frameworks for Atlantic brant in the past, the Atlantic Flyway Council and the Service used the number of brant counted during the Mid-winter Waterfowl Survey (MWS) in the Atlantic Flyway, and took into consideration the brant population's expected productivity that summer. The MWS is conducted each January, and expected brant productivity is based on early-summer observations of breeding habitat conditions and nesting effort in important brant nesting areas. Thus, the data under consideration were available before the annual Flyway and SRC decision-making meetings took place in late July. Although the former regulatory alternatives for Atlantic brant were developed by factoring together long-term productivity rates (observed during November and December productivity surveys) with estimated observed harvest under different framework regulations, the primary decision-making criterion for selecting the annual frameworks was the MWS count.

Under the new regulatory schedule for the 2016–17 migratory bird hunting regulations, neither the expected 2016 brant production information (available summer 2016) nor the 2016 MWS count (conducted in January 2016) was available at the time of the December 11, 2015, proposed rule. However, we stated at that time that the 2016 MWS would be completed and winter brant data would be available by the expected publication of the final frameworks. Therefore, in the September 24, 2015, **Federal Register** (80 FR 57664), we adopted the Atlantic Flyway's changes to the then-current Atlantic brant hunt plan strategies. Current harvest packages (strategies) for Atlantic brant hunting seasons are as follows:

- If the mid-winter waterfowl survey (MWS) count is <100,000 Atlantic brant, the season would be closed.
- If the MWS count is between 100,000 and 115,000 brant, States could select a 30-day season with a 1-bird daily bag limit.
- If the MWS count is between 115,000 and 130,000 brant, States could

select a 30-day season with a 2-bird daily bag limit.

- If the MWS count is between 130,000 and 150,000 brant, States could select a 50-day season with a 2-bird daily bag limit.
- If the MWS count is between 150,000 and 200,000 brant, States could select a 60-day season with a 2-bird daily bag limit.
- If the MWS count is >200,000 brant, States could select a 60-day season with a 3-bird daily bag limit.

Under all the above open-season alternatives, seasons would be between the Saturday nearest September 24 and January 31. Further, States could split their seasons into 2 segments.

The recently completed 2016 MWS Atlantic brant count was 157,927 brant. Thus, utilizing the above Atlantic brant hunt strategies, the appropriate Atlantic brant hunting season for the 2016–17 season is a 60-day season with a 2-bird daily bag limit.

7. Snow and Ross's (Light) Geese

Council Recommendations: The Mississippi Flyway Council recommended that the opening and closing framework dates for all geese in the Mississippi Flyway be September 1 to February 15 beginning in 2016.

Service Response: As we stated above under 5. White-fronted Geese, we agree with the Mississippi Flyway Council's recommendation to adjust the opening and closing framework dates for all geese in the Mississippi Flyway to September 1 through February 15 beginning in 2016. Currently, framework dates for snow geese are from the Saturday nearest September 24 to the Sunday nearest February 15. Adjusting the framework dates for other geese (light and white-fronted geese) will allow States flexibility to open and/or close all goose seasons on the same date. Since there are low numbers of snow geese present in the Mississippi Flyway in September, we expect no impacts from this change.

9. Sandhill Cranes

Council Recommendations: The Mississippi Flyway Council recommended that Tennessee be allowed an additional year (2016–17) of their experimental sandhill crane hunting season under harvest guidelines set for their experimental season.

The Central and Pacific Flyway Councils recommended (1) the addition of a new Rocky Mountain Population (RMP) sandhill crane hunting unit in Carbon County, Montana; (2) a new hunt area for RMP sandhill cranes in Sheridan, Johnson, and Natrona Counties, Wyoming; and (3) that allowable harvest be determined based on the formula described in the Pacific and Central Flyway Management Plan for RMP sandhill cranes.

Service Response: We agree with the Mississippi Flyway Council to allow Tennessee an additional year under the existing experimental season. The Council notes that harvest during the first 2 years of the experiment was well below the permitted number, 342 and 393 cranes, respectively, in 2013 and 2014. The approved Tennessee sandhill crane hunt plan allows Tennessee to issue 775 hunters a total of 2,325 permits (3 per person). This permit allocation was based on a peak number of cranes observed in Tennessee (23,334 during 2009–13), so the continued allotment of permits would still fall within guidelines set by the Eastern Population Crane Management Plan. While the 2015–16 season marks the completion of Tennessee's experimental 3-year sandhill crane season, Tennessee will collect and analyze population and hunter data during the 2015–16 season and prepare a final report on the experimental season for distribution at the late summer 2016 Flyway meeting. We expect a proposal for an operational season will likely be made at that time.

We also agree with the Central and Pacific Flyway Council's recommendation for new RMP sandhill crane hunting areas in Montana (Carbon County) and Wyoming (Sheridan, Johnson, and Natrona Counties). The new hunt areas are consistent with the Pacific and Central Flyway Council's RMP sandhill crane management plan hunting area requirements.

Regarding the RMP crane harvest, as we discussed in the August 6, 2015, and December 11, 2015, proposed rules, the current harvest strategy used to calculate the allowable harvest of the RMP of sandhill cranes does not fit well within the new regulatory process, similar to the Atlantic brant issue discussed above under 6. Brant. Currently, results of the fall survey of RMP sandhill cranes, upon which the annual allowable harvest is based, will continue to be released between December 15 and January 31 each year, which is after the date for which proposed frameworks will be formulated in the new regulatory process. If the usual procedures for determining allowable harvest were used, data 2–4 years old would be used to determine the annual allocation for RMP sandhill cranes. Due to the variability in fall survey counts and recruitment for this population, and their impact on the annual harvest allocations, we agree that relying on data that is 2–4 years old is not ideal.

Thus, we agree that the formula to determine the annual allowable harvest for RMP sandhill cranes should be used under the new regulatory schedule and propose to utilize it as such. That formula uses information on abundance and recruitment collected annually through operational monitoring programs, as well as constant values based on past research or monitoring for survival of fledglings to breeding age and harvest retrieval rate. The formula is:

$$H = C \times P \times R \times L \times f$$

Where:

H = total annual allowable harvest;
C = the average of the three most recent, reliable fall population indices;
P = the average proportion of fledged chicks in the fall population in the San Luis Valley during the most recent 3 years for which data are available;
R = estimated recruitment of fledged chicks to breeding age (current estimate is 0.5);
L = retrieval rate of 0.80 (allowance for an estimated 20 percent crippling loss based on hunter interviews); and
$f = (C/16{,}000)^3$ (a variable factor used to adjust the total harvest to achieve a desired effect on the entire population)

The 2015 fall RMP sandhill crane abundance estimate was 24,330 cranes, resulting in a 3-year (2013–15) average of 21,453 cranes, an increase from the previous 3-year average of 18,482 cranes. The RMP crane recruitment estimate was 11.8 percent fledglings in the fall population, resulting in a 3-year (2013–15) average of 9.56 percent, an increase from the previous 3-year average of 8.23 percent. Using the above formula and the above most recent 3-year average abundance and recruitment estimates, the allowable harvest for the 2016–17 season is 1,978 cranes.

14. Woodcock

In 2011, we implemented a harvest strategy for woodcock (76 FR 19876, April 8, 2011). The harvest strategy provides a transparent framework for making regulatory decisions for woodcock season length and bag limit while we work to improve monitoring and assessment protocols for this species. Utilizing the criteria developed for the strategy, the 3-year average for the Singing Ground Survey indices and associated credible intervals fall within the ''moderate package'' for both the Eastern and Central Management Regions. As such, a ''moderate season'' for both management regions for the 2016–17 season is appropriate.

Specifics of the harvest strategy can be found at *http://www.fws.gov/migratorybirds/NewsPublicationsReports.html.*

16. Doves

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended use of the ''standard'' season framework comprising a 90-day season and 15-bird daily bag limit for States within the Eastern Management Unit.

The Mississippi and Central Flyway Councils recommended the use of the ''standard'' season package of a 15-bird daily bag limit and a 90-day season for the 2016–17 mourning dove season in the States within the Central Management Unit.

The Pacific Flyway Council recommended use of the ''standard'' season framework for States in the Western Management Unit (WMU) population of mourning doves.

Service Response: Based on the harvest strategies and current population status, we agree with the recommended selection of the ''standard'' season frameworks for mourning doves in the Eastern, Central, and Western Management Units for the 2016–17 season.

17. Alaska

Council Recommendations: The Pacific Flyway Council recommended increasing the daily bag limit for brant from 2 to 3, and increasing the daily bag limit for light geese from 4 to 6.

Service Response: We agree with the Pacific Flyway Council's recommendation to increase the daily bag limit in Alaska from 2 to 3 brant. The Flyway management plan for Pacific brant allows harvest to increase by two times the current level if the 3-year average population index exceeds 135,000 brant based on the mid-winter waterfowl survey. The 3-year (2013–2015) average is 157,700 brant, and is near the population objective of 162,000 brant. Increasing the daily bag limit from 2 to 3 brant will allow additional hunting opportunity while maintaining the season length at the maximum of 107 days for brant, and is not expected to increase harvest appreciably from that anticipated with a 2-brant daily bag limit.

We also agree with the Pacific Flyway Council's recommendation to increase the light goose daily bag limit from 4 to 6 light geese in Alaska. Two populations of light geese occur in Alaska, and both are above Flyway management plan objectives based on the most recent breeding population indices. The population estimate for the Western Arctic Population (WAP) of lesser snow geese was 451,000 in 2013 (most recent estimate), which is above the objective of 200,000 geese. Most of WAP lesser snow geese nest in the Egg River colony on Banks Island, Canada, but there are small, but growing, nesting colonies along the Arctic Coastal Plain of Alaska. In 2015, biologists noted high lesser snow goose nest survival (>95%) on the Colville River Delta and Ikpikpuk colonies on the Alaskan Arctic Coastal Plain. Biologists also noted earlier gosling development than any prior documented instance at the later colony. Favorable nesting conditions were also observed across much of the North Slope of Alaska and western Arctic. The population estimate for Wrangel Island snow geese was 240,000 in 2015, which is above the objective of 120,000 geese.

National Environmental Policy Act (NEPA)

The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being ''Duck Hunting Regulations for 2016–17,'' with its corresponding January 2016, finding of no significant impact. In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the person indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *.'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks reflect any such modifications. Our biological opinions resulting from this section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES**.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed this rule and has determined that this rule is significant because it would have an annual effect of $100 million or more on the economy.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

An updated economic analysis was prepared for the 2013–14 season. This analysis was based on data from the newly released 2011 National Hunting and Fishing Survey, the most recent year for which data are available (see discussion in Regulatory Flexibility Act section below). This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives were: (1) Issue restrictive regulations allowing fewer days than those issued during the 2012–13 season, (2) issue moderate regulations allowing more days than those in alternative 1, and (3) issue

liberal regulations identical to the regulations in the 2012–13 season. For the 2013–14 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of $317.8–$416.8 million. For the 2016–17 season, we have also chosen alternative 3. We also chose alternative 3 for the 2009–10, the 2010–11, the 2011–12, the 2012–13, the 2014–15, and the 2015–16 seasons. The 2013–14 analysis is part of the record for this rule and is available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2015–0034.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, 2008, and 2013. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2013 Analysis was based on the 2011 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.5 billion at small businesses in 2013. Copies of the Analysis are available upon request from the Division of Migratory Bird Management (see **FOR FURTHER INFORMATION CONTACT**) *or from our Web site at http://www.fws.gov/migratorybirds or at http://www.regulations.gov* at Docket No. FWS–HQ–MB–2015–0034.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule will have an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we are not deferring the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

This final rule does not contain any new information collection that requires approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. OMB has reviewed and approved the information collection requirements associated with migratory bird surveys and assigned the following OMB control numbers:

- 1018–0019—North American Woodcock Singing Ground Survey (expires 5/31/2018).
- 1018–0023—Migratory Bird Surveys (expires 6/30/2017). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act (16 U.S.C. 703–711), does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule allows hunters to exercise otherwise unavailable privileges and, therefore, reduces restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in the August 6 **Federal Register**, we solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2016–17 migratory bird hunting season. The resulting proposals will be contained in a separate proposed rule. By virtue of these actions, we have consulted with affected Tribes.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Regulations Promulgation

The rulemaking process for migratory game bird hunting, by its nature, operates under a time constraint as seasons must be established each year or hunting seasons remain closed. However, we intend that the public be provided extensive opportunity for

public input and involvement in compliance with Administrative Procedure Act requirements. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment and the most opportunities for public involvement. We also provided notification of our participation in multiple Flyway Council meetings, opportunities for additional public review and comment on all Flyway Council proposals for regulatory change, and opportunities for additional public review during the SRC meeting. Therefore, we believe that sufficient public notice and opportunity for involvement have been given to affected persons regarding the migratory bird hunting frameworks for the 2016–17 hunting seasons.

Further, after establishment of the final frameworks, States need sufficient time to conduct their own public processes to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions Thus, we believe that if there were a delay in the effective date of these regulations after this final rulemaking, States might not be able to meet their own administrative needs and requirements.

For the reasons cited above, we therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), we prescribe final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials will select hunting season dates and other options. Upon receipt of season selections from these officials, we will publish a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the United States for the 2016–17 seasons.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2016–17 hunting seasons are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: March 11, 2016.

Michael J. Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

Final Regulations Frameworks for 2016–17 Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior approved the following frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting migratory game birds between the dates of September 1, 2016, and March 10, 2017. These frameworks are summarized below.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are three times the daily bag limit.

Permits: For some species of migratory birds, the Service authorizes the use of permits to regulate harvest or monitor their take by sport hunters, or both. In many cases (*e.g.,* tundra swans, some sandhill crane populations), the Service determines the amount of harvest that may be taken during hunting seasons during its formal regulations-setting process, and the States then issue permits to hunters at levels predicted to result in the amount of take authorized by the Service. Thus, although issued by States, the permits would not be valid unless the Service approved such take in its regulations.

These Federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take migratory birds at levels specified in the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferrable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

Flyways and Management Units

Waterfowl Flyways

Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway: Includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Duck Management Units

High Plains Mallard Management Unit: Roughly defined as that portion of the Central Flyway that lies west of the 100th meridian.

Columbia Basin Mallard Management Unit: In Washington, all areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County; and in Oregon, the counties of Gilliam, Morrow, and Umatilla.

Mourning Dove Management Units

Eastern Management Unit: All States east of the Mississippi River, and Louisiana.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region: Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region: Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana,

Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Other geographic descriptions are contained in a later portion of this document.

Definitions

For the purpose of hunting regulations listed below, the collective terms ''dark'' and ''light'' geese include the following species:

Dark geese: Canada geese, white-fronted geese, brant (except in Alaska, California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

Light geese: Snow (including blue) geese and Ross's geese.

Area, Zone, and Unit Descriptions: Geographic descriptions related to regulations are contained in a later portion of this document.

Area-Specific Provisions: Frameworks for open seasons, season lengths, bag and possession limits, and other special provisions are listed below by Flyway.

Waterfowl Seasons in the Atlantic Flyway

In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, and Pennsylvania, where Sunday hunting is prohibited Statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Special Youth Waterfowl Hunting Days

Outside Dates: States may select 2 days per duck-hunting zone, designated as ''Youth Waterfowl Hunting Days,'' in addition to their regular duck seasons. The days must be held outside any regular duck season on a weekend, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate. The days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limits may include ducks, geese, tundra swans, mergansers, coots, moorhens, and gallinules and would be the same as those allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: States may use their established definition of age for youth hunters. However, youth hunters may not be over the age of 17. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day. Youth hunters 16 years of age and older must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp). Tundra swans may only be taken by participants possessing applicable tundra swan permits.

Special September Teal Season

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway: Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia.

Mississippi Flyway: Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin. The seasons in Iowa, Michigan, and Wisconsin are experimental.

Central Flyway: Colorado (part), Kansas, Nebraska, New Mexico (part), Oklahoma, and Texas. The season in the northern portion of Nebraska is experimental.

Hunting Seasons and Daily Bag Limits: Not to exceed 16 consecutive hunting days in the Atlantic, Mississippi, and Central Flyways. The daily bag limit is 6 teal.

Shooting Hours

Atlantic Flyway: One-half hour before sunrise to sunset, except in South Carolina, where the hours are from sunrise to sunset.

Mississippi and Central Flyways: One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida, Kentucky, and Tennessee: In lieu of a special September teal season, a 5-consecutive-day teal/wood duck season may be selected in September. The daily bag limit may not exceed 6 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks. In addition, a 4-consecutive-day experimental teal-only season may be selected in September either immediately before or immediately after the 5-consecutive-day teal/wood duck season. The daily bag limit is 6 teal.

Iowa: In lieu of an experimental special September teal season, Iowa may hold up to 5 days of its regular duck hunting season in September. All ducks that are legal during the regular duck season may be taken during the September segment of the season. The September season segment may commence no earlier than the Saturday nearest September 20 (September 17). The daily bag and possession limits will be the same as those in effect during the remainder of the regular duck season. The remainder of the regular duck season may not begin before October 10.

Waterfowl

Atlantic Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 24) and the last Sunday in January (January 29).

Hunting Seasons and Duck Limits: 60 days. The daily bag limit is 6 ducks, including no more than 4 mallards (no more than 2 of which can be females), 1 black duck, 2 pintails, 1 mottled duck, 1 fulvous whistling duck, 3 wood ducks, 2 redheads, 2 scaup, 2 canvasbacks, 4 scoters, 4 eiders, and 4 long-tailed ducks.

Closures: The season on harlequin ducks is closed.

Merganser Limits: The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Lake Champlain Zone, New York: The waterfowl seasons, limits, and shooting hours should be the same as those selected for the Lake Champlain Zone of Vermont.

Connecticut River Zone, Vermont: The waterfowl seasons, limits, and shooting hours should be the same as those selected for the Inland Zone of New Hampshire.

Zoning and Split Seasons: Delaware, Florida, Georgia, Maryland, North Carolina, Rhode Island, South Carolina, Virginia, and West Virginia may split their seasons into three segments; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Vermont may select hunting seasons by zones and may split their seasons into two segments in each zone.

Scoters, Eiders, and Long-Tailed Ducks

Special Sea Duck Seasons

Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New

Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia may select a Special Sea Duck Season in designated Special Sea Duck Areas. If a Special Sea Duck Season is selected, scoters, eiders, and long-tailed ducks may be taken in the designated Special Sea Duck Area(s) only during the Special Sea Duck Season dates; scoter, eiders, and long-tailed ducks may be taken outside of Special Sea Duck Area(s) during the regular duck season, in accordance with the frameworks for ducks, mergansers, and coots specified above.

Outside Dates: Between September 15 and January 31.

Special Sea Duck Seasons and Daily Bag Limits: 60 consecutive hunting days, or 60 days that are concurrent with the regular duck season, with a daily bag limit of 5, singly or in the aggregate, of the listed sea duck species, including no more than 4 scoters, 4 eiders, and 4 long-tailed ducks. Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters, 4 eiders, and 4 long-tailed ducks) and possession limits.

Special Sea Duck Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in New Jersey, all coastal waters seaward from the International Regulations for Preventing Collisions at Sea (COLREGS) Demarcation Lines shown on National Oceanic and Atmospheric Administration (NOAA) Nautical Charts and further described in 33 CFR 80.165, 80.501, 80.502, and 80.503; in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in South Carolina and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States.

Canada Geese

Special Early Canada Goose Seasons

A Canada goose season of up to 15 days during September 1–15 may be selected for the Eastern Unit of Maryland. Seasons not to exceed 30 days during September 1–30 may be selected for Connecticut, Florida, Georgia, New Jersey, New York (Long Island Zone only), North Carolina, Rhode Island, and South Carolina. Seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 15 Canada geese.

Shooting Hours: One-half hour before sunrise to sunset, except that during any special early Canada goose season, shooting hours may extend to one-half hour after sunset if all other waterfowl seasons are closed in the specific applicable area.

Regular Canada Goose Seasons

Season Lengths, Outside Dates, and Limits: Specific regulations for Canada geese are shown below by State. These seasons may also include white-fronted geese in an aggregate daily bag limit. Unless specified otherwise, seasons may be split into two segments.

Connecticut:

North Atlantic Population (NAP) Zone: Between October 1 and February 15, a 70-day season may be held with a 3-bird daily bag limit.

Atlantic Population (AP) Zone: A 50-day season may be held between October 10 and February 5, with a 3-bird daily bag limit.

South Zone: A special season may be held between January 15 and February 15, with a 5-bird daily bag limit.

Resident Population (RP) Zone: An 80-day season may be held between October 1 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Delaware: A 50-day season may be held between November 15 and February 5, with a 2-bird daily bag limit.

Florida: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Georgia: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Maine: A 70-day season may be held Statewide between October 1 and February 15, with a 3-bird daily bag limit.

Maryland:

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 50-day season may be held between November 15 and February 5, with a 2-bird daily bag limit.

Massachusetts:

NAP Zone: A 70-day season may be held between October 1 and February 15, with a 3-bird daily bag limit. Additionally, a special season may be held from January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 50-day season may be held between October 10 and February 5, with a 3-bird daily bag limit.

New Hampshire: A 70-day season may be held Statewide between October 1 and February 15, with a 3-bird daily bag limit.

New Jersey:

AP Zone: A 50-day season may be held between the fourth Saturday in October (October 22) and February 5, with a 3-bird daily bag limit.

RP Zone: An 80-day season may be held between the fourth Saturday in October (October 22) and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Special Late Goose Season Area: A special season may be held in designated areas of North and South New Jersey from January 15 to February 15, with a 5-bird daily bag limit.

New York:

NAP Zone: Between October 1 and February 15, a 70-day season may be held, with a 3-bird daily bag limit in both the High Harvest and Low Harvest areas.

AP Zone: A 50-day season may be held between the fourth Saturday in October (October 22), except in the Lake Champlain Area where the opening date is October 10, through February 5, with a 3-bird daily bag limit.

Western Long Island RP Zone: A 107-day season may be held between the Saturday nearest September 24 (September 24) and March 10, with an 8-bird daily bag limit. The season may be split into 3 segments.

Rest of State RP Zone: An 80-day season may be held between the fourth Saturday in October (October 22) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

North Carolina:

SJBP Zone: A 70-day season may be held between October 1 and December 31, with a 5-bird daily bag limit.

RP Zone: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Northeast Hunt Unit: A 14-day season may be held between the Saturday prior

to December 25 (December 24) and January 31, with a 1-bird daily bag limit.

Pennsylvania:

SJBP Zone: A 78-day season may be held between the first Saturday in October (October 1) and February 15, with a 3-bird daily bag limit.

RP Zone: An 80-day season may be held between the fourth Saturday in October (October 22) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 50-day season may be held between the fourth Saturday in October (October 22) and February 5, with a 3-bird daily bag limit.

Rhode Island: A 70-day season may be held between October 1 and February 15, with a 3-bird daily bag limit. A special late season may be held in designated areas from January 15 to February 15, with a 5-bird daily bag limit.

South Carolina: In designated areas, an 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Vermont:

Lake Champlain Zone and Interior Zone: A 50-day season may be held between October 10 and February 5 with a 3-bird daily bag limit.

Connecticut River Zone: A 70-day season may be held between October 1 and February 15, with a 3-bird daily bag limit.

Virginia:

SJBP Zone: A 40-day season may be held between November 15 and January 14, with a 3-bird daily bag limit. Additionally, a special late season may be held between January 15 and February 15, with a 5-bird daily bag limit.

AP Zone: A 50-day season may be held between November 15 and February 5, with a 2-bird daily bag limit.

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

West Virginia: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments in each zone.

Light Geese

Season Lengths, Outside Dates, and Limits: States may select a 107-day season between October 1 and March 10, with a 25-bird daily bag limit and no possession limit. States may split their seasons into three segments.

Brant

Season Lengths, Outside Dates, and Limits: States may select a 60-day season between the Saturday nearest September 24 (September 24) and January 31, with a 2-bird daily bag limit.

Mississippi Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 24) and the last Sunday in January (January 29).

Hunting Seasons and Duck Limits: The season may not exceed 60 days, with a daily bag limit of 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 1 mottled duck, 1 black duck, 2 pintails, 3 wood ducks, 2 canvasbacks, 3 scaup, and 2 redheads.

Merganser Limits: The daily bag limit is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin may select hunting seasons by zones.

In Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin, the season may be split into two segments in each zone.

In Alabama, Arkansas and Mississippi, the season may be split into three segments.

Geese

Season Lengths, Outside Dates, and Limits

Canada Geese: States may select seasons for Canada geese not to exceed 107 days with a 5-bird daily bag limit September 1–30 (except in the Intensive Harvest Zone in Minnesota, which may have up to a 10-bird daily bag limit) and a 3-bird daily bag limit for the remainder of the season. Seasons may be held between September 1 and February 15 and may be split into 4 segments.

White-fronted Geese and Brant: Arkansas, Illinois, Louisiana, Kentucky, Missouri, Mississippi, and Tennessee may select a season for white-fronted geese not to exceed 74 days with 3 geese daily, or 88 days with 2 geese daily, or 107 days with 1 goose daily between September 1 and February 15; Alabama, Iowa, Indiana, Michigan, Minnesota, Ohio, and Wisconsin may select a season for white-fronted geese not to exceed 107 days with 5 geese daily, in aggregate with dark geese between September 1 and February 15. States may select a season for brant not to exceed 70 days with 2 brant daily, or 107 days with 1 brant daily with outside dates the same as for Canada geese; alternately, States may include brant in an aggregate goose bag limit with either Canada geese, white-fronted geese, or dark geese.

Light Geese: States may select seasons for light geese not to exceed 107 days, with 20 geese daily between the September 1 and February 15. There is no possession limit for light geese.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset for Canada geese if all other waterfowl and crane seasons are closed in the specific applicable area.

Split Seasons: Seasons for geese may be split into three segments unless otherwise indicated.

Central Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 24) and the last Sunday in January (January 29).

Hunting Seasons

High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway that lies west of the 100th meridian): 97 days. The last 23 days must run consecutively and may start no earlier than the Saturday nearest December 10 (December 10).

Remainder of the Central Flyway: 74 days.

Duck Limits: The daily bag limit is 6 ducks, with species and sex restrictions as follows: 5 mallards (no more than 2 of which may be females), 3 scaup, 2 redheads, 3 wood ducks, 2 pintails, and 2 canvasbacks. In Texas, the daily bag limit on mottled ducks is 1, except that no mottled ducks may be taken during the first 5 days of the season. In addition to the daily limits listed above, the States of Montana, North Dakota, South Dakota, and Wyoming, in lieu of selecting an experimental September teal season, may include an additional daily bag and possession limit of 2 and 6 blue-winged teal, respectively, during the first 16 days of the regular duck season in each respective duck hunting zone. These extra limits are in addition to the regular duck bag and possession limits.

Merganser Limits: The daily bag limit is 5 mergansers, only 2 of which may be hooded mergansers. In States that include mergansers in the duck daily bag limit, the daily limit may be the

same as the duck bag limit, only two of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Colorado, Kansas (Low Plains portion), Montana, Nebraska, New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

In Colorado, Kansas, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, the regular season may be split into two segments.

Geese

Special Early Canada Goose Seasons

In Kansas, Nebraska, Oklahoma, South Dakota, and Texas, Canada goose seasons of up to 30 days during September 1–30 may be selected. In Colorado, New Mexico, North Dakota, Montana, and Wyoming, Canada goose seasons of up to 15 days during September 1–15 may be selected. The daily bag limit may not exceed 5 Canada geese, except in Kansas, Nebraska, and Oklahoma, where the daily bag limit may not exceed 8 Canada geese and in North Dakota and South Dakota, where the daily bag limit may not exceed 15 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset if all other waterfowl and crane seasons are closed in the specific applicable area.

Regular Goose Seasons

Split Seasons: Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

Outside Dates: For dark geese, seasons may be selected between the outside dates of the Saturday nearest September 24 (September 24) and the Sunday nearest February 15 (February 12). For light geese, outside dates for seasons may be selected between the Saturday nearest September 24 (September 24) and March 10. In the Rainwater Basin Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions that are consistent with the late-winter snow goose hunting strategy cooperatively developed by the Central Flyway Council and the Service are required.

Season Lengths and Limits

Light Geese: States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 50 with no possession limit.

Dark Geese: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada geese (or any other dark goose species except white-fronted geese) not to exceed 107 days with a daily bag limit of 8. For white-fronted geese, these States may select either a season of 74 days with a bag limit of 3, or an 88-day season with a bag limit of 2, or a season of 107 days with a bag limit of 1.

In Colorado, Montana, New Mexico, and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 5 in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 95 days. The daily bag limit for Canada geese (or any other dark goose species except white-fronted geese) is 5. The daily bag limit for white-fronted geese is 2.

Pacific Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 24) and the last Sunday in January (January 29).

Hunting Seasons and Duck and Merganser Limits: 107 days. The daily bag limit is 7 ducks and mergansers, including no more than 2 female mallards, 2 pintails, 2 canvasbacks, 3 scaup, and 2 redheads. For scaup, the season length is 86 days, which may be split according to applicable zones and split duck hunting configurations approved for each State.

Coot, Common Moorhen, and Purple Gallinule Limits: The daily bag limit of coots, common moorhens, and purple gallinules is 25, singly or in the aggregate.

Zoning and Split Seasons: Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming may select hunting seasons by zones and may split their seasons into two segments.

Montana and New Mexico may split their seasons into three segments.

Colorado River Zone, California: Seasons and limits should be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

Geese

Special Early Canada Goose Seasons

A Canada goose season of up to 15 days during September 1–20 may be selected. The daily bag limit may not exceed 5 Canada geese, except in Pacific County, Washington, where the daily bag limit may not exceed 15 Canada geese. Areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Season Lengths, Outside Dates, and Limits

Canada geese and brant: Except as subsequently noted, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 24) and the last Sunday in January (January 29). In Arizona, Colorado, Idaho, Montana, Nevada, and Utah, the daily bag limit is 4 Canada geese and brant in the aggregate. In New Mexico and Wyoming, the daily bag limit is 3 Canada geese and brant in the aggregate. In California, Oregon, and Washington, the daily bag limit is 4 Canada geese. For brant, Oregon and Washington may select a 16-day season and California a 37-day season. Days must be consecutive. Washington and California may select hunting seasons for up to two zones. The daily bag limit is 2 brant and is in addition to other goose limits. In Oregon and California, the brant season must end no later than December 15.

White-fronted geese: Except as subsequently noted, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10. The daily bag limit is 10.

Light geese: Except as subsequently noted, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10. The daily bag limit is 20.

Split Seasons: Unless otherwise specified, seasons for geese may be split into up to 3 segments. Three-way split seasons for Canada geese and white-fronted geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

California: The daily bag limit for Canada geese is 10.

Balance of State Zone: A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10. In the Sacramento Valley Special Management Area, the season on white-fronted geese must end on or before December 28, and the daily bag limit is 3 white-fronted geese. In the North Coast Special Management Area, hunting days that occur after the last Sunday in January (January 29) should be concurrent with Oregon's South Coast Zone.

Idaho:

Zone 2: Idaho will continue to monitor the snow goose hunt that occurs after the last Sunday in January (January 29) in the American Falls Reservoir/Fort Hall Bottoms and surrounding areas at 3-year intervals.

Oregon: The daily bag limit for light geese is 6 on or before the last Sunday in January (January 29).

Harney and Lake County Zone: For Lake County only, the daily white-fronted goose bag limit is 1.

Northwest Permit Zone: A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10. Goose seasons may be split into 3 segments. The daily bag limit of light geese is 6. In the Tillamook County Management Area, the hunting season is closed on geese.

South Coast Zone: A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10. The daily bag limit of Canada geese is 6. Hunting days that occur after the last Sunday in January (January 29) should be concurrent with California's North Coast Special Management Area. Goose seasons may be split into 3 segments.

Utah: A Canada goose and brant season may be selected in the Wasatch Front and Washington County Zones with outside dates between the Saturday nearest September 24 (September 24) and the first Sunday in February (February 5).

Washington: The daily bag limit is 4 geese.

Area 1: Goose season outside dates are between the Saturday nearest September 24 (September 24) and the last Sunday in January (January 29).

Areas 2A and 2B (Southwest Permit Zone): A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10. Goose seasons may be split into 3 segments.

Area 4: Goose seasons may be split into 3 segments.

Permit Zones

In Oregon and Washington permit zones, the hunting season is closed on dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters. Hunting of geese will only be by hunters possessing a State-issued permit authorizing them to do so. Shooting hours for geese may begin no earlier than sunrise. Regular Canada goose seasons in the permit zones of Oregon and Washington remain subject to the Memorandum of Understanding entered into with the Service regarding monitoring the impacts of take during the regular Canada goose season on the dusky Canada goose population.

Swans

In portions of the Pacific Flyway (Montana, Nevada, and Utah), an open season for taking a limited number of swans may be selected. Permits will be issued by the State and will authorize each permittee to take no more than 1 swan per season with each permit. Nevada may issue up to 2 permits per hunter. Montana and Utah may issue only 1 permit per hunter. Each State's season may open no earlier than the Saturday nearest October 1 (October 1). These seasons are also subject to the following conditions:

Montana: No more than 500 permits may be issued. The season must end no later than December 1. The State must implement a harvest-monitoring program to measure the species composition of the swan harvest and should use appropriate measures to maximize hunter compliance in reporting bill measurement and color information.

Utah: No more than 2,000 permits may be issued. During the swan season, no more than 10 trumpeter swans may be taken. The season must end no later than the second Sunday in December (December 11) or upon attainment of 10 trumpeter swans in the harvest, whichever occurs earliest. The Utah season remains subject to the terms of the Memorandum of Agreement entered into with the Service in August 2003, regarding harvest monitoring, season closure procedures, and education requirements to minimize the take of trumpeter swans during the swan season.

Nevada: No more than 650 permits may be issued. During the swan season, no more than 5 trumpeter swans may be taken. The season must end no later than the Sunday following January 1 (January 8) or upon attainment of 5 trumpeter swans in the harvest, whichever occurs earliest.

In addition, the States of Utah and Nevada must implement a harvest-monitoring program to measure the species composition of the swan harvest. The harvest-monitoring program must require that all harvested swans or their species-determinant parts be examined by either State or Federal biologists for the purpose of species classification. The States should use appropriate measures to maximize hunter compliance in providing bagged swans for examination. Further, the States of Montana, Nevada, and Utah must achieve at least an 80-percent hunter compliance rate, or subsequent permits will be reduced by 10 percent. All three States must provide to the Service by June 30, 2017, a report detailing harvest, hunter participation, reporting compliance, and monitoring of swan populations in the designated hunt areas.

Tundra Swans

In portions of the Atlantic Flyway (North Carolina and Virginia) and the Central Flyway (North Dakota, South Dakota [east of the Missouri River], and that portion of Montana in the Central Flyway), an open season for taking a limited number of tundra swans may be selected. Permits will be issued by the States that authorize the take of no more than 1 tundra swan per permit. A second permit may be issued to hunters from unused permits remaining after the first drawing. The States must obtain harvest and hunter participation data. These seasons are also subject to the following conditions:

In the Atlantic Flyway:

—The season may be 90 days, between October 1 and January 31.

—In North Carolina, no more than 5,000 permits may be issued.

—In Virginia, no more than 600 permits may be issued.

In the Central Flyway:

—The season may be 107 days, between the Saturday nearest October 1 (October 1) and January 31.

—In the Central Flyway portion of Montana, no more than 500 permits may be issued.

—In North Dakota, no more than 2,200 permits may be issued.

—In South Dakota, no more than 1,300 permits may be issued.

Sandhill Cranes

Regular Seasons in the Mississippi Flyway

Outside Dates: Between September 1 and February 28 in Minnesota, and between September 1 and January 31 in Kentucky.

Hunting Seasons: A season not to exceed 37 consecutive days may be selected in the designated portion of northwestern Minnesota (Northwest Goose Zone), and a season not to exceed 60 consecutive days, in Kentucky.

Daily Bag Limit: 2 sandhill cranes. In Kentucky, the seasonal bag limit is 3 sandhill cranes.

Permits: Each person participating in the regular sandhill crane seasons must have a valid Federal or State sandhill crane hunting permit.

Other Provisions: The number of permits (where applicable), open areas,

season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plans and approved by the Mississippi Flyway Council.

Experimental Season in the Mississippi Flyway

Outside Dates: Between September 1 and January 31.

Hunting Seasons: A season not to exceed 60 consecutive days may be selected in Tennessee.

Bag Limit: Not to exceed 3 daily and 3 per season in Tennessee.

Permits: Each person participating in the regular sandhill crane season must have a valid Federal or State sandhill crane hunting permit.

Other Provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Mississippi Flyway Council.

Regular Seasons in the Central Flyway

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 37 consecutive days may be selected in designated portions of Texas (Area 2). Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes, except 2 sandhill cranes in designated portions of North Dakota (Area 2) and Texas (Area 2).

Permits: Each person participating in the regular sandhill crane season must have a valid Federal or State sandhill crane hunting permit.

Special Seasons in the Central and Pacific Flyways

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (RMP) subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 30 consecutive days.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other Provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils, with the following exceptions:

A. In Utah, 100 percent of the harvest will be assigned to the RMP quota;

B. In Arizona, monitoring the racial composition of the harvest must be conducted at 3-year intervals;

C. In Idaho, 100 percent of the harvest will be assigned to the RMP quota; and

D. In New Mexico, the season in the Estancia Valley is experimental, with a requirement to monitor the level and racial composition of the harvest; greater sandhill cranes in the harvest will be assigned to the RMP quota.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1 and the last Sunday in January (January 29) in the Atlantic, Mississippi, and Central Flyways. States in the Pacific Flyway have been allowed to select their hunting seasons between the outside dates for the season on ducks, mergansers, and coots; therefore, frameworks for common moorhens and purple gallinules are included with the duck, merganser, and coot frameworks.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Zoning: Seasons may be selected by zones established for duck hunting.

Rails

Outside Dates: States included herein may select seasons between September 1 and the last Sunday in January (January 29) on clapper, king, sora, and Virginia rails.

Hunting Seasons: Seasons may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits

Clapper and King Rails: In Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, 10, singly or in the aggregate of the two species. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails: In the Atlantic, Mississippi, and Central Flyways and the Pacific Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 rails, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

Snipe

Outside Dates: Between September 1 and February 28, except in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into two segments. The daily bag limit is 8 snipe.

Zoning: Seasons may be selected by zones established for duck hunting.

American Woodcock

Outside Dates: States in the Eastern Management Region may select hunting seasons between October 1 and January 31. States in the Central Management Region may select hunting seasons between the Saturday nearest September 22 (September 24) and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 45 days in the Eastern and Central Regions. The daily bag limit is 3. Seasons may be split into two segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 36 days.

Band-Tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with a daily bag limit of 2.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of two zones. The season in the North Zone must close by October 3.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 14 consecutive days, with a daily bag limit of 2.

Zoning: New Mexico may select hunting seasons not to exceed 14 consecutive days in each of two zones. The season in the South Zone may not open until October 1.

Doves

Outside Dates: Between September 1 and January 15, except as otherwise

provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

For all States except Texas:

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods.

Texas

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves.

Zoning and Split Seasons: Texas may select hunting seasons for each of three zones subject to the following conditions:

A. The hunting season may be split into not more than two periods, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited take of mourning and white-tipped doves may also occur during that special season (see Special White-Winged Dove Area).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between the Friday nearest September 20 (September 23), but not earlier than September 17, and January 25.

C. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Special White-Winged Dove Area in Texas: In addition, Texas may select a hunting season of not more than 4 days for the Special White-Winged Dove Area of the South Zone between September 1 and September 19. The daily bag limit may not exceed 15 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 2 may be mourning doves and no more than 2 may be white-tipped doves.

Western Management Unit

Hunting Seasons and Daily Bag Limits

Idaho, Nevada, Oregon, Utah, and *Washington:* Not more than 60 consecutive days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Arizona and *California:* Not more than 60 days, which may be split between two periods, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves. During the remainder of the season, the daily bag limit is 15 mourning doves. In California, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl, sandhill cranes, and common snipe in each of 5 zones. The season may be split without penalty in the Kodiak Zone. The seasons in each zone must be concurrent.

Closures: The hunting season is closed on emperor geese, spectacled eiders, and Steller's eiders.

Daily Bag and Possession Limits

Ducks: Except as noted, a basic daily bag limit of 7 ducks. Daily bag limits in the North Zone are 10, and in the Gulf Coast Zone, they are 8. The basic limits may include no more than 1 canvasback daily and may not include sea ducks.

In addition to the basic duck limits, Alaska may select sea duck limits of 10 daily, singly or in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers.

Light Geese: The daily bag limit is 6.

Canada Geese: The daily bag limit is 4 with the following exceptions:

A. In Units 5 and 6, the taking of Canada geese is permitted from September 28 through December 16.

B. On Middleton Island in Unit 6, a special, permit-only Canada goose season may be offered. A mandatory goose identification class is required. Hunters must check in and check out. The bag limit is 1 daily and 1 in possession. The season will close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

C. In Units 9, 10, 17, and 18, the daily bag limit is 6 Canada geese.

White-fronted Geese: The daily bag limit is 4 with the following exceptions:

A. In Units 9, 10, and 17, the daily bag limit is 6 white-fronted geese.

B. In Unit 18, the daily bag limit is 10 white-fronted geese.

Brant: The daily bag limit is 3.

Snipe: The daily bag limit is 8.

Sandhill cranes: The daily bag limit is 2 in the Southeast, Gulf Coast, Kodiak, and Aleutian Zones, and Unit 17 in the North Zone. In the remainder of the North Zone (outside Unit 17), the daily bag limit is 3.

Tundra Swans: Open seasons for tundra swans may be selected subject to the following conditions:

A. All seasons are by registration permit only.

B. All season framework dates are September 1–October 31.

C. In Unit 17, no more than 200 permits may be issued during this operational season. No more than 3 tundra swans may be authorized per permit, with no more than 1 permit issued per hunter per season.

D. In Unit 18, no more than 500 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

E. In Unit 22, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

F. In Unit 23, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 20 Zenaida, mourning, and white-winged doves in the aggregate, of which not more than 10 may be Zenaida doves and 3 may be mourning doves. Not to exceed 5 scaly-naped pigeons.

Closed Seasons: The season is closed on the white-crowned pigeon and the plain pigeon, which are protected by the Commonwealth of Puerto Rico.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Moorhens, Gallinules, and Snipe

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag Limits

Ducks: Not to exceed 6.

Common moorhens: Not to exceed 6.

Common snipe: Not to exceed 8.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days for Zenaida doves.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves or pigeons.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29. These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons must not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag Limits: Falconry daily bag limits for all permitted migratory game birds must not exceed 3 birds, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29. Regular season bag limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Area, Unit, and Zone Descriptions

Ducks (Including Mergansers) and Coots

Atlantic Flyway

Connecticut

North Zone: That portion of the State north of I–95.

South Zone: Remainder of the State.

Maine

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire-Maine State line to the intersection of Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of I–95 in Augusta; then north and east along I–95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the United States border.

Coastal Zone: That portion south of a line extending east from the Maine–New Brunswick border in Calais at the Route 1 Bridge; then south along Route 1 to the Maine–New Hampshire border in Kittery.

South Zone: Remainder of the State.

Maryland

Special Teal Season Area: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State Line.

Massachusetts

Western Zone: That portion of the State west of a line extending south from the Vermont State line on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut State line.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire State line on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island State line; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Northern Zone: That portion of the State east and north of the Inland Zone beginning at the Jct. of Rte. 10 and Rte. 25–A in Orford, east on Rte. 25A to Rte. 25 in Wentworth, southeast on Rte. 25 to Exit 26 of Rte. I–93 in Plymouth, south on Rte. I–93 to Rte. 3 at Exit 24 of Rte. I–93 in Ashland, northeast on Rte. 3 to Rte. 113 in Holderness, north on Rte. 113 to Rte. 113–A in Sandwich,

north on Rte. 113–A to Rte. 113 in Tamworth, east on Rte. 113 to Rte. 16 in Chocorua, north on Rte. 16 to Rte. 302 in Conway, east on Rte. 302 to the Maine–New Hampshire border.

Inland Zone: That portion of the State south and west of the Northern Zone, west of the Coastal Zone, and includes the area of Vermont and New Hampshire as described for hunting reciprocity. A person holding a New Hampshire hunting license that allows the taking of migratory waterfowl or a person holding a Vermont resident hunting license that allows the taking of migratory waterfowl may take migratory waterfowl and coots from the following designated area of the Inland Zone: The State of Vermont east of Rte. I–91 at the Massachusetts border, north on Rte. I–91 to Rte. 2, north on Rte. 2 to Rte. 102, north on Rte. 102 to Rte. 253, and north on Rte. 253 to the border with Canada and the area of New Hampshire west of Rte. 63 at the Massachusetts border, north on Rte. 63 to Rte. 12, north on Rte. 12 to Rte. 12–A, north on Rte. 12–A to Rte 10, north on Rte. 10 to Rte. 135, north on Rte. 135 to Rte. 3, north on Rte. 3 to the intersection with the Connecticut River.

Coastal Zone: That portion of the State east of a line beginning at the Maine–New Hampshire border in Rollinsford, then extending to Rte. 4 west to the city of Dover, south to the intersection of Rte. 108, south along Rte. 108 through Madbury, Durham, and Newmarket to the junction of Rte. 85 in Newfields, south to Rte. 101 in Exeter, east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south to the Massachusetts border.

New Jersey

Coastal Zone: That portion of the State seaward of a line beginning at the New York State line in Raritan Bay and extending west along the New York State line to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware State line in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania State line in the Delaware River.

South Zone: That portion of the State not within the North Zone or the Coastal Zone.

New York

Lake Champlain Zone: That area east and north of a continuous line extending along U.S. 11 from the New York–Canada International boundary south to NY 9B, south along NY 9B to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont State line.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania State line.

Northeastern Zone: That area north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 31, east along NY 31 to NY 13, north along NY 13 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to NY 22, north along NY 22 to Washington County Route 153, east along CR 153 to the New York–Vermont boundary, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Pennsylvania

Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

Northwest Zone: The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

North Zone: That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

South Zone: The remaining portion of Pennsylvania.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to VT 78 at Swanton; VT 78 to VT 36; VT 36 to Maquam Bay on Lake Champlain; along and around the shoreline of Maquam Bay and Hog Island to VT 78 at the West Swanton Bridge; VT 78 to VT 2 in Alburg; VT 2 to the Richelieu River in Alburg; along the east shore of the Richelieu River to the Canadian border.

Interior Zone: That portion of Vermont east of the Lake Champlain Zone and west of a line extending from the Massachusetts border at Interstate 91; north along Interstate 91 to U.S. 2; east along U.S. 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

Connecticut River Zone: The remaining portion of Vermont east of the Interior Zone.

Mississippi Flyway

Illinois

North Zone: That portion of the State north of a line extending west from the Indiana border along Peotone-Beecher Road to Illinois Route 50, south along Illinois Route 50 to Wilmington-Peotone Road, west along Wilmington-Peotone Road to Illinois Route 53, north along Illinois Route 53 to New River Road, northwest along New River Road to Interstate Highway 55, south along I–55 to Pine Bluff-Lorenzo Road, west along Pine Bluff-Lorenzo Road to Illinois Route 47, north along Illinois Route 47 to I–80, west along I–80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Duck Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's Road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: That portion of the State south and east of a line extending west from the Indiana border along Interstate 70, south along U.S. Highway 45, to Illinois Route 13, west along Illinois Route 13 to Greenbriar Road, north on

Greenbriar Road to Sycamore Road, west on Sycamore Road to N. Reed Station Road, south on N. Reed Station Road to Illinois Route 13, west along Illinois Route 13 to Illinois Route 127, south along Illinois Route 127 to State Forest Road (1025 N), west along State Forest Road to Illinois Route 3, north along Illinois Route 3 to the south bank of the Big Muddy River, west along the south bank of the Big Muddy River to the Mississippi River, west across the Mississippi River to the Missouri border.

South Central Zone: The remainder of the State between the south border of the Central Zone and the North border of the South Zone.

Indiana

North Zone: That part of Indiana north of a line extending east from the Illinois border along State Road 18 to U.S. 31; north along U.S. 31 to U.S. 24; east along U.S. 24 to Huntington; southeast along U.S. 224; south along State Road 5; and east along State Road 124 to the Ohio border.

Central Zone: That part of Indiana south of the North Zone boundary and north of the South Zone boundary.

South Zone: That part of Indiana south of a line extending east from the Illinois border along U.S. 40; south along U.S. 41; east along State Road 58; south along State Road 37 to Bedford; and east along U.S. 50 to the Ohio border.

Iowa

North Zone: That portion of Iowa north of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, east along State Highway 175 to State Highway 37, southeast along State Highway 37 to State Highway 183, northeast along State Highway 183 to State Highway 141, east along State Highway 141 to U.S. Highway 30, and along U.S. Highway 30 to the Illinois border.

Missouri River Zone: That portion of Iowa west of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, and west along State Highway 175 to the Iowa-Nebraska border.

South Zone: The remainder of Iowa.

Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

Louisiana

East Zone: That area of the State between the Mississippi State line and a line going south on Hwy 79 from the Arkansas border to Homer, then south on Hwy 9 to Arcadia, then south on Hwy 147 to Hodge, then south on Hwy 167 to Turkey Creek, then south on Hwy 13 to Eunice, then west on Hwy 190 to Kinder, then south on Hwy 165 to Iowa, then west on I–10 to its junction with Hwy 14 at Lake Charles, then south and east on Hwy 14 to its junction with Hwy 90 in New Iberia, then east on Hwy 90 to the Mississippi State line.

West Zone: That area between the Texas State line and a line going east on I–10 from the Texas border to Hwy 165 at Iowa, then north on Hwy 165 to Kinder, then east on Hwy 190 to Eunice, then north on Hwy 13 to Turkey Creek, then north on Hwy 167 to Hodge, then north on Hwy 147 to Arcadia, then north on Hwy 9 to Homer, then north on Hwy 79 to the Arkansas border.

Coastal Zone: Remainder of the State.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin State line in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, easterly along U.S. 10 BR to U.S. 10, easterly along U.S. 10 to Interstate Highway 75/U.S. Highway 23, northerly along I–75/U.S. 23 to the U.S. 23 exit at Standish, easterly along U.S. 23 to the centerline of the Au Gres River, then southerly along the centerline of the Au Gres River to Saginaw Bay, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canadian border.

South Zone: The remainder of Michigan.

Minnesota

North Duck Zone: That portion of the State north of a line extending east from the North Dakota State line along State Highway 210 to State Highway 23 and east to State Highway 39 and east to the Wisconsin State line at the Oliver Bridge.

South Duck Zone: The portion of the State south of a line extending east from the South Dakota State line along U.S. Highway 212 to Interstate 494 and east to Interstate 94 and east to the Wisconsin State line.

Central Duck Zone: The remainder of the State.

Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois border at Lock and Dam 25; west on Lincoln County Hwy. N to Mo. Hwy. 79; south on Mo. Hwy. 79 to Mo. Hwy. 47; west on Mo. Hwy. 47 to I–70; west on I–70 to the Kansas border.

Middle Zone: The remainder of Missouri not included in other zones.

South Zone: That portion of Missouri south of a line running west from the Illinois border on Mo. Hwy. 74 to Mo. Hwy. 25; south on Mo. Hwy. 25 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; west on Mo. Hwy. 72 to Mo. Hwy. 32; west on Mo. Hwy. 32 to U.S. Hwy. 65; north on U.S. Hwy. 65 to U.S. Hwy. 54; west on U.S. Hwy. 54 to U.S. Hwy. 71; south on U.S. Hwy. 71 to Jasper County Hwy. M (Base Line Blvd.); west on Jasper County Hwy. M (Base Line Blvd.) to CRD 40 (Base Line Blvd.); west on CRD 40 (Base Line Blvd.) to the Kansas border.

Ohio

Lake Erie Marsh Zone: Includes all land and water within the boundaries of the area bordered by a line beginning at the intersection of Interstate 75 at the Ohio-Michigan State line and continuing south to Interstate 280, then south on I–280 to the Ohio Turnpike (I–80/I–90), then east on the Ohio Turnpike to the Erie-Lorain county line, then north to Lake Erie, then following the Lake Erie shoreline at a distance of 200 yards offshore, then following the shoreline west toward and around the northern tip of Cedar Point Amusement Park, then continuing from the westernmost point of Cedar Point toward the southernmost tip of the sand bar at the mouth of Sandusky Bay and out into Lake Erie at a distance of 200 yards offshore continuing parallel to the Lake Erie shoreline north and west toward the northernmost tip of Cedar Point National Wildlife Refuge, then following a direct line toward the southernmost tip of Wood Tick Peninsula in Michigan to a point that intersects the Ohio-Michigan State line, then following the State line back to the point of the beginning.

North Zone: That portion of the State, excluding the Lake Erie Marsh Zone, north of a line extending east from the

Indiana State line along U.S. Highway 33 to State Route 127, then south along SR 127 to SR 703, then south along SR 703 and including all lands within the Mercer Wildlife Area to SR 219, then east along SR 219 to SR 364, then north along SR 364 and including all lands within the St. Mary's Fish Hatchery to SR 703, then east along SR 703 to SR 66, then north along SR 66 to U.S. 33, then east along U.S. 33 to SR 385, then east along SR 385 to SR 117, then south along SR 117 to SR 273, then east along SR 273 to SR 31, then south along SR 31 to SR 739, then east along SR 739 to SR 4, then north along SR 4 to SR 95, then east along SR 95 to SR 13, then southeast along SR 13 to SR 3, then northeast along SR 3 to SR 60, then north along SR 60 to U.S. 30, then east along U.S. 30 to SR 3, then south along SR 3 to SR 226, then south along SR 226 to SR 514, then southwest along SR 514 to SR 754, then south along SR 754 to SR 39/60, then east along SR 39/60 U.S. to SR 241, then north along SR 241 to U.S. 30, then east along U.S. 30 to SR 39, then east along SR 39 to the Pennsylvania State line.

South Zone: The remainder of Ohio not included in the Lake Erie Marsh Zone or the North Zone.

Tennessee

Reelfoot Zone: All or portions of Lake and Obion Counties.

Remainder of State: That portion of Tennessee outside of the Reelfoot Zone.

Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota State line along U.S. Highway 10 into Portage County to County Highway HH, east on County Highway HH to State Highway 66 and then east on State Highway 66 to U.S. Highway 10, continuing east on U.S. Highway 10 to U.S. Highway 41, then north on U.S. Highway 41 to the Michigan State line.

Mississippi River Zone: That area encompassed by a line beginning at the intersection of the Burlington Northern & Santa Fe Railway and the Illinois State line in Grant County and extending northerly along the Burlington Northern & Santa Fe Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota State line.

South Zone: The remainder of Wisconsin.

Central Flyway

Colorado (Central Flyway Portion)

Special Teal Season Area: Lake and Chaffee Counties and that portion of the State east of Interstate Highway 25.

Northeast Zone: All areas east of Interstate 25 and north of Interstate 70.

Southeast Zone: All areas east of Interstate 25 and south of Interstate 70, and all of El Paso, Pueblo, Huerfano, and Las Animas Counties.

Mountain/Foothills Zone: All areas west of Interstate 25 and east of the Continental Divide, except El Paso, Pueblo, Huerfano, and Las Animas Counties.

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That part of Kansas bounded by a line from the federal highway U.S.–283 and State highway U.S.–96 junction, then east on federal highway U.S.–96 to its junction with federal highway U.S.–183, then north on federal highway U.S.–183 to its junction with federal highway U.S.–24, then east on federal highway U.S.–24 to its junction with federal highway U.S–.281, then north on federal highway U.S.–281 to its junction with federal highway U.S.–36, then east on federal highway U.S.–36 to its junction with State highway K–199, then south on State highway K–199 to its junction with Republic County 30th Road, then south on Republic County 30th Road to its junction with State highway K–148, then east on State highway K–148 to its junction with Republic County 50th Road, then south on Republic County 50th Road to its junction with Cloud County 40th Road, then south on Cloud County 40th Road to its junction with State highway K–9, then west on State highway K–9 to its junction with federal highway U.S.–24, then west on federal highway U.S.–24 to its junction with federal highway U.S.–181, then south on federal highway U.S.–181 to its junction with State highway K–18, then west on State highway K–18 to its junction with federal highway U.S.–281, then south on federal highway U.S.–281 to its junction with State highway K–4, then east on State highway K–4 to its junction with interstate highway I–135, then south on interstate highway I–135 to its junction with State highway K–61, then southwest on State highway K–61 to its junction with McPherson County 14th Avenue, then south on McPherson County 14th Avenue to its junction with McPherson County Arapaho Rd, then west on McPherson County Arapaho Rd to its junction with State highway K–61, then southwest on State highway K–61 to its junction with State highway K–96, then northwest on State highway K–96 to its junction with federal highway U.S.–56, then southwest on federal highway U.S.–56 to its junction with State highway K–19, then east on State highway K–19 to its junction with federal highway U.S.–281, then south on federal highway U.S.–281 to its junction with federal highway U.S.–54, then west on federal highway U.S.–54 to its junction with federal highway U.S.–183, then north on federal highway U.S.–183 to its junction with federal highway U.S.–56, then southwest on federal highway U.S.–56 to its junction with North Main Street in Spearville, then south on North Main Street to Davis Street, then east on Davis Street to Ford County Road 126 (South Stafford Street), then south on Ford County Road 126 to Garnett Road, then east on Garnett Road to Ford County Road 126, then south on Ford County Road 126 to Ford Spearville Road, then west on Ford Spearville Road to its junction with federal highway U.S.–400, then northwest on federal highway U.S.–400 to its junction with federal highway U.S.–283, and then north on federal highway U.S.–283 to its junction with federal highway U.S.–96.

Low Plains Late Zone: That part of Kansas bounded by a line from the federal highway U.S.–283 and federal highway U.S.–96 junction, then north on federal highway U.S.–283 to the Kansas-Nebraska State line, then east along the Kansas-Nebraska State line to its junction with the Kansas-Missouri State line, then southeast along the Kansas-Missouri State line to its junction with State highway K–68, then west on State highway K–68 to its junction with interstate highway I–35, then southwest on interstate highway I–35 to its junction with Butler County NE 150th Street, then west on Butler County NE 150th Street to its junction with federal highway U.S.–77, then south on federal highway U.S.–77 to its junction with the Kansas-Oklahoma State line, then west along the Kansas-Oklahoma State line to its junction with federal highway U.S.–283, then north on federal highway U.S.–283 to its junction with federal highway U.S.–400, then east on federal highway U.S.–400 to its junction with Ford Spearville Road, then east on Ford Spearville Road to Ford County Road 126 (South Stafford Street), then north on Ford County Road 126 to Garnett Road, then west on Garnett Road to Ford County Road 126, then north on Ford County Road 126 to Davis Street, then west on Davis Street to North Main Street, then north on North Main Street to its junction with federal highway U.S.–56, then east on federal highway U.S.–56 to its junction with federal highway U.S.–183, then south on federal highway U.S.–183 to its junction with federal highway U.S.–54, then east on federal highway U.S.–54 to

its junction with federal highway U.S.–281, then north on federal highway U.S.–281 to its junction with State highway K–19, then west on State highway K–19 to its junction with federal highway U.S.–56, then east on federal highway U.S.–56 to its junction with State highway K–96, then southeast on State highway K–96 to its junction with State highway K–61, then northeast on State highway K–61 to its junction with McPherson County Arapaho Road, then east on McPherson County Arapaho Road to its junction with McPherson County 14th Avenue, then north on McPherson County 14th Avenue to its junction with State highway K–61, then east on State highway K–61 to its junction with interstate highway I–135, then north on interstate highway I–135 to its junction with State highway K–4, then west on State highway K–4 to its junction with federal highway U.S.–281, then north on federal highway U.S.–281 to its junction with State highway K–18, then east on State highway K–18 to its junction with federal highway U.S.–181, then north on federal highway U.S.–181 to its junction with federal highway U.S.–24, then east on federal highway U.S.–24 to its junction with State highway K–9, then east on State highway K–9 to its junction with Cloud County 40th Road, then north on Cloud County 40th Road to its junction with Republic County 50th Road, then north on Republic County 50th Road to its junction with State highway K–148, then west on State highway K–148 to its junction with Republic County 30th Road, then north on Republic County 30th Road to its junction with State highway K–199, then north on State highway K–199 to its junction with federal highway U.S.–36, then west on federal highway U.S.–36 to its junction with federal highway U.S.–281, then south on federal highway U.S.–281 to its junction with federal highway U.S.–24, then west on federal highway U.S.–24 to its junction with federal highway U.S.–183, then south on federal highway U.S.–183 to its junction with federal highway U.S.–96, and then west on federal highway U.S.–96 to its junction with federal highway U.S.–283.

Southeast Zone: That part of Kansas bounded by a line from the Missouri-Kansas State line west on K–68 to its junction with I–35, then southwest on I–35 to its junction with Butler County, NE 150th Street, then west on NE 150th Street to its junction with federal highway U.S.–77, then south on federal highway U.S.–77 to the Oklahoma-Kansas State line, then east along the Kansas-Oklahoma State line to its junction with the Kansas-Missouri State line, then north along the Kansas-Missouri State line to its junction with State highway K–68.

Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, and Wibaux.

Zone 2: The Counties of Big Horn, Carbon, Custer, Prairie, Rosebud, Treasure, and Yellowstone.

Nebraska

Special Teal Season Area (south): That portion of the State south of a line beginning at the Wyoming State line; east along U.S. 26 to Nebraska Highway L62A east to U.S. 385; south to U.S. 26; east to NE 92; east along NE 92 to NE 61; south along NE 61 to U.S. 30; east along U.S. 30 to the Iowa border.

Special Teal Season Area (north): The remainder of the State.

High Plains: That portion of Nebraska lying west of a line beginning at the South Dakota-Nebraska border on U.S. Hwy. 183; south on U.S. Hwy. 183 to U.S. Hwy. 20; west on U.S. Hwy. 20 to NE Hwy. 7; south on NE Hwy. 7 to NE Hwy. 91; southwest on NE Hwy. 91 to NE Hwy. 2; southeast on NE Hwy. 2 to NE Hwy. 92; west on NE Hwy. 92 to NE Hwy. 40; south on NE Hwy. 40 to NE Hwy. 47; south on NE Hwy. 47 to NE Hwy. 23; east on NE Hwy. 23 to U.S. Hwy. 283; and south on U.S. Hwy. 283 to the Kansas-Nebraska border.

Zone 1: Area bounded by designated Federal and State highways and political boundaries beginning at the South Dakota-Nebraska border west of NE Hwy. 26E Spur and north of NE Hwy. 12; those portions of Dixon, Cedar, and Knox Counties north of NE Hwy. 12; that portion of Keya Paha County east of U.S. Hwy. 183; and all of Boyd County. Both banks of the Niobrara River in Keya Paha and Boyd counties east of U.S. Hwy. 183 shall be included in Zone 1.

Zone 2: The area south of Zone 1 and north of Zone 3.

Zone 3: Area bounded by designated Federal and State highways, County Roads, and political boundaries beginning at the Wyoming-Nebraska border at the intersection of the Interstate Canal; east along northern borders of Scotts Bluff and Morrill Counties to Broadwater Road; south to Morrill County Rd 94; east to County Rd 135; south to County Rd 88; southeast to County Rd 151; south to County Rd 80; east to County Rd 161; south to County Rd 76; east to County Rd 165; south to County Rd 167; south to U.S. Hwy 26; east to County Rd 171; north to County Rd 68; east to County Rd 183; south to County Rd 64; east to County Rd 189; north to County Rd 70; east to County Rd 201; south to County Rd 60A; east to County Rd 203; south to County Rd 52; east to Keith County Line; east along the northern boundaries of Keith and Lincoln Counties to NE Hwy 97; south to U.S. Hwy 83; south to E Hall School Rd; east to N Airport Road; south to U.S. Hwy 30; east to NE Hwy 47; north to Dawson County Rd 769; east to County Rd 423; south to County Rd 766; east to County Rd 428; south to County Rd 763; east to NE Hwy 21 (Adams Street); south to County Rd 761; east to the Dawson County Canal; south and east along the Dawson County Canal to County Rd 444; south to U.S. Hwy 30; east to U.S. Hwy 183; north to Buffalo County Rd 100; east to 46th Avenue; north to NE Hwy 40; south and east to NE Hwy 10; north to Buffalo County Rd 220 and Hall County Husker Hwy; east to Hall County Rd 70; north to NE Hwy 2; east to U.S. Hwy 281; north to Chapman Rd; east to 7th Rd; south to U.S. Hwy 30; east to Merrick County Rd 13; north to County Rd O; east to NE Hwy 14; north to NE Hwy 52; west and north to NE Hwy 91; west to U.S. Hwy 281; south to NE Hwy 22; west to NE Hwy 11; northwest to NE Hwy 91; west to U.S. Hwy 183; south to Round Valley Rd; west to Sargent River Rd; west to Drive 443; north to Sargent Rd; west to NE Hwy S21A; west to NE Hwy 2; west and north to NE Hwy 91; north and east to North Loup Spur Rd; north to North Loup River Rd; east to Pleasant Valley/Worth Rd; east to Loup County Line; north to Loup-Brown county line; east along northern boundaries of Loup and Garfield Counties to Cedar River Rd; south to NE Hwy 70; east to U.S. Hwy 281; north to NE Hwy 70; east to NE Hwy 14; south to NE Hwy 39; southeast to NE Hwy 22; east to U.S. Hwy 81; southeast to U.S. Hwy 30; east to U.S. Hwy 75; north to the Washington County line; east to the Iowa-Nebraska border; south to the Missouri-Nebraska border; south to Kansas-Nebraska border; west along Kansas-Nebraska border to Colorado-Nebraska border; north and west to Wyoming-Nebraska border; north to intersection of Interstate Canal; and excluding that area in Zone 4.

Zone 4: Area encompassed by designated Federal and State highways and County Roads beginning at the intersection of NE Hwy 8 and U.S. Hwy 75; north to U.S. Hwy 136; east to the intersection of U.S. Hwy 136 and the

Steamboat Trace (Trace); north along the Trace to the intersection with Federal Levee R–562; north along Federal Levee R–562 to the intersection with Nemaha County Rd 643A; south to the Trace; north along the Trace/Burlington Northern Railroad right-of-way to NE Hwy 2; west to U.S. Hwy 75; north to NE Hwy 2; west to NE Hwy 50; north to U.S. Hwy 34; west to NE Hwy 63; north to NE Hwy 66; north and west to U.S. Hwy 77; north to NE Hwy 92; west to NE Hwy Spur 12F; south to Butler County Rd 30; east to County Rd X; south to County Rd 27; west to County Rd W; south to County Rd 26; east to County Rd X; south to County Rd 21 (Seward County Line); west to NE Hwy 15; north to County Rd 34; west to County Rd H; south to NE Hwy 92; west to U.S. Hwy 81; south to NE Hwy 66; west to Polk County Rd C; north to NE Hwy 92; west to U.S. Hwy 30; west to Merrick County Rd 17; south to Hordlake Road; southeast to Prairie Island Road; southeast to Hamilton County Rd T; south to NE Hwy 66; west to NE Hwy 14; south to County Rd 22; west to County Rd M; south to County Rd 21; west to County Rd K; south to U.S. Hwy 34; west to NE Hwy 2; south to U.S. Hwy I–80; west to Gunbarrel Rd (Hall/Hamilton county line); south to Giltner Rd; west to U.S. Hwy 281; south to Lochland Rd; west to Holstein Avenue; south to U.S. Hwy 34; west to NE Hwy 10; north to Kearney County Rd R and Phelps County Rd 742; west to U.S. Hwy 283; south to U.S. Hwy 34; east to U.S. Hwy 136; east to U.S. Hwy 183; north to NE Hwy 4; east to NE Hwy 10; south to U.S. Hwy 136; east to NE Hwy 14; south to NE Hwy 8; east to U.S. Hwy 81; north to NE Hwy 4; east to NE Hwy 15; south to U.S. Hwy 136; east to Jefferson County Rd 578 Avenue; south to PWF Rd; east to NE Hwy 103; south to NE Hwy 8; east to U.S. Hwy 75.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

North Dakota

High Plains Unit: That portion of the State south and west of a line from the South Dakota State line along U.S. 83 and I–94 to ND 41, north to U.S. 2, west to the Williams-Divide County line, then north along the County line to the Canadian border.

Low Plains Unit: The remainder of North Dakota.

Oklahoma

High Plains Zone: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the Texas State line along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I–40, east along I–40 to U.S. 177, north along U.S. 177 to OK 33, east along OK 33 to OK 18, north along OK 18 to OK 51, west along OK 51 to I–35, north along I–35 to U.S. 412, west along U.S. 412 to OK 132, then north along OK 132 to the Kansas State line.

Low Plains Zone 2: The remainder of Oklahoma.

South Dakota

High Plains Zone: That portion of the State west of a line beginning at the North Dakota State line and extending south along U.S. 83 to U.S. 14, east on U.S. 14 to Blunt, south on the Blunt-Canning Rd to SD 34, east and south on SD 34 to SD 50 at Lee's Corner, south on SD 50 to I–90, east on I–90 to SD 50, south on SD 50 to SD 44, west on SD 44 across the Platte-Winner bridge to SD 47, south on SD 47 to U.S. 18, east on U.S. 18 to SD 47, south on SD 47 to the Nebraska State line.

North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along U.S. 212 to the Minnesota State line.

South Zone: That portion of Gregory County east of SD 47 and south of SD 44; Charles Mix County south of SD 44 to the Douglas County line; south on SD 50 to Geddes; east on the Geddes Highway to U.S. 281; south on U.S. 281 and U.S. 18 to SD 50; south and east on SD 50 to the Bon Homme County line; the Counties of Bon Homme, Yankton, and Clay south of SD 50; and Union County south and west of SD 50 and I–29.

Middle Zone: The remainder of South Dakota.

Texas

High Plains Zone: That portion of the State west of a line extending south from the Oklahoma State line along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I–10 to the Louisiana State line at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

Wyoming (Central Flyway portion)

Zone C1: Big Horn, Converse, Goshen, Hot Springs, Natrona, Park, Platte, and Washakie Counties; and Fremont County excluding the portions west or south of the Continental Divide.

Zone C2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone C3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Pacific Flyway

Arizona

North Zone: Game Management Units 1–5, those portions of Game Management Units 6 and 8 within Coconino County, and Game Management Units 7, 9, and 12A.

South Zone: Those portions of Game Management Units 6 and 8 in Yavapai County, and Game Management Units 10 and 12B–45.

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to Main Street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines; west along the California-Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada State line south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct

Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada State line.

Southern San Joaquin Valley Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, Southern, and the Southern San Joaquin Valley Zones.

Colorado (Pacific Flyway Portion)

Eastern Zone: Routt, Grand, Summit, Eagle, and Pitkin Counties, those portions of Saguache, San Juan, Hinsdale, and Mineral in the Pacific Flyway (*i.e.,* west of the Continental Divide), and Gunnison County except the following area: The portion of Gunnison County west of Curecanti Creek, west of the Gunnison River-North Fork of Gunnison River divide to Kebler Pass, west of Kebler Pass and the Ruby Range summit, and west and south of the Pitkin/Gunnison County line west of the Ruby Range. This area corresponds to the North Fork of Gunnison River Valley, and is already established by Colorado Division of Parks and Wildlife as the Gunnison County portions of GMU 521, 53, and 63.

Western Zone: The remainder of the Pacific Flyway portion of Colorado not included in the Eastern Zone.

Idaho

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Adams, Bear Lake, Benewah, Blaine, Bonner, Bonneville, Boundary, Butte, Camas, Clark, Clearwater, Custer, Franklin, Fremont, Idaho, Jefferson, Kootenai, Latah, Lemhi, Lewis, Madison, Nez Perce, Oneida, Shoshone, Teton, and Valley Counties; Bingham County within the Blackfoot Reservoir drainage; Caribou County, except the Fort Hall Indian Reservation; and Power County west of State Highway 37 and State Highway 39.

Zone 3: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Nevada

Northeast Zone: Elko and White Pine Counties.

Northwest Zone: Carson City, Churchill, Douglas, Esmeralda, Eureka, Humboldt, Lander, Lyon, Mineral, Nye, Pershing, Storey, and Washoe Counties.

South Zone: Clark and Lincoln Counties.

Moapa Valley Special Management Area: That portion of Clark County including the Moapa Valley to the confluence of the Muddy and Virgin Rivers.

Oregon

Zone 1: Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Gilliam, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, and Yamhill, Counties.

Zone 2: The remainder of Oregon not included in Zone 1.

Utah

Zone 1: Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Uintah, Utah, Wasatch, and Weber Counties, and that part of Toole County north of I–80.

Zone 2: The remainder of Utah not included in Zone 1.

Washington

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

West Zone: The remainder of Washington not included in the East Zone.

Wyoming (Pacific Flyway Portion)

Snake River Zone: Beginning at the south boundary of Yellowstone National Park and the Continental Divide; south along the Continental Divide to Union Pass and the Union Pass Road (U.S.F.S. Road 600); west and south along the Union Pass Road to U.S.F.S. Road 605; south along U.S.F.S. Road 605 to the Bridger-Teton National Forest boundary; along the national forest boundary to the Idaho State line; north along the Idaho State line to the south boundary of Yellowstone National Park; east along the Yellowstone National Park boundary to the Continental Divide.

Balance of State Zone: The remainder of the Pacific Flyway portion of Wyoming not included in the Snake River Zone.

Geese

Atlantic Flyway

Connecticut

Early Canada Goose Seasons:

South Zone: Same as for ducks.

North Zone: Same as for ducks.

Regular Seasons:

AP Unit: Litchfield County and the portion of Hartford County west of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with Route 91 in Hartford, and then extending south along Route 91 to its intersection with the Hartford-Middlesex County line.

Atlantic Flyway Resident Population (AFRP) Unit: Starting at the intersection of I–95 and the Quinnipiac River, north on the Quinnipiac River to its intersection with I–91, north on I–91 to I–691, west on I–691 to the Hartford County line, and encompassing the rest of New Haven County and Fairfield County in its entirety.

NAP H–Unit: All of the rest of the State not included in the AP or AFRP descriptions above.

South Zone: Same as for ducks.

Maine

Same zones as for ducks.

Maryland

Early Canada Goose Seasons:

Eastern Unit: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; and that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State line.

Western Unit: Allegany, Baltimore, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington Counties and that part of Anne Arundel County west of Interstate 895, Interstate 97, and

Route 3; that part of Prince George's County west of Route 3 and Route 301; and that part of Charles County west of Route 301 to the Virginia State line.

Regular Seasons:

Resident Population (RP) Zone: Allegany, Frederick, Garrett, Montgomery, and Washington Counties; that portion of Prince George's County west of Route 3 and Route 301; that portion of Charles County west of Route 301 to the Virginia State line; and that portion of Carroll County west of Route 31 to the intersection of Route 97, and west of Route 97 to the Pennsylvania line.

AP Zone: Remainder of the State.

Massachusetts

NAP Zone: Central and Coastal Zones (see duck zones).

AP Zone: The Western Zone (see duck zones).

Special Late Season Area: The Central Zone and that portion of the Coastal Zone (see duck zones) that lies north of the Cape Cod Canal, north to the New Hampshire line.

New Hampshire

Same zones as for ducks.

New Jersey

AP Zone: North and South Zones (see duck zones).

RP Zone: The Coastal Zone (see duck zones).

Special Late Season Area: In northern New Jersey, that portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94: Then west along Route 94 to the tollbridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point. In southern New Jersey, that portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to Route 70; then west along Route 70 to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then east along Route 49 to Route 555; then south along Route 555 to Route 553; then east along Route 553 to Route 649; then north along Route 649 to Route 670; then east along Route 670 to Route 47; then north along Route 47 to Route 548; then east along Route 548 to Route 49; then east along Route 49 to Route 50; then south along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

New York

Lake Champlain Goose Area: The same as the Lake Champlain Waterfowl Hunting Zone, which is that area of New York State lying east and north of a continuous line extending along Route 11 from the New York-Canada International boundary south to Route 9B, south along Route 9B to Route 9, south along Route 9 to Route 22 south of Keeseville, south along Route 22 to the west shore of South Bay along and around the shoreline of South Bay to Route 22 on the east shore of South Bay, southeast along Route 22 to Route 4, northeast along Route 4 to the New York-Vermont boundary.

Northeast Goose Area: The same as the Northeastern Waterfowl Hunting Zone, which is that area of New York State lying north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to Interstate 81, south along Interstate Route 81 to Route 31, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 22 at Greenwich Junction, north along Route 22 to Washington County Route 153, east along CR 153 to the New York-Vermont boundary, exclusive of the Lake Champlain Zone.

East Central Goose Area: That area of New York State lying inside of a continuous line extending from Interstate Route 81 in Cicero, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, west along Route 146 to Albany County Route 252, northwest along Route 252 to Schenectady County Route 131, north along Route 131 to Route 7, west along Route 7 to Route 10 at Richmondville, south on Route 10 to Route 23 at Stamford, west along Route 23 to Route 7 in Oneonta, southwest along Route 7 to Route 79 to Interstate Route 88 near Harpursville, west along Route 88 to Interstate Route 81, north along Route 81 to the point of beginning.

West Central Goose Area: That area of New York State lying within a continuous line beginning at the point where the northerly extension of Route 269 (County Line Road on the Niagara-Orleans County boundary) meets the International boundary with Canada, south to the shore of Lake Ontario at the eastern boundary of Golden Hill State Park, south along the extension of Route 269 and Route 269 to Route 104 at Jeddo, west along Route 104 to Niagara County Route 271, south along Route 271 to Route 31E at Middleport, south along Route 31E to Route 31, west along Route 31 to Griswold Street, south along Griswold Street to Ditch Road, south along Ditch Road to Foot Road, south along Foot Road to the north bank of Tonawanda Creek, west along the north bank of Tonawanda Creek to Route 93, south along Route 93 to Route 5, east along Route 5 to Crittenden-Murrays Corners Road, south on Crittenden-Murrays Corners Road to the NYS Thruway, east along the Thruway 90 to Route 98 (at Thruway Exit 48) in Batavia, south along Route 98 to Route 20, east along Route 20 to Route 19 in Pavilion Center, south along Route 19 to Route 63, southeast along Route 63 to Route 246, south along Route 246 to Route 39 in Perry, northeast along Route 39 to Route 20A, northeast along Route 20A to Route 20, east along Route 20 to Route 364 (near Canandaigua), south and east along Route 364 to Yates County Route 18 (Italy Valley Road), southwest along Route 18 to Yates County Route 34, east along Route 34 to Yates County Route 32, south along Route 32 to Steuben County Route 122, south along Route 122 to Route 53, south along Route 53 to Steuben County Route 74, east along Route 74 to Route 54A (near Pulteney), south along Route

54A to Steuben County Route 87, east along Route 87 to Steuben County Route 96, east along Route 96 to Steuben County Route 114, east along Route 114 to Schuyler County Route 23, east and southeast along Route 23 to Schuyler County Route 28, southeast along Route 28 to Route 409 at Watkins Glen, south along Route 409 to Route 14, south along Route 14 to Route 224 at Montour Falls, east along Route 224 to Route 228 in Odessa, north along Route 228 to Route 79 in Mecklenburg, east along Route 79 to Route 366 in Ithaca, northeast along Route 366 to Route 13, northeast along Route 13 to Interstate Route 81 in Cortland, north along Route 81 to the north shore of the Salmon River to shore of Lake Ontario, extending generally northwest in a straight line to the nearest point of the International boundary with Canada, south and west along the International boundary to the point of beginning.

Hudson Valley Goose Area: That area of New York State lying within a continuous line extending from Route 4 at the New York-Vermont boundary, west and south along Route 4 to Route 149 at Fort Ann, west on Route 149 to Route 9, south along Route 9 to Interstate Route 87 (at Exit 20 in Glens Falls), south along Route 87 to Route 29, west along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, southeast along Route 146 to Main Street in Altamont, west along Main Street to Route 156, southeast along Route 156 to Albany County Route 307, southeast along Route 307 to Route 85A, southwest along Route 85A to Route 85, south along Route 85 to Route 443, southeast along Route 443 to Albany County Route 301 at Clarksville, southeast along Route 301 to Route 32, south along Route 32 to Route 23 at Cairo, west along Route 23 to Joseph Chadderdon Road, southeast along Joseph Chadderdon Road to Hearts Content Road (Greene County Route 31), southeast along Route 31 to Route 32, south along Route 32 to Greene County Route 23A, east along Route 23A to Interstate Route 87 (the NYS Thruway), south along Route 87 to Route 28 (Exit 19) near Kingston, northwest on Route 28 to Route 209, southwest on Route 209 to the New York-Pennsylvania boundary, southeast along the New York-Pennsylvania boundary to the New York-New Jersey boundary, southeast along the New York-New Jersey boundary to Route 210 near Greenwood Lake, northeast along Route 210 to Orange County Route 5, northeast along Orange County Route 5 to Route 105 in the Village of Monroe, east and north along Route 105 to Route 32, northeast along Route 32 to Orange County Route 107 (Quaker Avenue), east along Route 107 to Route 9W, north along Route 9W to the south bank of Moodna Creek, southeast along the south bank of Moodna Creek to the New Windsor-Cornwall town boundary, northeast along the New Windsor-Cornwall town boundary to the Orange-Dutchess County boundary (middle of the Hudson River), north along the county boundary to Interstate Route 84, east along Route 84 to the Dutchess-Putnam County boundary, east along the county boundary to the New York-Connecticut boundary, north along the New York-Connecticut boundary to the New York-Massachusetts boundary, north along the New York-Massachusetts boundary to the New York-Vermont boundary, north to the point of beginning.

Eastern Long Island Goose Area (NAP High Harvest Area): That area of Suffolk County lying east of a continuous line extending due south from the New York-Connecticut boundary to the northernmost end of Roanoke Avenue in the Town of Riverhead; then south on Roanoke Avenue (which becomes County Route 73) to State Route 25; then west on Route 25 to Peconic Avenue; then south on Peconic Avenue to County Route (CR) 104 (Riverleigh Avenue); then south on CR 104 to CR 31 (Old Riverhead Road); then south on CR 31 to Oak Street; then south on Oak Street to Potunk Lane; then west on Stevens Lane; then south on Jessup Avenue (in Westhampton Beach) to Dune Road (CR 89); then due south to international waters.

Western Long Island Goose Area (RP Area): That area of Westchester County and its tidal waters southeast of Interstate Route 95 and that area of Nassau and Suffolk Counties lying west of a continuous line extending due south from the New York-Connecticut boundary to the northernmost end of Sound Road (just east of Wading River Marsh); then south on Sound Road to North Country Road; then west on North Country Road to Randall Road; then south on Randall Road to Route 25A, then west on Route 25A to the Sunken Meadow State Parkway; then south on the Sunken Meadow Parkway to the Sagtikos State Parkway; then south on the Sagtikos Parkway to the Robert Moses State Parkway; then south on the Robert Moses Parkway to its southernmost end; then due south to international waters.

Central Long Island Goose Area (NAP Low Harvest Area): That area of Suffolk County lying between the Western and Eastern Long Island Goose Areas, as defined above.

South Goose Area: The remainder of New York State, excluding New York City.

North Carolina

SJBP Hunt Zone: Includes the following Counties or portions of Counties: Anson, Cabarrus, Chatham, Davidson, Durham, Halifax (that portion east of NC 903), Montgomery (that portion west of NC 109), Northampton, Richmond (that portion south of NC 73 and west of U.S. 220 and north of U.S. 74), Rowan, Stanly, Union, and Wake.

RP Hunt Zone: Includes the following Counties or portions of Counties: Alamance, Alleghany, Alexander, Ashe, Avery, Beaufort, Bertie (that portion south and west of a line formed by NC 45 at the Washington Co. line to U.S. 17 in Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford Co. line), Bladen, Brunswick, Buncombe, Burke, Caldwell, Carteret, Caswell, Catawba, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Davie, Duplin, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Granville, Greene, Guilford, Halifax (that portion west of NC 903), Harnett, Haywood, Henderson, Hertford, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, McDowell, Macon, Madison, Martin, Mecklenburg, Mitchell, Montgomery (that portion that is east of NC 109), Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pender, Person, Pitt, Polk, Randolph, Richmond (all of the county with exception of that portion that is south of NC 73 and west of U.S. 220 and north of U.S. 74), Robeson, Rockingham, Rutherford, Sampson, Scotland, Stokes, Surry, Swain, Transylvania, Vance, Warren, Watauga, Wayne, Wilkes, Wilson, Yadkin, and Yancey.

Northeast Hunt Unit: Includes the following Counties or portions of Counties: Bertie (that portion north and east of a line formed by NC 45 at the Washington County line to U.S. 17 in

Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford Co. line), Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

Pennsylvania

Resident Canada Goose Zone: All of Pennsylvania except for SJBP Zone and the area east of route SR 97 from the Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, and south of I–80 to the New Jersey State line.

SJBP Zone: The area north of I–80 and west of I–79 including in the city of Erie west of Bay Front Parkway to and including the Lake Erie Duck zone (Lake Erie, Presque Isle, and the area within 150 yards of the Lake Erie Shoreline).

AP Zone: The area east of route SR 97 from Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, south of I–80 to New Jersey State line.

Rhode Island

Special Area for Canada Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

South Carolina

Canada Goose Area: Statewide except for the following area:

East of U.S. 301: That portion of Clarendon County bounded to the North by S–14–25, to the East by Hwy 260, and to the South by the markers delineating the channel of the Santee River.

West of U.S. 301: That portion of Clarendon County bounded on the North by S–14–26 extending southward to that portion of Orangeburg County bordered by Hwy 6.

Vermont

Same zones as for ducks.

Virginia

AP Zone: The area east and south of the following line—the Stafford County line from the Potomac River west to Interstate 95 at Fredericksburg, then south along Interstate 95 to Petersburg, then Route 460 (SE) to City of Suffolk, then south along Route 32 to the North Carolina line.

SJBP Zone: The area to the west of the AP Zone boundary and east of the following line: The ''Blue Ridge'' (mountain spine) at the West Virginia-Virginia Border (Loudoun County-Clarke County line) south to Interstate 64 (the Blue Ridge line follows county borders along the western edge of Loudoun-Fauquier-Rappahannock-Madison-Greene-Albemarle and into Nelson Counties), then east along Interstate Rt. 64 to Route 15, then south along Rt. 15 to the North Carolina line.

RP Zone: The remainder of the State west of the SJBP Zone.

Mississippi Flyway

Arkansas

Northwest Zone: Baxter, Benton, Boone, Carroll, Conway, Crawford, Faulkner, Franklin, Johnson, Logan, Madison, Marion, Newton, Perry, Pope, Pulaski, Searcy, Sebastian, Scott, Van Buren, Washington, and Yell Counties.

Illinois

Early Canada Goose Seasons:

North September Canada Goose Zone: That portion of the State north of a line extending west from the Indiana border along Interstate 80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central September Canada Goose Zone: That portion of the State south of the North September Canada Goose Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's Road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South September Canada Goose Zone: That portion of the State south and east of a line extending west from the Indiana border along Interstate 70, south along U.S. Highway 45, to Illinois Route 13, west along Illinois Route 13 to Greenbriar Road, north on Greenbriar Road to Sycamore Road, west on Sycamore Road to N. Reed Station Road, south on N. Reed Station Road to Illinois Route 13, west along Illinois Route 13 to Illinois Route 127, south along Illinois Route 127 to State Forest Road (1025 N), west along State Forest Road to Illinois Route 3, north along Illinois Route 3 to the south bank of the Big Muddy River, west along the south bank of the Big Muddy River to the Mississippi River, west across the Mississippi River to the Missouri border.

South Central September Canada Goose Zone: The remainder of the State between the south border of the Central September Canada Goose Zone and the North border of the South September Canada Goose Zone.

Regular Seasons:

North Zone: That portion of the State north of a line extending west from the Indiana border along Interstate 80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Goose Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's Road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: Same zone as for ducks.

South Central Zone: Same zone as for ducks.

Indiana

Same zones as for ducks but in addition:

Late Canada Goose Season Zone: That part of the State encompassed by the following Counties: Adams, Allen, Boone, Clay, De Kalb, Elkhart, Greene, Hamilton, Hancock, Hendricks, Huntington, Johnson, Kosciusko, Lagrange, La Porte, Madison, Marion, Marshall, Morgan, Noble, Parke, Shelby, Starke, Steuben, St. Joseph, Sullivan, Vermillion, Vigo, Wells, and Whitley.

Iowa

Early Canada Goose Seasons:

Cedar Rapids/Iowa City Goose Zone: Includes portions of Linn and Johnson Counties bounded as follows: Beginning at the intersection of the west border of Linn County and Linn County Road E2W; then south and east along County Road E2W to Highway 920; then north along Highway 920 to County Road E16; then east along County Road E16 to County Road W58; then south along County Road W58 to County Road E34; then east along County Road E34 to Highway 13; then south along Highway 13 to Highway 30; then east along Highway 30 to Highway 1; then south along Highway 1 to Morse Road in Johnson County; then east along Morse Road to Wapsi Avenue; then south along Wapsi Avenue to Lower West Branch Road; then west along Lower West Branch Road to Taft Avenue; then south along Taft Avenue to County Road F62; then west along County Road F62 to Kansas Avenue; then north along Kansas Avenue to Black Diamond Road; then west on Black Diamond Road to Jasper Avenue; then north along Jasper Avenue to Rohert Road; then west along Rohert Road to Ivy Avenue; then north along Ivy Avenue to 340th Street; then west along 340th Street to Half Moon Avenue; then north along Half Moon Avenue to Highway 6; then west along Highway 6 to Echo Avenue; then north along Echo Avenue to 250th Street; then east on 250th Street to Green Castle Avenue; then north along Green Castle Avenue to County Road F12; then west along County Road F12 to County Road W30; then north along County Road W30 to Highway 151; then north along the Linn-Benton County line to the point of beginning.

Des Moines Goose Zone: Includes those portions of Polk, Warren, Madison and Dallas Counties bounded as follows: Beginning at the intersection of Northwest 158th Avenue and County Road R38 in Polk County; then south along R38 to Northwest 142nd Avenue; then east along Northwest 142nd Avenue to Northeast 126th Avenue; then east along Northeast 126th Avenue to Northeast 46th Street; then south along Northeast 46th Street to Highway 931; then east along Highway 931 to Northeast 80th Street; then south along Northeast 80th Street to Southeast 6th Avenue; then west along Southeast 6th Avenue to Highway 65; then south and west along Highway 65 to Highway 69 in Warren County; then south along Highway 69 to County Road G24; then west along County Road G24 to Highway 28; then southwest along Highway 28 to 43rd Avenue; then north along 43rd Avenue to Ford Street; then west along Ford Street to Filmore Street; then west along Filmore Street to 10th Avenue; then south along 10th Avenue to 155th Street in Madison County; then west along 155th Street to Cumming Road; then north along Cumming Road to Badger Creek Avenue; then north along Badger Creek Avenue to County Road F90 in Dallas County; then east along County Road F90 to County Road R22; then north along County Road R22 to Highway 44; then east along Highway 44 to County Road R30; then north along County Road R30 to County Road F31; then east along County Road F31 to Highway 17; then north along Highway 17 to Highway 415 in Polk County; then east along Highway 415 to Northwest 158th Avenue; then east along Northwest 158th Avenue to the point of beginning.

Cedar Falls/Waterloo Goose Zone: Includes those portions of Black Hawk County bounded as follows: Beginning at the intersection of County Roads C66 and V49 in Black Hawk County, then south along County Road V49 to County Road D38, then west along County Road D38 to State Highway 21, then south along State Highway 21 to County Road D35, then west along County Road D35 to Grundy Road, then north along Grundy Road to County Road D19, then west along County Road D19 to Butler Road, then north along Butler Road to County Road C57, then north and east along County Road C57 to U.S. Highway 63, then south along U.S. Highway 63 to County Road C66, then east along County Road C66 to the point of beginning.

Regular Seasons:

Same zones as for ducks.

Kentucky

Western Zone: That portion of the State west of a line beginning at the Tennessee State line at Fulton and extending north along the Purchase Parkway to Interstate Highway 24, east along I–24 to U.S. Highway 641, north along U.S. 641 to U.S. 60, northeast along U.S. 60 to the Henderson County line, then south, east, and northerly along the Henderson County line to the Indiana State line.

Pennyroyal/Coalfield Zone: Butler, Daviess, Ohio, Simpson, and Warren Counties and all counties lying west to the boundary of the Western Goose Zone.

Louisiana

North Zone: That portion of the State north of the line from the Texas border at Hwy 190/12 east to Hwy 49, then south on Hwy 49 to I–10, then east on I–10 to I–12, then east on I–12 to 1–10, then east on I–10 to the Mississippi State line.

South Zone: Remainder of the State.

Michigan

North Zone: Same as North duck zone.

Middle Zone: Same as Middle duck zone.

South Zone: Same as South duck zone.

Tuscola/Huron Goose Management Unit (GMU): Those portions of Tuscola and Huron Counties bounded on the south by Michigan Highway 138 and Bay City Road, on the east by Colwood and Bay Port Roads, on the north by Kilmanagh Road and a line extending directly west off the end of Kilmanagh Road into Saginaw Bay to the west boundary, and on the west by the Tuscola-Bay County line and a line extending directly north off the end of the Tuscola-Bay County line into Saginaw Bay to the north boundary.

Allegan County GMU: That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly along 46th Street to 109th Avenue, westerly along 109th Avenue to I–196 in Casco Township, then northerly along I–196 to the point of beginning.

Saginaw County GMU: That portion of Saginaw County bounded by Michigan Highway 46 on the north; Michigan 52 on the west; Michigan 57 on the south; and Michigan 13 on the east.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Southern Michigan Late Season Canada Goose Zone: Same as the South Duck Zone excluding Tuscola/Huron Goose Management Unit (GMU), Allegan County GMU, Saginaw County GMU, and Muskegon Wastewater GMU.

Minnesota

Early Canada Goose Seasons:

Northwest Goose Zone: That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to

CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Intensive Harvest Zone: That portion of the State encompassed by a line extending east from the junction of US 2 and the North Dakota border, US 2 east to MN 32, MN 32 north to MN 92, MN 92 south to MN 200, MN 200 east to US 71, US 71 south to US 10, US 10 east to MN 101, MN 101 south to Interstate 94, Interstate 94 east to US 494, US 494 south to US 212, US 212 west to MN 23, MN 23 south to US 14, US 14 west to the South Dakota border, South Dakota Border north to the North Dakota border, North Dakota border north to US 2.

Rest of State: Remainder of Minnesota.

Regular Seasons:

Same zones as for ducks but in addition:

Rochester Goose Zone: That part of the State within the following described boundary:

Beginning at the intersection of State Trunk Highway (STH) 247 and County State Aid Highway (CSAH) 4, Wabasha County; thence along CSAH 4 to CSAH 10, Olmsted County; thence along CSAH 10 to CSAH 9, Olmsted County; thence along CSAH 9 to CSAH 22, Winona County; thence along CSAH 22 to STH 74; thence along STH 74 to STH 30; thence along STH 30 to CSAH 13, Dodge County; thence along CSAH 13 to U.S. Highway 14; thence along U.S. Highway 14 to STH 57; thence along STH 57 to CSAH 24, Dodge County; thence along CSAH 24 to CSAH 13, Olmsted County; thence along CSAH 13 to U.S. Highway 52; thence along U.S. Highway 52 to CSAH 12, Olmsted County; thence along CSAH 12 to STH 247; thence along STH 247 to the point of beginning.

Missouri

Same zones as for ducks.

Ohio

Same zones as for ducks.

Tennessee

Northwest Goose Zone: Lake, Obion, and Weakley Counties and those portions of Gibson and Dyer Counties north of State Highways 20 and 104 and east of U.S. Highways 45 and 45W.

Remainder of State: That portion of Tennessee outside of the Northwest Goose Zone.

Wisconsin

Early Canada Goose Seasons:

Early-Season Subzone A: That portion of the State encompassed by a line beginning at the intersection of U.S. Highway 141 and the Michigan border near Niagara, then south along U.S. 141 to State Highway 22, west and southwest along State 22 to U.S. 45, south along U.S. 45 to State 22, west and south along State 22 to State 110, south along State 110 to U.S. 10, south along U.S. 10 to State 49, south along State 49 to State 23, west along State 23 to State 73, south along State 73 to State 60, west along State 60 to State 23, south along State 23 to State 11, east along State 11 to State 78, then south along State 78 to the Illinois border.

Early-Season Subzone B: The remainder of the State.

Regular Seasons:

Same zones as for ducks but in addition:

Horicon Zone: That portion of the State encompassed by a boundary beginning at the intersection of State 23 and State 73 and moves south along State 73 until the intersection of State 73 and State 60, then moves east along State 60 until the intersection of State 60 and State 83, and then moves north along State 83 until the intersection of State 83 and State 33 at which point it moves east until the intersection of State 33 and U.S .45, then moves north along U.S. 45 until the intersection of U.S. 45 and State 23, at which point it moves west along State 23 until the intersection of State 23 and State 73.

Central Flyway

Colorado (Central Flyway Portion)

Northern Front Range Area: All areas in Boulder, Larimer, and Weld Counties from the Continental Divide east along the Wyoming border to U.S. 85, south on U.S. 85 to the Adams County line, and all lands in Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Gilpin, and Jefferson Counties.

North Park Area: Jackson County.

South Park and San Luis Valley Area: All of Alamosa, Chaffee, Conejos, Costilla, Custer, Fremont, Lake, Park, Rio Grande, and Teller Counties, and those portions of Saguache, Mineral and Hinsdale Counties east of the Continental Divide.

Remainder: Remainder of the Central Flyway portion of Colorado.

Eastern Colorado Late Light Goose Area: That portion of the State east of Interstate Highway 25.

Montana (Central Flyway Portion)

Zone 1: Same as Zone 1 for ducks and coots.

Zone 2: Same as Zone 2 for ducks and coots.

Nebraska

Dark Geese

Niobrara Unit: That area contained within and bounded by the intersection of the South Dakota State line and the eastern Cherry County line, south along the Cherry County line to the Niobrara River, east to the Norden Road, south on the Norden Road to U.S. Hwy 20, east along U.S. Hwy 20 to NE Hwy 14, north along NE Hwy 14 to NE Hwy 59 and County Road 872, west along County Road 872 to the Knox County Line, north along the Knox County Line to the South Dakota State line. Where the Niobrara River forms the boundary, both banks of the river are included in the Niobrara Unit.

East Unit: That area north and east of U.S. 81 at the Kansas-Nebraska State line, north to NE Hwy 91, east to U.S. 275, south to U.S. 77, south to NE 91, east to U.S. 30, east to Nebraska-Iowa State line.

Platte River Unit: That area north and west of U.S. 81 at the Kansas-Nebraska State line, north to NE Hwy 91, west along NE 91 to NE 11, north to the Holt County line, west along the northern border of Garfield, Loup, Blaine and Thomas Counties to the Hooker County line, south along the Thomas-Hooker County lines to the McPherson County line, east along the south border of Thomas County to the western line of Custer County, south along the Custer-Logan County line to NE 92, west to U.S. 83, north to NE 92, west to NE 61, south along NE 61 to NE 92, west along NE 92 to U.S. Hwy 26, south along U.S. Hwy 26 to Keith County Line, south along Keith County Line to the Colorado State line.

Panhandle Unit: That area north and west of Keith-Deuel County Line at the Nebraska-Colorado State line, north along the Keith County Line to U.S. Hwy 26, west to NE Hwy 92, east to NE Hwy 61, north along NE Hwy 61 to NE Hwy 2, west along NE 2 to the corner formed by Garden-Grant-Sheridan Counties, west along the north border of Garden, Morrill, and Scotts Bluff Counties to the intersection of the Interstate Canal, west to the Wyoming State line.

North-Central Unit: The remainder of the State.

Light Geese

Rainwater Basin Light Goose Area: The area bounded by the junction of NE Hwy. 92 and NE Hwy. 15, south along NE Hwy. 15 to NE Hwy. 4, west along NE Hwy. 4 to U.S. Hwy. 34, west along

U.S. Hwy. 34 to U.S. Hwy. 283, north along U.S. Hwy. 283 to U.S. Hwy. 30, east along U.S. Hwy. 30 to NE Hwy. 92, east along NE Hwy. 92 to the beginning.

Remainder of State: The remainder portion of Nebraska.

New Mexico (Central Flyway Portion)

Dark Geese

Middle Rio Grande Valley Unit: Sierra, Socorro, and Valencia Counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

North Dakota

Missouri River Canada Goose Zone: The area within and bounded by a line starting where ND Hwy 6 crosses the South Dakota border; then north on ND Hwy 6 to I–94; then west on I–94 to ND Hwy 49; then north on ND Hwy 49 to ND Hwy 200; then north on Mercer County Rd. 21 to the section line between sections 8 and 9 (T146N–R87W); then north on that section line to the southern shoreline to Lake Sakakawea; then east along the southern shoreline (including Mallard Island) of Lake Sakakawea to U.S. Hwy 83; then south on U.S. Hwy 83 to ND Hwy 200; then east on ND Hwy 200 to ND Hwy 41; then south on ND Hwy 41 to U.S. Hwy 83; then south on U.S. Hwy 83 to I–94; then east on I–94 to U.S. Hwy 83; then south on U.S. Hwy 83 to the South Dakota border; then west along the South Dakota border to ND Hwy 6.

Rest of State: Remainder of North Dakota.

South Dakota

Early Canada Goose Seasons:

Special Early Canada Goose Unit: The Counties of Campbell, Marshall, Roberts, Day, Clark, Codington, Grant, Hamlin, Deuel, Walworth; that portion of Perkins County west of State Highway 75 and south of State Highway 20; that portion of Dewey County north of Bureau of Indian Affairs Road 8, Bureau of Indian Affairs Road 9, and the section of U.S. Highway 212 east of the Bureau of Indian Affairs Road 8 junction; that portion of Potter County east of U.S. Highway 83; that portion of Sully County east of U.S. Highway 83; portions of Hyde, Buffalo, Brule, and Charles Mix counties north and east of a line beginning at the Hughes-Hyde County line on State Highway 34, east to Lees Boulevard, southeast to State Highway 34, east 7 miles to 350th Avenue, south to Interstate 90 on 350th Avenue, south and east on State Highway 50 to Geddes, east on 285th Street to U.S. Highway 281, and north on U.S. Highway 281 to the Charles Mix-Douglas County boundary; that portion of Bon Homme County north of State Highway 50; McPherson, Edmunds, Kingsbury, Brookings, Lake, Moody, Miner, Faulk, Hand, Jerauld, Douglas, Hutchinson, Turner, Union, Clay, Yankton, Aurora, Beadle, Davison, Hanson, Sanborn, Spink, Brown, Harding, Butte, Lawrence, Meade, Oglala Lakota (formerly Shannon), Jackson, Mellette, Todd, Jones, Haakon, Corson, Ziebach, and McCook Counties; and those portions of Minnehaha and Lincoln counties outside of an area bounded by a line beginning at the junction of the South Dakota-Minnesota State line and Minnehaha County Highway 122 (254th Street) west to its junction with Minnehaha County Highway 149 (464th Avenue), south on Minnehaha County Highway 149 (464th Avenue) to Hartford, then south on Minnehaha County Highway 151 (463rd Avenue) to State Highway 42, east on State Highway 42 to State Highway 17, south on State Highway 17 to its junction with Lincoln County Highway 116 (Klondike Road), and east on Lincoln County Highway 116 (Klondike Road) to the South Dakota-Iowa State line, then north along the South Dakota-Iowa and South Dakota-Minnesota border to the junction of the South Dakota-Minnesota State line and Minnehaha County Highway 122 (254th Street).

Regular Seasons:

Unit 1: Same as that for the September Canada Goose Season.

Unit 2: Remainder of South Dakota.

Unit 3: Bennett County.

Texas

Northeast Goose Zone: That portion of Texas lying east and north of a line beginning at the Texas-Oklahoma border at U.S. 81, then continuing south to Bowie and then southeasterly along U.S. 81 and U.S. 287 to I–35W and I–35 to the juncture with I–10 in San Antonio, then east on I–10 to the Texas-Louisiana border.

Southeast Goose Zone: That portion of Texas lying east and south of a line beginning at the International Toll Bridge at Laredo, then continuing north following I–35 to the juncture with I–10 in San Antonio, then easterly along I–10 to the Texas-Louisiana border.

West Goose Zone: The remainder of the State.

Wyoming (Central Flyway Portion)

Dark Geese

Zone G1: Big Horn, Converse, Hot Springs, Natrona, Park, and Washakie Counties; and Fremont County excluding those portions south or west of the Continental Divide.

Zone G1A: Goshen and Platte Counties.

Zone G2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone G3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Pacific Flyway

Arizona

Same zones as for ducks.

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to main street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines west along the California-Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Imperial County Special Management Area: The area bounded by a line beginning at Highway 86 and the Navy Test Base Road; south on Highway 86 to the town of Westmoreland; continue through the town of Westmoreland to Route S26; east on Route S26 to Highway 115; north on Highway 115 to Weist Rd.; north on Weist Rd. to Flowing Wells Rd.; northeast on Flowing Wells Rd. to the Coachella Canal; northwest on the Coachella Canal to Drop 18; a straight line from Drop 18 to Frink Rd.; south on Frink Rd. to Highway 111; north on Highway 111 to Niland Marina Rd.; southwest on Niland Marina Rd. to the old Imperial County boat ramp and the water line of the Salton Sea; from the water line of the Salton Sea, a straight line across the Salton Sea to the Salinity Control Research Facility and the Navy Test Base Road; southwest on the Navy Test Base Road to the point of beginning.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, and Southern Zones.

North Coast Special Management Area: Del Norte and Humboldt Counties.

Sacramento Valley Special Management Area: That area bounded by a line beginning at Willows south on I–5 to Hahn Road; easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA 162 to the point of beginning in Willows.

Colorado (Pacific Flyway Portion)

Same zones as for ducks.

Idaho

Canada Geese and Brant

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Adams, Benewah, Blaine, Bonner, Bonneville, Boundary, Butte, Camas, Clark, Clearwater, Custer, Franklin, Fremont, Idaho, Jefferson, Kootenai, Latah, Lemhi, Lewis, Madison, Nez Perce, Oneida, Shoshone, Teton, and Valley Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 3: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 4: Bear Lake County; Bingham County within the Blackfoot Reservoir drainage; and Caribou County, except that portion within the Fort Hall Indian Reservation.

White-Fronted Geese

Same zones as for ducks.

Light Geese

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County east of the west bank of the Snake River, west of the McTucker boat ramp access road, and east of the American Falls Reservoir bluff, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County below the American Falls Reservoir bluff, and within the Fort Hall Indian Reservation.

Zone 2: Bingham County west of the west bank of the Snake River, east of the McTucker boat ramp access road, and west of the American Falls Reservoir bluff; Power County, except below the American Falls Reservoir bluff and those lands and waters within the Fort Hall Indian Reservation.

Zone 3: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 4: Adams, Bear Lake, Benewah, Blaine, Bonner, Bonneville, Boundary, Butte, Camas, Clark, Clearwater, Custer, Franklin, Fremont, Idaho, Jefferson, Kootenai, Latah, Lemhi, Lewis, Madison, Nez Perce, Oneida, Shoshone, Teton, and Valley Counties; Caribou County, except the Fort Hall Indian Reservation; Bingham County within the Blackfoot Reservoir drainage.

Nevada

Same zones as for ducks.

New Mexico (Pacific Flyway Portion)

North Zone: The Pacific Flyway portion of New Mexico located north of I–40.

South Zone: The Pacific Flyway portion of New Mexico located south of I–40.

Oregon

Northwest Permit Zone: Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties.

Lower Columbia/N. Willamette Valley Management Area: Those portions of Clatsop, Columbia, Multnomah, and Washington Counties within the Northwest Special Permit Zone.

Tillamook County Management Area: That portion of Tillamook County beginning at the point where Old Woods Rd crosses the south shores of Horn Creek, north on Old Woods Rd to Sand Lake Rd at Woods, north on Sand Lake Rd to the intersection with McPhillips Dr, due west (~200 yards) from the intersection to the Pacific coastline, south on the Pacific coastline to Neskowin Creek, east along the north shores of Neskowin Creek and then Hawk Creek to Salem Ave, east on Salem Ave in Neskowin to Hawk Ave, east on Hawk Ave to Hwy 101, north on Hwy 101 to Resort Dr, north on Resort Dr to a point due west of the south shores of Horn Creek at its confluence with the Nestucca River, due east (~80 yards) across the Nestucca River to the south shores of Horn Creek, east along the south shores of Horn Creek to the point of beginning.

Southwest Zone: Those portions of Douglas, Coos, and Curry Counties east of Highway 101, and Josephine and Jackson Counties.

South Coast Zone: Those portions of Douglas, Coos, and Curry Counties west of Highway 101.

Eastern Zone: Baker, Crook, Deschutes, Gilliam, Grant, Hood River, Jefferson, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler Counties.

Klamath County Zone: Klamath County.

Harney and Lake County Zone: Harney and Lake Counties.

Malheur County Zone: Malheur County.

Utah

Northern Zone: Boundary begins at the intersection of the eastern boundary of Public Shooting Grounds Waterfowl Management Area and SR–83 (Promontory Road); east along SR–83 to I–15; south on I–15 to the Perry access road; southwest along this road to the Bear River Bird Refuge boundary; west, north, and then east along the refuge boundary until it intersects the Public Shooting Grounds Waterfowl

Management Area boundary; east and north along the Public Shooting Grounds Waterfowl Management Area boundary to SR–83.

Wasatch Front Zone: Boundary begins at the Weber-Box Elder county line at I–15; east along Weber county line to U.S.–89; south on U.S.–89 to I–84; east and south and along I–84 to I–80; south along I–80 to U.S.–189; south and west along U.S.–189 to the Utah County line; southeast and then west along this line to I–15; north on I–15 to U.S.–6; west on U.S.–6 to SR–36; north on SR–36 to I–80; north along a line from this intersection to the southern tip of Promontory Point and Promontory Road; east and north along this road to the causeway separating Bear River Bay from Ogden Bay; east on this causeway to the southwest corner of Great Salt Lake Mineral Corporations (GSLMC) west impoundment; north and east along GSLMC's west impoundment to the northwest corner of the impoundment; directly north from this point along an imaginary line to the southern boundary of Bear River Migratory Bird Refuge; east along this southern boundary to the Perry access road; northeast along this road to I–15; south along I–15 to the Weber-Box Elder county line.

Washington County Zone: Washington County.

Balance of State Zone: The remainder of Utah not included in the Northern, Wasatch Front, and Washington County Zones.

Washington

Area 1: Skagit, Island, and Snohomish Counties.

Area 2A (Southwest Permit Zone): Clark, Cowlitz, and Wahkiakum Counties.

Area 2B (Southwest Permit Zone): Grays Harbor and Pacific Counties.

Area 3: All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2A, and 2B.

Area 4: Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5: All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Brant

Pacific Flyway

California

Northern Zone: Del Norte, Humboldt, and Mendocino Counties.

Balance of State Zone: The remainder of the State not included in the Northern Zone.

Washington

Puget Sound Zone: Skagit County.

Coastal Zone: Pacific County.

Swans

Central Flyway

South Dakota: Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Day, Deuel, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

Pacific Flyway

Montana (Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287–89.

Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

Utah

Open Area: Those portions of Box Elder, Weber, Davis, Salt Lake, and Toole Counties lying west of I–15, north of I–80, and south of a line beginning from the Forest Street exit to the Bear River National Wildlife Refuge boundary; then north and west along the Bear River National Wildlife Refuge boundary to the farthest west boundary of the Refuge; then west along a line to Promontory Road; then north on Promontory Road to the intersection of SR 83; then north on SR 83 to I–84; then north and west on I–84 to State Hwy 30; then west on State Hwy 30 to the Nevada-Utah State line; then south on the Nevada-Utah State line to I–80.

Doves

Alabama

South Zone: Baldwin, Barbour, Coffee, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone: Remainder of the State.

Florida

Northwest Zone: The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone: Remainder of State.

Louisiana

North Zone: That portion of the State north of a line extending east from the Texas border along State Highway 12 to U.S. Highway 190, east along U.S. 190 to Interstate Highway 12, east along Interstate Highway 12 to Interstate Highway 10, then east along Interstate Highway 10 to the Mississippi border.

South Zone: The remainder of the State.

Mississippi

North Zone: That portion of the State north and west of a line extending west from the Alabama State line along U.S. Highway 84 to its junction with State Highway 35, then south along State Highway 35 to the Louisiana State line.

South Zone: The remainder of Mississippi.

Texas

North Zone: That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas-Arkansas State line.

South Zone: That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to State Loop 1604 west of San Antonio; then south, east, and north along Loop 1604 to I–10 east of San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area in the South Zone: That portion of the State south and west of a line beginning at the International Toll Bridge in Del Rio; then northeast along U.S. Highway 277 Spur to U.S. Highway 90 in Del Rio; then east along U.S. Highway 90 to State Loop 1604; then along Loop 1604 south and east to Interstate Highway 37; then south along Interstate Highway 37 to U.S. Highway 181 in Corpus Christi; then north and east along U.S. 181 to the Corpus Christi Ship Channel, then eastwards along the south shore of the Corpus Christi Ship Channel to the Gulf of Mexico.

Central Zone: That portion of the State lying between the North and South Zones.

Band-Tailed Pigeons

California

North Zone: Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino,

Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone: The remainder of the State not included in the North Zone.

New Mexico

North Zone: North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone: The remainder of the State not included in the North Zone.

Washington

Western Washington: The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Woodcock

New Jersey

North Zone: That portion of the State north of NJ 70.

South Zone: The remainder of the State.

Sandhill Cranes

Mississippi Flyway

Minnesota

Northwest Goose Zone: That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Tennessee

Hunt Zone: That portion of the State south of Interstate 40 and east of State Highway 56.

Closed Zone: Remainder of the State.

Central Flyway

Colorado: The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande, and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas: That portion of the State west of a line beginning at the Oklahoma border, north on I–35 to Wichita, north on I–135 to Salina, and north on U.S. 81 to the Nebraska border.

Montana

Regular Season Open Area: The Central Flyway portion of the State except for that area south and west of Interstate 90, which is closed to sandhill crane hunting.

Special Season Open Area: Carbon County.

New Mexico

Regular-Season Open Area: Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Special Season Open Areas:

Middle Rio Grande Valley Area: The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Estancia Valley Area: Those portions of Santa Fe, Torrance, and Bernallilo Counties within an area bounded on the west by New Mexico Highway 55 beginning at Mountainair north to NM 337, north to NM 14, north to I–25; on the north by I–25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to NM 55 in Mountainair.

Southwest Zone: Area bounded on the south by the New Mexico-Mexico border; on the west by the New Mexico-Arizona border north to Interstate 10; on the north by Interstate 10 east to U.S. 180, north to N.M. 26, east to N.M. 27, north to N.M. 152, and east to Interstate 25; on the east by Interstate 25 south to Interstate 10, west to the Luna County line, and south to the New Mexico-Mexico border.

North Dakota

Area 1: That portion of the State west of U.S. 281.

Area 2: That portion of the State east of U.S. 281.

Oklahoma: That portion of the State west of I–35.

South Dakota: That portion of the State west of U.S. 281.

Texas

Zone A: That portion of Texas lying west of a line beginning at the international toll bridge at Laredo, then northeast along U.S. Highway 81 to its junction with Interstate Highway 35 in Laredo, then north along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 at Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas-Oklahoma State line.

Zone B: That portion of Texas lying within boundaries beginning at the junction of U.S. Highway 81 and the Texas-Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with Interstate Highway 35W in Fort Worth, then southwest along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 in the town of Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas-Oklahoma State line, then south along the Texas-Oklahoma State line to the south bank of the Red River, then eastward along the vegetation line on the south bank of the Red River to U.S. Highway 81.

Zone C: The remainder of the State, except for the closed areas.

Closed areas: (A) That portion of the State lying east and north of a line beginning at the junction of U.S. Highway 81 and the Texas-Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with I–35W in Fort Worth, then southwest along I–35 to its junction with U.S. Highway 290 East in Austin, then east along U.S. Highway 290 to its junction with Interstate Loop 610 in Harris County, then south and east along Interstate Loop 610 to its junction with Interstate Highway 45 in Houston, then south on Interstate Highway 45 to State Highway 342, then to the shore of the Gulf of Mexico, and then north and east along the shore of the Gulf of Mexico to the Texas-Louisiana State line.

(B) That portion of the State lying within the boundaries of a line beginning at the Kleberg-Nueces County line and the shore of the Gulf of Mexico, then west along the County line to Park Road 22 in Nueces County, then north and west along Park Road 22 to its junction with State Highway 358 in Corpus Christi, then west and north along State Highway 358 to its junction with State Highway 286, then north along State Highway 286 to its junction with Interstate Highway 37, then east along Interstate Highway 37 to its junction with U.S. Highway 181, then north and west along U.S. Highway 181 to its junction with U.S. Highway 77 in Sinton, then north and east along U.S. Highway 77 to its junction with U.S. Highway 87 in Victoria, then south and east along U.S. Highway 87 to its junction with State Highway 35 at Port Lavaca, then north and east along State Highway 35 to the south end of the Lavaca Bay Causeway, then south and

east along the shore of Lavaca Bay to its junction with the Port Lavaca Ship Channel, then south and east along the Lavaca Bay Ship Channel to the Gulf of Mexico, and then south and west along the shore of the Gulf of Mexico to the Kleberg-Nueces County line.

Wyoming

Regular Season Open Area: Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Special Season Open Areas:

Riverton-Boysen Unit: Portions of Fremont County.

Park and Big Horn County Unit: All of Big Horn, Hot Springs, Park, and Washakie Counties.

Johnson, Natrona, and Sheridan County Unit: All of Johnson, Natrona, and Sheridan Counties.

Pacific Flyway

Arizona

Special Season Area: Game Management Units 28, 30A, 30B, 31, and 32.

Idaho

Area 1: All of Bear Lake County and all of Caribou County except that portion lying within the Grays Lake Basin.

Area 2: All of Teton County except that portion lying west of State Highway 33 and south of Packsaddle Road (West 400 North) and north of the North Cedron Road (West 600 South) and east of the west bank of the Teton River.

Area 3: All of Fremont County except the Chester Wetlands Wildlife Management Area.

Area 4: All of Jefferson County.

Area 5: All of Bannock County east of Interstate–15 and south of U.S. Highway 30; and all of Franklin County.

Montana

Zone 1 (Warm Springs Portion of Deer Lodge County): Those portions of Deer Lodge County lying within the following described boundary: Beginning at the intersection of I–90 and Highway 273, then westerly along Highway 273 to the junction of Highway 1, then southeast along said highway to Highway 275 at Opportunity, then east along said highway to East Side County road, then north along said road to Perkins Lake, then west on said lane to I–90, then north on said interstate to the junction of Highway 273, the point of beginning. Except for sections 13 and 24, T5N, R10W; and Warm Springs Pond number 3.

Zone 2 (Ovando-Helmville Area): That portion of the Pacific Flyway, located in Powell County lying within the following described boundary: Beginning at the junction of State Routes 141 and 200, then west along Route 200 to its intersection with the Blackfoot River at Russell Gates Fishing Access Site (Powell-Missoula County line), then southeast along said river to its intersection with the Ovando-Helmville Road (County Road 104) at Cedar Meadows Fishing Access Site, then south and east along said road to its junction with State Route 141, then north along said route to its junction with State Route 200, the point of beginning.

Zone 3 (Dillon/Twin Bridges/Cardwell Areas): That portion of Beaverhead, Madison, and Jefferson Counties lying within the following described boundaries: Beginning at Dillon, then northerly along U.S. Hwy 91 to its intersection with the Big Hole River at Brown's Bridge north of Glen, then southeasterly and northeasterly along the Big Hole River to High Road, then east along High Road to State Highway 41, then east along said highway to the Beaverhead River, then north along said river to the Jefferson River and north along the Jefferson River to the Ironrod Bridge, then northeasterly along State Highway 41 to the junction with State Highway 55, then northeasterly along said highway to the junction with I–90, then east along I–90 to Cardwell and Route 359 then south along Route 359 to the Parrot Hill/Cedar Hill Road then southwesterly along said road and the Cemetery Hill Road to the Parrot Ditch road to the Point of Rocks Road to Carney Lane to the Bench Road to the Waterloo Road and Bayers Lanes, to State Highway 41, then east along State Highway 41 to the Beaverhead River, then south along the Beaverhead River to the mouth of the Ruby River, then southeasterly along the Ruby River to the East Bench Road, then southwesterly along the East Bench Road to the East Bench Canal, then southwesterly along said canal to the Sweetwater Road, then west along Sweetwater Road to Dillon, the point of beginning, plus the remainder of Madison County and all of Gallatin County.

Zone 4 (Broadwater County): Broadwater County.

Utah

Cache County: Cache County.

East Box Elder County: That portion of Box Elder County beginning on the Utah-Idaho State line at the Box Elder-Cache County line; west on the State line to the Pocatello Valley County Road; south on the Pocatello Valley County Road to I–15; southeast on I–15 to SR–83; south on SR–83 to Lamp Junction; west and south on the Promontory Point County Road to the tip of Promontory Point; south from Promontory Point to the Box Elder-Weber County line; east on the Box Elder-Weber County line to the Box Elder-Cache County line; north on the Box Elder-Cache County line to the Utah-Idaho State line.

Rich County: Rich County.

Uintah County: Uintah County.

Wyoming

Area 1 (Bear River): All of the Bear River and Ham's Fork River drainages in Lincoln County.

Area 2 (Salt River Area): All of the Salt River drainage in Lincoln County south of the McCoy Creek Road.

Area 3 (Eden Valley Area): All lands within the Bureau of Reclamation's Eden Project in Sweetwater County.

Area 5 (Uintah County Area): Uinta County.

All Migratory Game Birds in Alaska

North Zone: State Game Management Units 11–13 and 17–26.

Gulf Coast Zone: State Game Management Units 5–7, 9, 14–16, and 10 (Unimak Island only).

Southeast Zone: State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone: State Game Management Unit 10 (except Unimak Island).

Kodiak Zone: State Game Management Unit 8.

All Migratory Game Birds in the Virgin Islands

Ruth Cay Closure Area: The island of Ruth Cay, just south of St. Croix.

All Migratory Game Birds in Puerto Rico

Municipality of Culebra Closure Area: All of the municipality of Culebra.

Desecheo Island Closure Area: All of Desecheo Island.

Mona Island Closure Area: All of Mona Island.

El Verde Closure Area: Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for 1 kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas: All of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: Beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of the beginning.

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Part IV

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 301, 303, 318, et al.
Elimination of Trichinae Control Regulations and Consolidation of Thermally Processed, Commercially Sterile Regulations; Proposed Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 301, 303, 318, 319, 320, 325, 331, 381, 417, 424, 431

[Docket No. FSIS–2015–0036]

RIN 0583–AD59

Elimination of Trichinae Control Regulations and Consolidation of Thermally Processed, Commercially Sterile Regulations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Supplemental proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations to eliminate the requirements for both ready-to-eat (RTE) and not-ready-to-eat (NRTE) pork and pork products to be treated to destroy trichinae (*Trichinella spiralis*) because the regulations are inconsistent with the Hazard Analysis and Critical Control Point (HACCP) regulations, and because these prescriptive regulations are no longer necessary. If this supplemental proposed rule is finalized, FSIS will end its *Trichinella* Approved Laboratory Program (TALP program) for the evaluation and approval of non-Federal laboratories that use the pooled sample digestion technique to analyze samples for the presence of trichinae. FSIS is also proposing to consolidate the regulations on thermally processed, commercially sterile meat and poultry products (*i.e.,* canned food products containing meat or poultry).

DATES: Comments must be received on or before May 27, 2016.

ADDRESSES: FSIS invites interested persons to submit comments on this rulemaking. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E. Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2015–0036. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Daniel Engeljohn, Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 2001, FSIS proposed food safety performance standards for all RTE and all partially heat-treated meat and poultry products (66 FR 12590). The proposed performance standards included both levels of pathogen reduction and limits on pathogen growth that official meat and poultry establishments would be required to meet in the production of these products.

The Agency also proposed to rescind the requirements in the meat inspection regulations that prescribe treatments of pork and pork products to eliminate trichinae because the requirements are inconsistent with the HACCP regulations (9 CFR part 417).

The Agency further proposed to require that all thermally processed, commercially sterile meat and poultry products be processed to either eliminate or control the growth of *Clostridium botulinum,* depending on the pH of the product or other factors affecting the growth of that pathogen. The processing of a low-acid canned product that receives thermal or other sporicidal lethality processing would have had to meet a 12-$\log_{10}$ reduction standard for *C. botulinum.* The processing of acidified low-acid products and of some cured products and other canned products in which pathogen growth is controlled by factors other than the thermal process would have had to prevent growth rather than achieve any specific decimal reduction of *C. botulinum.* All thermally processed, commercially sterile products would have had to be commercially sterile and their containers hermetically sealed.

Finally, the Agency proposed that each establishment that produces RTE meat and poultry products would have to test food contact surfaces for *Listeria* species (spp.) to verify the efficacy of its sanitation standard operating procedures unless it had incorporated one or more controls for *Listeria monocytogenes* (*Lm*) into its HACCP plan.

Because of the length of time since the publication of the proposed rule, FSIS is providing the public an opportunity to comment on this supplemental proposed rule. In this supplemental proposed rule, FSIS is only addressing the proposed changes to the regulations on control of trichinae in pork products and on thermally processed, commercially sterile meat and poultry products. FSIS is re-proposing the changes to remove the trichinae requirements, consistent with what FSIS originally proposed in 2001. In addition, rather than what it proposed in 2001, FSIS is proposing to combine the meat and poultry canning regulations into a new part in the regulations and to make minor changes that improve the clarity of the regulations and remove redundant sections. These minor changes are described below in the responses to comments.

FSIS addressed *Lm* in the interim final rule ''Control of *Listeria monocytogenes* in RTE Meat and Poultry Products,'' published June 6, 2003 (68 FR 34208), and affirmed the interim final rule with minor changes on June, 19, 2015 (80 FR 35178). Therefore, FSIS has concluded that requiring establishments to test for *Listeria* spp. is unnecessary because post-lethality interventions and formulation of RTE meat and poultry products with growth inhibitors is much more effective in preventing listeriosis than testing product or food contact surfaces (see 80 FR 35178, 35184). FSIS is withdrawing that and the other provisions of the 2001 proposed rule because the Agency's current regulations and inspection program have been effective at preventing adulterated RTE product from entering commerce.

Based on available data, FSIS is confident that it is successfully carrying out its mission to protect public health by enforcing safeguards designed to ensure that RTE products do not become contaminated with pathogens of concern, including *Lm* and *Salmonella.* Since FSIS issued the 2001 proposed rule described above, the percent positive in FSIS testing for *Lm* in RTE products has decreased from 1.32 percent in CY 2001 to 0.32 percent in CY 2014. The percent positive in FSIS testing for *Salmonella* in RTE products has decreased from 0.15 percent in CY 2001 to 0.04 percent in CY 2014. The Agency considers the RTE regulatory results to be an excellent indicator of the trends in pathogen presence in RTE

products over several years. This downward trend shows that the current regulatory requirements have been effective in controlling *Lm* and *Salmonella* in RTE meat and poultry products.

Pathogens adulterate RTE products, and establishments are required to produce RTE products that do not have detectable levels of pathogens (*e.g., Salmonella*). Also, establishments are required to stabilize RTE products to inhibit the growth of spore-forming bacteria (*e.g., C. botulinum* and *C. perfringens*). If establishments' labels indicate that their products are RTE by not including safe handling instructions, they are required to process the products to render them RTE, in accordance with 9 CFR 317.2(l) and 381.125(b). FSIS requires establishments to validate their processes to achieve at least a 6.5 $\log_{10}$ reduction of *Salmonella* for cooked beef, roast beef, and cooked corned beef products (9 CFR 318.17); a 5-$\log_{10}$ reduction for uncured meat patties (which establishments achieve if they meet the time temperature requirements in 9 CFR 318.23); a 7-$\log_{10}$ reduction for cooked poultry products (9 CFR 381.150); or an equivalent lethality. To assist establishments in meeting these requirements, FSIS has issued guidance on lethality and stabilization in RTE products, ''Appendix A, Guidance on Relative Humidity and Time/Temperature for Cooking/Heating and Applicability to Production of Other Ready-to-Eat Meat and Poultry Product Compliance Guidelines for Meeting Lethality Performance Standards For Certain Meat And Poultry Products;'' ''Appendix B, Compliance Guidelines for Cooling Heat-Treated Meat and Poultry Products (Stabilization);'' ''Time-Temperature Tables for Cooking Ready-to-Eat Poultry Products;'' and ''FSIS Guidance on Safe Cooking of Non-Intact Meat Chops, Roasts, and Steaks.'' The guidance documents are available on FSIS's Web site at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index.* Although there are no specific lethality requirements for other fully cooked products, as noted above, they must be produced to eliminate any detectable pathogens. By following the Guidance in Appendix A and Appendix B, establishments can meet this requirement.

FSIS reviews establishments' supporting documentation for their lethality and stabilization processes to verify that they are meeting regulatory requirements. FSIS is updating its guidance documents to ensure that industry has the necessary information to effectively address hazards. In addition, the Agency has finalized validation guidance so that establishments have information necessary to validate that their HACCP systems effectively address these hazards in RTE product. The guidance is available on FSIS's Web site at *http://www.fsis.usda.gov/wps/wcm/connect/a70bb780-e1ff-4a35–9a9a-3fb40c8fe584/HACCP_Systems_Validation.pdf?MOD=AJPERES.* Inspectors began verifying that large establishments meet all validation requirements on January 4, 2016 and will begin verifying that small and very small establishments meet all validation requirements on April 4, 2016 (80 FR 27557).

The Supplemental Proposed Rule

Consistent with the 2001 proposed rule, this supplemental proposed rule will, if finalized, remove the provisions for the prescribed treatment of pork and pork products under 9 CFR 318.10 to provide establishments with the flexibility to determine whether and how they need to treat the products to eliminate trichinae. If this supplemental proposed rule is finalized, establishments will have the flexibility provided by the HACCP regulations (9 CFR part 417) to develop appropriate science-based controls for trichinae and other parasitic hazards in pork. All establishments producing pork products will have to determine whether trichinae is a hazard reasonably likely to occur in their processes. If it is, they must address this hazard in their HACCP plans or in a prerequisite program.

Many establishments producing pork products already address trichinae in their HACCP plans or in a prerequisite program (see FSIS Notice 14–15, *Prescribed Treatment to Destroy Trichinae in Pork, and Products Containing Pork, as Required by 9 CFR 318.10,* available on FSIS's Web site at *http://www.fsis.usda.gov/wps/wcm/connect/16732ee6-e159-4810-a423-9c31aee26c38/14-15.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=16732ee6-e159-4810-a423-9c31aee26c38*). As explained in this notice, if an establishment considers trichinae in its hazard analysis and determines that it is reasonably likely to occur, FSIS inspection program personnel (IPP) will verify whether the establishment is implementing any of the procedures in 9 CFR 318.10(c) or alternative procedures in its HACCP plan. If trichinae is considered and determined not to be reasonably likely to occur, IPP will review the decision and may question the adequacy of the analysis. If trichinae is not considered, IPP will verify whether the establishment meets the criteria in 9 CFR 318.10(c).

If this supplemental proposed rule is finalized, all establishments producing pork products must assess whether trichinae is a hazard reasonably likely to occur. If the answer is yes, establishments must assess whether their products should be treated for elimination of live trichinae, or whether special cooking instructions are necessary on the label of the products. Establishments must also assess whether safe handling labels are sufficient to ensure that the products are cooked to temperatures necessary to eliminate any possible live trichinae. Establishments may decide to treat their products for trichinae or to include special cooking instructions on labels based on how consumers typically prepare the products or the likelihood of the products being confused with RTE products. Their decisions may also be based on whether their suppliers participate in the U.S. Trichinae Certification Program, which is a voluntary pre-harvest pork safety program administered by the Animal and Plant Health Inspection Service (APHIS) (see 9 CFR part 149).

According to the Centers for Disease Control and Prevention, the risk for *Trichinella* infection associated with commercial pork has decreased substantially in the United States since the 1940s, when data collection on trichinellosis cases first began. During the period from 2008 to 2012, only 10 cases of trichinellosis were linked to commercial pork products.[1] FSIS is aware that the risk of infection with *Trichinella* is increased in organic, pasture raised swine and feral swine that have access to rodents and wildlife infected with *Trichinella*.[2] FSIS has developed a draft compliance guide for establishments to follow should this supplemental proposed rule become final. The draft compliance guide is designed to help establishments, particularly small and very small establishments, in understanding the controls that are effective for the prevention and elimination of trichinae and other parasites in RTE and NRTE pork products. FSIS has posted this

[1] Wilson, Nana O., Hall, Rebecca L., Montgomery, Susan P., et al. *Trichinellosis Surveillance—United States, 2008–2012.* MMWR Surveill Summ 2014;64(No. SS–1): 1.

[2] Wilson, Nana O., Hall, Rebecca L., Montgomery, Susan P., et al. Trichinellosis Surveillance—United States, 2008–2012. MMWR Surveill Summ 2014;64(No. SS–1): 6.

draft compliance guide on its Web page (*http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index*) and is requesting comments on the guidance.

In July 2015, the Codex Alimentarius Commission (Codex) adopted risk-based guidelines for the control of *Trichinella* spp. parasites in pork.[3] In addition, FSIS is aware that the National Pork Producers Council and the National Pork Board have been supportive of efforts to establish a U.S. compartment of negligible risk for *Trichinella* in accordance with the World Organization for Animal Health (OIE)[4] guideline. FSIS's draft compliance guide is consistent with the Codex and OIE guidelines.

If this supplemental proposed rule is finalized, FSIS will end its *Trichinella* Approved Laboratory Program (TALP program). Since the 1980s, FSIS has operated the TALP program for the evaluation and approval of non-Federal laboratories that use the pooled sample digestion technique to analyze samples for the presence of trichinae (see 9 CFR 318.10(e)). There is only one laboratory enrolled in the TALP program. FSIS is proposing to end this program to make more efficient use of its resources. If this supplemental proposed rule is finalized, establishments may test product samples for the presence of trichinae using a validated testing method that is equivalent to the pooled sample digestion technique, or they may use another effective test method to verify that their system is working.

Consistent with the 2001 proposed rule, FSIS also is proposing to remove the following referential and related provisions concerning required treatment to eliminate trichinae: The reference to the required trichinae treatment in 9 CFR 303.1(f); the requirement under 9 CFR 319.106(b) that country ham products and dry cured pork shoulder be treated for the destruction of possible trichinae; the requirement under 9 CFR 319.145(a)(2) that when pork muscle tissue is combined with beef or veal, or both, in the preparation of certain Italian sausage products, it be treated for the destruction of possible live trichinae; the record retention requirement under 9 CFR 320.1(b)(7) concerning sample results and calculation results as required by processing procedures in 9 CFR 318.10(c)(3)(iv) (Methods 5 and 6) to destroy trichinae; the provision in 9 CFR 325.7(a) for including pork that has been refrigerated to destroy trichinae in the category of products that require special supervision between official establishments under official seal; the provision in 9 CFR 331.5(a)(1)(ii) that any meat or meat food product is adulterated if it is a RTE pork product that has not been treated to destroy trichinae as prescribed in 9 CFR 318.10; and the requirement under 9 CFR 424.21(a)(3)(ii) and (iii) that when pork muscle tissue is combined with poultry products, it must be treated for the destruction of possible live trichinae.

Thermally Processed, Commercially Sterile Products

FSIS is not proposing to finalize the proposed performance standard for thermally processed, commercially sterile products. As discussed below, commenters opposed FSIS's changes, and based on its review of the comments, FSIS has concluded that the proposed changes are unnecessary. Rather, FSIS is proposing to combine the regulations for thermally processed, commercially sterile products in 9 CFR 381.300 through 381.311 and 318.300 through 318.311 and recodify them into one new 9 CFR part 431. These regulations have been effective in ensuring production of safe unadulterated product. Between 2001 and 2014, there were only 11 recalls of thermally processed, commercially sterile products. Of the 11 recalls, one recall was for products that were contaminated with *C. botulinum;* one recall was for products that were contaminated with foreign material; three recalls were for products that were underprocessed; and six recalls were for products that were mislabeled and contained an ingredient of public health concern.

In 9 CFR 318.301(f)(2) and 381.301(f)(2), which address containers and closures (proposed 9 CFR 431.2(f)(2)), FSIS is proposing to remove the requirement that an establishment obtain the Administrator's approval before using an alternative time lapse between container closure and the initiation of the thermal process. Under this supplemental proposed rule, the maximum time lapse between closing and initiation of thermal processing would be two hours unless data are available from the establishment's processing authority demonstrating that an alternate time period is safe and will not result in product spoilage.

FSIS is proposing to remove the redundant descriptions of equipment (*e.g.,* bleeders, vents) common to the several types of retort systems (batch still, batch agitating, continuous rotary, and hydrostatic) in 9 CFR 318.305 and 381.305 (proposed 9 CFR 431.6) and to replace them with a single paragraph (b)(1) that describes equipment common to all the systems.

In the same sections, paragraph (h)(2), FSIS is proposing to remove the requirement for Agency prior approval of the chemicals used by the establishment because the Agency no longer approves these chemicals.

In 9 CFR 318.309 and 381.309 on finished product inspection (proposed 9 CFR 431.10), FSIS is proposing to redesignate paragraphs and to remove reserved paragraphs (b) and (c) in order to make the section easier to understand.

FSIS also is proposing to replace every mention of ''area supervisor'' with ''District Office'' to reflect FSIS's current organization. Additionally, in accordance with Executive Orders 12866 and 12988, which emphasize the need for plain language, FSIS is proposing to replace the word ''shall'' with ''must'' to simplify the effect of the regulations and make them easier to understand.

Official establishments that produce thermally processed, commercially sterile meat and poultry products are reminded that they are subject to the HACCP regulations in 9 CFR part 417 and are required to conduct a hazard analysis for all such products. However, the HACCP regulations at 9 CFR 417.2(b)(3) exempt these establishments from having to address food safety hazards associated with microbiological contamination if the establishments comply with the canning regulations in 9 CFR 318.300 through 318.311 and 381.300 through 381.311 (which FSIS is proposing to consolidate in a new 9 CFR part 431). The canning regulations are based on HACCP principles, and there are obvious parallels between them and the HACCP regulations in approach to controlling food safety hazards.

However, because the regulations in proposed 9 CFR part 431 primarily address microbial hazards, processors of thermally processed, commercially sterile meat and poultry products in hermetically sealed containers must carry out hazard analyses and develop and implement HACCP plans to address any chemical or physical hazards that are reasonably likely to occur. The proposed regulations in 9 CFR part 431, and the establishment's associated process documentation, would then serve a function similar to that of a prerequisite program. The documentation would be required to be kept under 9 CFR 417.5(a)(1) as

[3] Guidelines for the Control of *Trichinella* Spp. in Meat of Suidae (2015). Retrieved from *http://www.codexalimentarius.org/download/standards/13896/CXG_086e_2015.pdf.*

[4] World Organisation for Animal Health Terrestrial Animal Health Code. Retrieved from *http://www.oie.int/fileadmin/Home/eng/Health_standards/tahc/2010/chapitre_trichinella_spp.pdf.*

documentation supporting a determination that the food safety hazards associated with microbiological contamination are not reasonably likely to occur in its operations (see FSIS Directive 7530.2, *Verification Activities in Canning Operations that Choose to Follow the Canning Regulations,* available on FSIS's Web site at *http://www.fsis.usda.gov/wps/wcm/connect/49aeef48-21b9-4e46-ad02-269ff11183e5/7530_2.pdf?MOD=AJPERES*).

Comments on the 2001 Proposed Rule and FSIS Response

FSIS received approximately 13 comments on the proposed removal of the trichinae control regulations and the amendment of the thermal processing regulations from trade associations representing meat and poultry processors, companies that produce meat and poultry products, a company that manufactures packaging for liquid food products, and a farmer-owned cooperative. Following are summaries and responses to the comments.

Trichinae Control

Comment: Many comments from trade associations representing meat and poultry processors, companies that produce meat and poultry products, and the farmer-owned cooperative supported the proposal to eliminate the prescriptive trichinae control regulations. Other comments from companies that produce meat and poultry products recommended retaining the regulations. One comment from a company that produces meat and poultry products asked what effect elimination of the trichinae control regulations would have on *Toxoplasma (T.) gondii,* a protozoan parasite that can cause the disease toxoplasmosis, in pork. Another comment from a company that produces meat and poultry products stated that safe handling labeling would not adequately inform all consumers that raw pork product needs to be cooked thoroughly. For example, the commenter stated that some raw products may have a ''cooked'' appearance because they contain ingredients such as wine, paprika, or curing agents. Also, the commenter stated that consumers who do not know English would have difficulty relying on a safe-handling label.

Another comment from a company that produces meat and poultry products said that the requirements for destruction of trichinae should be retained, but that the requirements should be reevaluated as on-farm practices improve. This commenter suggested that the Agency provide an option for processors to be able to use pork from suppliers with control programs that ensure trichinae-free pork.

Response: FSIS is proposing to eliminate the trichinae control regulations, as it proposed in 2001, largely because of their inconsistency with HACCP. Compliance with the HACCP regulations for RTE and NRTE products will ensure that trichinae and other parasites, including *T. gondii,* are eliminated. Because both trichinae and *T. gondii* have a high sensitivity to heat compared with other pathogens (*e.g., Salmonella*), the organisms would be rendered non-infective if pork were cooked at the times and temperatures recommended for removing bacterial hazards. Therefore, even if the prevalence of *T. gondii* were to increase in pork and pork products, the likelihood that *T. gondii* can survive cooking and cause foodborne illness is negligible.

In 2007, EcoSure, an independent food safety audit company, conducted a consumer cooking temperature audit that involved the collection of data from primary shoppers of over 900 households geographically dispersed across the country.[5] Participants were asked to record the final cooking temperature and name the main ingredient of any meal they prepared during the week of the study. Current cooking practices as captured in the 2007 EcoSure dataset show that approximately 76 percent of consumers are cooking pork products at the times and temperatures recommended for removing bacterial hazards.[6] However, the 2007 EcoSure dataset does not specifically include the time from when the final cooking temperature was recorded to when consumption occurred. It is likely that product in this dataset encountered a range of dwell times.

FSIS recommends in its guidance concerning whole cuts of pork a cooking temperature of 145 [deg]F. with 3 minutes dwell time for cooking whole cuts of pork. Available data support that this time/temperature combination would be equivalent to cooking at 160 [deg]F. without holding a product at that temperature for any dwell time. FSIS's guidance concerning cooking whole cuts of pork is located at *http://blogs.usda.gov/2011/05/25/cooking-meat-check-the-new-recommended-temperatures/.*

FSIS's guidance reflects the same standards that the Agency uses for cooked meat products produced in federally inspected meat establishments. These standards rely on the rest time of three minutes to achieve a safe product. Therefore, FSIS believes that safe handling statements are adequate to inform consumers about the time/temperature sufficient to ensure the product is fully cooked.

Additionally, FSIS requires that safe handling instructions be prominently and conspicuously placed on labels so that intended users are fully aware that raw products, including raw products that may have a ''cooked'' appearance, must be cooked for safety (9 CFR 317.2(b)). The low rates of trichinellosis cases in recent years further demonstrate that safe handling statements are adequate to protect consumers from trichinae.

As for the comment that consumers who do not know English would have difficulty relying on a safe-handling label, FSIS does not require products that are intended for domestic distribution to be labeled in languages other than English. However, the safe handling instructions are also accompanied by graphic symbols. The graphic symbols are intended to be visual reminders to all people reading the instructions and to convey messages to people who have difficulty reading English (59 FR 14539). Therefore, the graphics convey the necessary information to consumers who do not read English. The low incidence of illness also supports this conclusion.

With respect to the comment that the requirements for destruction of trichinae should be retained until on-farm practices improve, FSIS has entered into an agreement with APHIS, the National Pork Producers Council, and two pork processors to pilot test a trichinae certification program to identify risk factors for trichinae infection and to certify production units that voluntarily adopted practices that reduce or eliminate the risk of trichinae. This program was finalized by APHIS in 2008 (73 FR 60464, October 10, 2008) and has encouraged the trend, referred to by the commenter, toward sound on-farm management practices to reduce trichinae risk. In the last 10–15 years, the swine industry has improved its biosecurity practices which not only reduce disease spread but also address risk factors for *Trichinella* such as rodent control, rapid removal of dead animals, minimizing feed exposure to rodents, and keeping animal feed and housing areas free of materials that

[5] EcoSure-EcoLab. (2007). EcoSure 2007 Cold Temperature Database. FoodRisk.org. available at: *http://foodrisk.org/exclusives/EcoSure/.*

[6] EcoSure-EcoLab. (2007). *EcoSure 2007 Cold Temperature Database.* FoodRisk.org. available at: *http://foodrisk.org/exclusives/EcoSure/.*

could harbor rodents.[7] [8] Industry led initiatives like the PQA Plus certification program (*http://www.pork.org/pqa-plus-certification/*) and the Common Industry Audit (soon to include review of *Trichinella* risk factors; *http://www.pork.org/common-industry-audit/*) also support the practices described above. Because on-farm practices have improved, and the prevalence of *Trichinella* in U.S. swine is extremely low,[9] FSIS is not proposing to retain the trichinae regulations.

Regarding the suggestion that the Agency keep the current regulations but add an option for processors who obtain pork from suppliers with trichinae-control programs, processors who determine that trichinae is a hazard reasonably likely to occur in their products already have available to them this option for controlling the hazard (see FSIS Notice 14–15 available at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/fsis-notices*).

Thermally Processed, Commercially Sterile Products

Comment: Seven comments from trade associations and companies that produce meat and poultry products opposed the Agency's proposed performance standard for thermally processed, commercially sterile products. One commenter asserted that the existing regulations had worked for many years, and that there was no reason to change them. One comment from a trade association stated that the cost to industry to revalidate processes for compliance with the proposed performance standard would be excessive and would run into the millions of dollars. Another stated that, while experienced processing firms would continue to produce safe product under the proposed performance standard, new, inexperienced firms would inevitably fail and endanger public health.

One commenter stated that the proposed performance standard would introduce an inconsistency with FDA regulations (21 CFR part 113), with which some establishments under FSIS jurisdiction and inspection also must comply. Another stated that the proposed standard would create regulatory disharmonies with the recommended code of practice of the Codex Alimentarius Commission.[10] The commenters argued that FSIS should not change the current regulations because they are essentially the same as FDA's regulations and Codex's recommended code of practice.

A commenter from a trade association stated that rather than promulgating a performance standard, the Agency should consider combining and recodifying the currently separate requirements for meat and poultry products.

The same commenter requested that FSIS eliminate the following requirements because the commenter argued that they do not involve food safety: Examination and cleaning of empty containers (9 CFR 318.301(a); 381.301(a)) and the handling of containers after closure (9 CFR 318.301(f)(1); 381.301(f)(1)) because the practices are not relevant to container integrity; equipment maintenance (9 CFR 318.305(g); 381.305(g)) because these practices are more appropriate for a prerequisite program; and incubation of canned products (9 CFR 318.309(d)(1) and (2); 381.309(d)(1) and (2)) because it is a form of end-product testing that is ineffective as a routine means for ensuring the safety of canned products.

Additionally, the commenter requested that FSIS eliminate the remaining prior approval requirements that may have been overlooked when the Agency previously removed most of its prior approval requirements.

Finally, the commenter suggested that FSIS consolidate redundant requirements in the sections on equipment and procedures for heat processing systems (9 CFR 318.305(b); 381.305(b)) because a number of requirements are common to two or more of the retort systems.

Response: The Agency agrees that it should keep its regulations consistent with FDA's regulations and with Codex's code of practice in order to minimize confusion for processors. Additionally, the Agency's existing regulations are effective at ensuring food safety as evidenced by the fact that, as explained above, there have been minimal food product recalls involving thermally processed, commercially sterile products since the proposed rule published in 2001. FSIS has found no reason to believe that it underestimated the cost of the proposed rule; however, because the current regulations are effective, the Agency agrees with the commenters that the additional requirements in the proposed rule are unnecessary.

Therefore, the Agency is proposing that the requirements for thermally processed, commercially sterile meat and poultry products be consolidated in a single part of the regulations (9 CFR part 431) and to make minor changes that improve the clarity of the regulations and remove redundant sections. As is discussed above, FSIS is proposing to remove the Administrator's prior approval requirement before an establishment may use an alternative time lapse between container closure and the initiation of the thermal process (9 CFR 318.301(f)(2); 381.301(f)(2)). FSIS also is proposing to replace the redundant descriptions of equipment (*e.g.,* bleeders, vents) common to the several types of retort systems (batch still, batch agitating, continuous rotary, and hydrostatic) with a single paragraph that describes equipment common to all the systems (9 CFR 318.305 and 381.305). Combining the regulations will eliminate any confusion for processors of both meat and poultry products and inspection personnel over minor wording differences between the two sets of regulations by combining and recodifying the separate requirements into a single section.

FSIS is not proposing changes to the requirements for the cleaning of empty containers (9 CFR 318.301(a); 381.301(a)) or to the handling of containers after closure (9 CFR 318.301(f)(1); 381.301(f)(1)), as recommended by the commenter, because these are food safety requirements. The regulations were implemented to ensure the canned product is commercially sterile. To be and remain commercially sterile, the container must be hermetically sealed and receive a heat process that renders the container free of microorganisms capable of growth at non-refrigerated temperatures. Container integrity has a direct impact on whether the container is commercially sterile. If a container, lid, or cover is damaged upon receipt or before filling, then it is likely that it will not remain hermetically sealed, and that the product will not remain commercially sterile. FSIS also is not proposing the changes to the equipment maintenance requirements that the commenter recommended (9 CFR 318.305; 381.305) because these are food

[7] United States Department of Agriculture, Animal and Plant Health Inspection Service. (2008). National Animal Health Monitoring System Swine 2006, Part IV: Changes in the U.S. Pork Industry, 1990–2006. Retrieved from *https://www.aphis.usda.gov/animal_health/nahms/swine/downloads/swine2006/Swine2006_dr_PartIV.pdf.*

[8] United States Department of Agriculture, Animal and Plant Health Inspection Service. (2015). National Animal Health Monitoring System Swine 2012, Part 1: Baseline Reference of Swine Health and Management in the United States, 2012. Retrieved from *https://www.aphis.usda.gov/animal_health/nahms/swine/downloads/swine2012/Swine2012_dr_PartI.pdf.*

[9] Seroprevalence of *Trichinella* and *Toxoplasma* in U.S. Grower/Finisher Pigs, 2006. (2011). Retrieved from *https://www.aphis.usda.gov/animal_health/nahms/swine/downloads/swine2006/Swine2006_is_trich.pdf.*

[10] Codex Alimentarius Commission. 1979. Recommended International Code of Hygienic Practice for Low-Acid and Acidified Low-Acid Canned Foods (CAC/RCP 23–1979).

safety requirements as well, and in FSIS's experience, the majority of recalls for under processing are the result of human error and equipment failure, which includes poor maintenance. For example, in the one recall mentioned above for products contaminated with *C. botulinum,* FSIS found problems with equipment maintenance at the establishment that produced products contaminated with *C. botulinum.*

FSIS is not making the changes to the incubation requirements that the commenter recommended (9 CFR 318.309, 381.309) because they help prevent cans with evidence of spoilage from entering commerce.

However, consistent with the commenter's recommendation, FSIS is proposing to remove the requirement that the Administrator approve an establishment's use of an alternative time lapse between container closure and the initiation of the thermal process before the establishment may use the alternative (9 CFR 318.301(f)(2); 381.301(f)(2)). This proposal will allow for more flexibility. Therefore, under the proposed change, the maximum time lapse between closing and initiation of thermal processing would be two hours unless data are available from the establishment's processing authority demonstrating that an alternate time period is safe and will not result in product spoilage.

Also, consistent with what the commenter recommended, FSIS is proposing to remove the requirement for Agency prior approval of chemicals used by the establishment because the Agency no longer approves these chemicals. However, FSIS is not proposing to make any other changes to the prior approval requirements. FSIS already allows establishments to develop an alternate document procedure for handling process deviations if they do not want to hold product pending Agency review. FSIS has provided sufficient flexibility in the regulations, and the other prior approval requirements are still necessary to ensure food safety.

Finally, consistent with what the commenter recommended, FSIS is proposing to replace the redundant descriptions of equipment (*e.g.,* bleeders, vents) common to the several types of retort systems (batch still, batch agitating, continuous rotary, and hydrostatic) (9 CFR 318.305; 381.305) with a single paragraph that describes equipment common to all the systems (proposed 9 CFR 431.6).

Executive Order 12866

This supplemental proposed rule has been designated as a ''non-significant'' regulatory action under section 3(f) of Executive Order (E.O.) 12866. Accordingly, the proposed rule has not been reviewed by the Office of Management and Budget under E.O. 12866.

Economic Impact Analysis

FSIS is removing the trichinae treatment requirements under 9 CFR 318.10 as this action will give industry the flexibility under HACCP to develop science-based food safety controls to address trichinae and other pork associated parasitic hazards. The removal of the requirements for trichinae treatment of pork products is unlikely to impose additional costs on the industry because the establishments can address trichinae in their existing HACCP plans. If an establishment has identified trichinae as a hazard reasonably likely to occur, the establishment would have to ensure that the process it uses effectively eliminates the hazard under HACCP. Under FSIS Notice 14–15, *Prescribed Treatment to Destroy Trichinae in Pork, and Products Containing Pork, as Required by 9 CFR 318.10,* establishments can use alternative procedures to those prescribed in the regulations, as long as establishments address the hazard in their HACCP plans. Establishments have the flexibility provided by the HACCP regulations to develop appropriate science-based controls for trichinae and other parasitic hazards in pork. Among the controls that can be employed are on-farm trichinae certification of hogs, lethality treatment for RTE product, and, for NRTE products, conspicuous labeling and validated cooking instructions (FSIS Notice 14–15).

FSIS inspection program personnel verify that establishments effectively address these hazards. Under the supplemental proposed rule, FSIS will end TALP, saving the Agency an average of $13,750 per year ($4,000 annual material cost + $9,000 labor cost). TALP is a program under which FSIS has evaluated and approved non-Federal-laboratories that use the pooled sample design technique to analyze samples for the presence of trichinae. There is only one laboratory enrolled in the TALP program. FSIS is proposing to eliminate this program because very few establishments are using the laboratory that is in the program. The program is no longer necessary, and eliminating it will allow the Agency to make more efficient use of its resources.

The Agency also is proposing to combine the regulations for thermally processed, commercially sterile meat and poultry products into one new 9 CFR part 431 and to make minor changes to improve clarity and remove redundant requirements. As is discussed above, FSIS is proposing to remove the Administrator's prior approval requirement before an establishment may use an alternative time lapse between container closure and the initiation of the thermal process (9 CFR 318.301(f)(2); 381.301(f)(2)). FSIS also is proposing to replace the redundant descriptions of equipment (*e.g.,* bleeders, vents) common to the several types of retort systems (batch still, batch agitating, continuous rotary, and hydrostatic) with a single paragraph that describes equipment common to all the systems (9 CFR 318.305 and 381.305).

There are no additional costs associated with combining the canning regulations or with these other minor changes. FSIS is not proposing any new requirements for canning establishments and is providing additional flexibility by removing prior approval provisions.

Regulatory Flexibility Act Assessment

The FSIS Administrator has made a preliminary determination that this supplemental proposed rule would not have a significant economic impact on a substantial number of small entities in the United States, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The rule will affect 447 very small establishments and 222 small establishments that produce pork and pork products in the United States. FSIS is providing additional flexibility to these establishments. FSIS has developed a draft compliance guide designed to help small and very small establishments to understand the controls that are effective for the prevention and elimination of trichinae and other parasites in RTE and NRTE pork products. There are 29 very small establishments and 80 small establishments that produce thermally processed, commercially sterile meat and poultry products in the United States. The supplemental proposed rule does not impose any additional costs on small and very small establishments because these establishments already are in compliance with the canning regulations, and combining the separate (meat and poultry) canning regulations into one part is an administrative action.

Paperwork Reduction Act

There are no paperwork or recordkeeping requirements associated

with this proposed rule under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this proposed rule will be preempted; (2) no retroactive effect will be given to this proposed rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this proposed rule.

Executive Order 13175

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' E.O. 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects 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.

FSIS has assessed the impact of this proposed rule on Indian tribes and determined that this rulemaking does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, the Food Safety and Inspection Service will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA will, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register.*

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List of Subjects

9 CFR Part 301

Meat inspection.

9 CFR Part 303

Meat inspection, Reporting and recordkeeping requirements.

9 CFR Part 318

Food additives, Food packaging, Laboratories, Meat inspection, Reporting and recordkeeping requirements.

9 CFR Part 319

Food grades and standards, Food labeling, Frozen foods, Meat inspection, Oils and fats.

9 CFR Part 320

Meat inspection, Reporting and recordkeeping requirements.

9 CFR Part 325

Meat inspection, Reporting and recordkeeping requirements, Transportation.

9 CFR Part 331

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9 CFR Part 381

Administrative practice and procedure, Animal diseases, Crime, Exports, Food grades and standards, Food Labeling, Food packaging, Government employees, Grant programs-agriculture, Intergovernmental relations, Laboratories, Meat inspection, Nutrition, Polycholorinated biphenyls (PCB's), Poultry and poultry products inspection, Reporting and recordkeeping requirements.

9 CFR Part 417

Meat inspection, Poultry and poultry products inspection, Reporting and recordkeeping requirements.

9 CFR Part 424

Food additives, Food packaging, Meat inspection, Poultry and poultry products.

9 CFR Part 431

Meat inspection, Poultry and poultry products inspection, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, FSIS proposes to amend title 9, chapter III, of the Code of Federal Regulations as follows:

PART 301—DEFINITIONS

■ 1. The authority citation for part 301 is revised to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.7, 2.18, 2.53.

§ 301.2 [Amended]

■ 2. Section 301.2 is amended by removing the last sentence in the

definition of ''Process authority'' and the last sentence in the definition of ''Process schedule'' and adding in their places the sentence ''This definition does not apply to part 431 of this chapter.''

PART 303—EXEMPTIONS

■ 3. The authority citation for part 303 is revised to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 303.1 [Amended]

■ 4. Paragraph § 303.1(f) is amended by removing the second sentence.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCT

■ 5. The authority citation for part 318 is revised to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 318.10 [Removed and reserved]

■ 6. Section 318.10 is removed and reserved.

§ 318.17 [Removed and reserved]

■ 7. Section 318.17 is removed and reserved.

§ 318.23 [Removed and reserved]

■ 8. Section 318.23 is removed and reserved.

Subpart G [Removed and reserved]

■ 9. Subpart G, consisting of §§ 318.300 through 318.311, is removed and reserved.

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY AND COMPOSITION

■ 10. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 319.106 [Amended]

■ 11. In § 319.106, paragraph (b) is removed; paragraphs (c)(5) and (6) are removed and reserved; paragraphs (c) and (d) are redesignated as paragraphs (b) and (c), respectively; and the Effective Date Note is removed.

§ 319.145 [Amended]

■ 12. In § 319.145, paragraph (a)(2) is amended by removing the third sentence.

PART 320—RECORDS, REGISTRATION, AND REPORTS

■ 13. The authority citation for part 320 is revised to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

■ 14. In § 320.1, paragraph (b)(6) is revised; paragraph (b)(7) is removed; paragraphs (b)(8) through (11) are redesignated as paragraphs (b)(7) through (10), respectively.

The revision reads as follows:

§ 320.1 Records required to be kept.

* * * * *

(b) * * *

(6) Records of canning as required by part 431 of this chapter.

* * * * *

PART 325—TRANSPORTATION

■ 15. The authority citation for part 325 is revised to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 325.7 [Amended]

■ 16. In § 325.7, paragraph (a) is amended by removing the phrase, ''pork that has been refrigerated to destroy trichinae,''.

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

■ 17. The authority citation for part 331 is revised to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 331.5 [Amended]

■ 18. In § 331.5, paragraph (a)(1)(ii) is amended by removing the phrase, ''or it is a ready-to-eat pork product which has not been treated to destroy trichinae as prescribed in § 318.10 of this subchapter for products at federally inspected establishments;''.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

■ 19. The authority citation for part 381 is revised to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 451–472; 7 CFR 2.18, 2.53.

■ 20. In § 381.175, paragraph (b)(3) is revised to read as follows:

§ 381.175 Records required to be kept.

* * * * *

(b) * * *

(3) Records of canning as required by part 431 of this chapter.

* * * * *

Subpart X [Removed and reserved]

■ 21. Subpart X, consisting of §§ 381.300 through 381.311, is removed and reserved.

PART 417—HAZARD ANALYSIS AND CRITICAL CONTROL POINT (HACCP) SYSTEMS

■ 22. The authority citation for part 417 is revised to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 451–472, 601–695; 7 CFR 2.18, 2.53.

■ 23. Paragraph 417.2(b)(3) is revised to read as follows:

§ 417.2 Hazard Analysis and HACCP plan.

* * * * *

(b) * * *

(3) HACCP plans for thermally processed/commercially sterile products do not have to address the food safety hazards associated with microbiological contamination if the product is produced in accordance with the requirements of part 431 of this chapter.

* * * * *

PART 424—PREPARATION AND PROCESSING OPERATIONS

■ 24. The authority citation for part 424 is revised to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 451–472, 601–695; 7 CFR 2.18, 2.53.

§ 424.21 [Amended]

■ 25. In § 424.21, paragraphs (a)(3)(ii) and (iii) are removed and paragraph (a)(3)(i) is redesignated as (a)(3).

■ 26. Part 431 is added to read as follows:

PART 431—THERMALLY PROCESSED, COMMERCIALLY STERILE PRODUCTS

Sec.

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 451–472, 601–695; 7 CFR 2.18, 2.53.

§ 431.1 Definitions.

Abnormal container. A container with any sign of swelling or product leakage or any evidence that the contents of the unopened container may be spoiled.

Acidified low acid product. A canned product which has been formulated or treated so that every component of the finished product has a pH of 4.6 or lower within 24 hours after the completion of the thermal process unless data are available from the establishment's processing authority demonstrating that a longer time period is safe.

Bleeders. Small orifices on a retort through which steam, other gasses, and condensate are emitted from the retort throughout the entire thermal process.

Canned product. A meat or poultry food product with a water activity above 0.85 which receives a thermal process either before or after being packed in a hermetically sealed container. Unless otherwise specified, the term ''product'' as used in this part means ''canned product.''

Closure technician. The individual(s) identified by the establishment as being trained to perform specific container integrity examinations as required by this part and designated by the establishment to perform such examinations.

Code lot. All production of a particular product in a specific size container marked with a specific container code.

Come-up time. The elapsed time, including venting time (if applicable), between the introduction of the heating medium into a closed retort and the start of process timing.

Critical factor. Any characteristic, condition or aspect of a product, container, or procedure that affects the adequacy of the process schedule. Critical factors are established by processing authorities.

Headspace. That portion of a container not occupied by the product.

(1) *Gross headspace.* The vertical distance between the level of the product (generally the liquid surface) in an upright rigid container and the top edge of the container (*i.e.,* the flange of an unsealed can, the top of the double seam on a sealed can, or the top edge of an unsealed jar).

(2) *Net headspace.* The vertical distance between the level of the product (generally the liquid surface) in an upright rigid container and the inside surface of the lid.

Hermetically sealed containers. Air-tight containers which are designed and intended to protect the contents against the entry of microorganisms during and after thermal processing.

(1) *Rigid container.* A container, the shape or contour of which, when filled and sealed, is neither affected by the enclosed product nor deformed by external mechanical pressure of up to 10 pounds per square inch gauge (0.7 kg/cm^2) (*i.e.,* normal firm finger pressure).

(2) *Semirigid container.* A container, the shape or contour of which, when filled and sealed, is not significantly affected by the enclosed product under normal atmospheric temperature and pressure, but can be deformed by external mechanical pressure of less than 10 pounds per square inch gauge (0.7 kg/cm^2) (*i.e.,* normal firm finger pressure).

(3) *Flexible container.* A container, the shape or contour of which, when filled and sealed, is significantly affected by the enclosed product.

Incubation tests. Tests in which the thermally processed product is kept at a specific temperature for a specified period of time in order to determine if outgrowth of microorganisms occurs.

Initial temperature. The temperature, determined at the initiation of a thermal process cycle, of the contents of the coldest container to be processed.

Low acid product. A canned product in which any component has a pH value above 4.6.

Process schedule. The thermal process and any specified critical factors for a given canned product required to achieve shelf stability.

Process temperature. The minimum temperature(s) of the heating medium to be maintained as specified in the process schedule.

Process time. The intended time(s) a container is to be exposed to the heating medium while the heating medium is at or above the process temperature(s).

Processing authority. The person(s) or organization(s) having expert knowledge of thermal processing requirements for foods in hermetically sealed containers, having access to facilities for making such determinations, and designated by the establishment to perform certain functions as indicated in this part.

Program employee. Any inspector or other individual employed by the Department or any cooperating agency who is authorized by the Secretary to do any work or perform any duty in connection with the Program.

Retort. A pressure vessel designed for thermal processing of product packed in hermetically sealed containers.

Seals. Those parts of a semirigid container and lid or of a flexible container that are fused together in order to hermetically close the container.

Shelf stability. The condition achieved by application of heat, sufficient, alone or in combination with other ingredients and/or treatments, to render the product free of microorganisms capable of growing in the product at nonrefrigerated conditions (over 50 °F or 10 °C) at which the product is intended to be held during distribution and storage. Shelf stability and shelf stable are synonymous with commercial sterility and commercially sterile, respectively.

Thermal process. The heat treatment necessary to achieve shelf stability as determined by the establishment's processing authority. It is quantified in terms of:

(1) Time(s) and temperature(s); or

(2) Minimum product temperature.

Venting. The removal of air from a retort before the start of process timing.

Water activity. The ratio of the water vapor pressure of the product to the vapor pressure of pure water at the same temperature.

§ 431.2 Containers and closures.

(a) *Examination and handling of empty containers.* (1) Empty containers, closures, and flexible pouch roll stock must be evaluated by the establishment to ensure that they are free of structural defects and damage that may affect product or container integrity. Such an examination should be based on a statistical sampling plan.

(2) All empty containers, closures, and flexible pouch roll stock must be stored, handled, and conveyed in such a manner that will prevent damage that could affect the hermetic condition of the sealed container.

(3) Just before filling, rigid containers must be cleaned to prevent incorporation of foreign matter into the finished product. Closures, semirigid containers, preformed flexible pouches, and flexible pouch roll stock contained in original wrappings do not need to be cleaned before use.

(b) *Closure examinations for rigid containers (cans)*—(1) *Visual examinations.* A closure technician must visually examine the double seams formed by each closing machine head. When seam defects (*e.g.,* cutovers, sharpness, knocked down flanges, false seams, droops) are observed, necessary corrective actions, such as adjusting or repairing the closing machine, must be taken. In addition to the double seams, the entire container must be examined for product leakage or obvious defects. A visual examination must be performed on at least one container from each closing machine head, and the observations, along with any corrective actions, must be recorded. Visual examinations must be conducted with sufficient frequency to ensure proper closure and should be conducted at least every 30 minutes of continuous closing machine operation. Additional visual examinations must be made by the closure technician at the beginning

of production, immediately following every jam in the closing machine and after closing machine adjustment (including adjustment for changes in container size).

(2) *Teardown examinations.* Teardown examinations of double seams formed by each closing machine head must be performed by a closure technician at a frequency sufficient to ensure proper closure. These examinations should be made at intervals of not more than 4 hours of continuous closing machine operation. At least one container from each closing head must be examined on the packer's end during each regular examination period. Examination results along with any necessary corrective actions, such as adjusting or repairing the closing machine, must be promptly recorded by the closure technician. The establishment must have container specification guidelines for double seam integrity on file and available for review by Program employees. A teardown examination of the can maker's end must be performed on at least one container selected from each closing machine during each examination period except when teardown examinations are made on incoming empty containers or when, in the case of self-manufactured containers, the containers are made in the vicinity of the establishment and the container plant records are made available to Program employees. Additional teardown examinations on the packer's end should be made at the beginning of production, immediately following every jam in a closing machine and after closing machine adjustment (including adjustment for a change in container size). The following procedures must be used in teardown examinations of double seams:

(i) One of the following two methods must be employed for dimensional measurements of the double seam.

(A) *Micrometer measurement.* (*1*) For cylindrical containers, measure the following dimensions (Figure 1 to § 431.2) at three points approximately 120 degrees apart on the double seam excluding and at least one-half inch from the side seam juncture:

(*i*) Double seam length—W;

(*ii*) Double seam thickness—S;

(*iii*) Body hook length—BH; and

(*iv*) Cover hook length—CH.

(*2*) Maximum and minimum values for each dimensional measurement must be recorded by the closure technician.

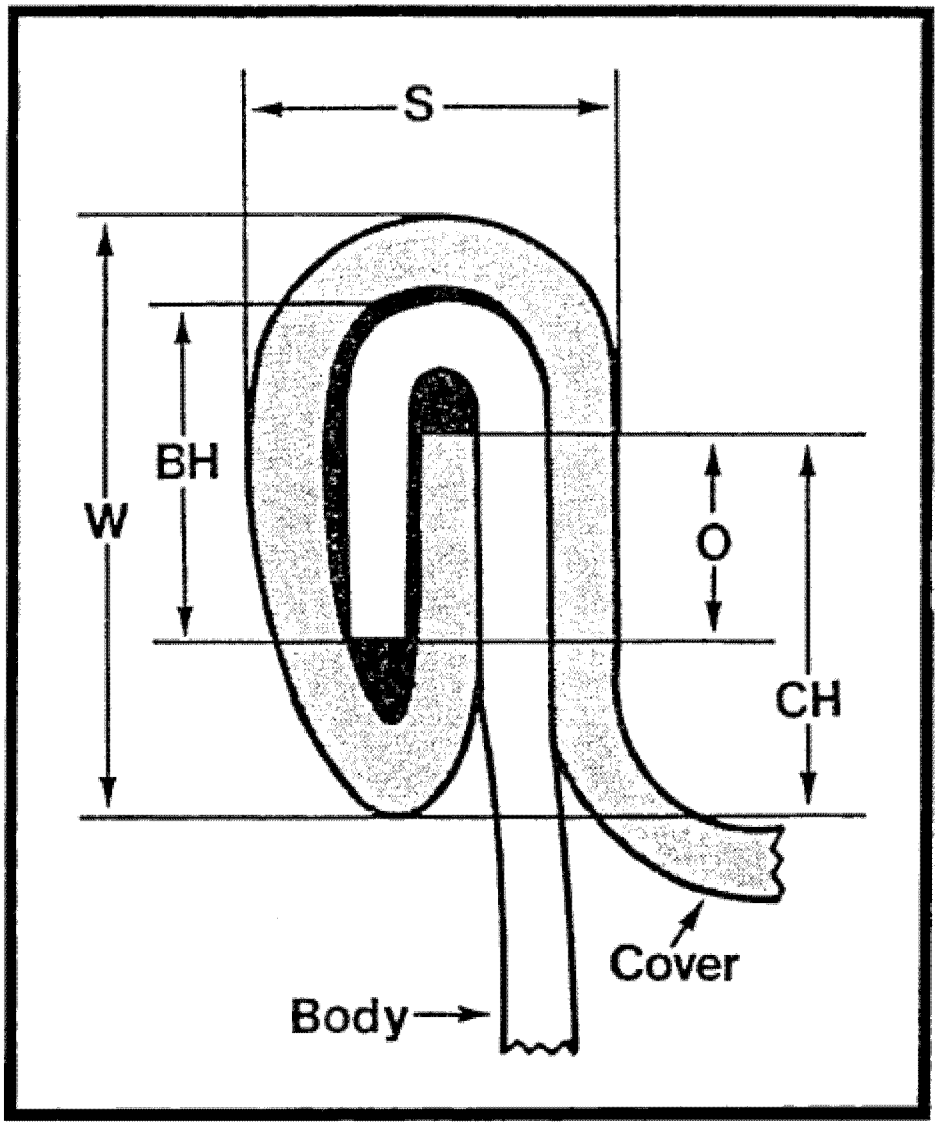

Figure 1 to § 431.2—Micrometer Measurement of Cylindrical Containers

(B) *Seamscope or seam projector.* Required measurements of the seam include thickness, body hook, and overlap.

(ii) *Seam thickness.* Seam thickness must be obtained by micrometer. For cylindrical containers, at least two locations, excluding the side seam juncture, must be used to obtain the required measurements.

(iii) *Seam tightness.* Regardless of the dimensional measurement method used to measure seam dimensions, at a minimum, the seam(s) examined must be stripped to assess the degree of wrinkling.

(iv) *Side seam juncture rating.* Regardless of the dimensional measurement method used to measure seam dimensions, the cover hook must be stripped to examine the cover hook droop at the juncture for containers having side seams.

(v) *Examination of noncylindrical containers.* Examination of noncylindrical containers (*e.g.,* square, rectangular, ''D''-shaped, and irregularly-shaped) must be conducted as described in paragraphs (b)(2)(i), (ii), (iii), and (iv) of this section except that the required dimensional measurements must be made on the double seam at the points listed in the establishment's container specification guidelines.

(c) *Closure examinations for glass containers*—(1) *Visual examinations.* A closure technician must visually assess the adequacy of the closures formed by each closing machine. When closure defects, such as loose or cocked caps, fractured or cracked containers and low vacuum jars, are observed, necessary corrective actions, such as adjusting or repairing the closing machine must be taken and recorded. In addition to the closures, the entire container must be examined for defects. Visual examinations must be made with sufficient frequency to ensure proper closure and should be conducted at least every 30 minutes of continuous closing machine operation. Additional visual examinations must be made by the closure technician and the

observations recorded at the beginning of production, immediately following every jam in the closing machine, and after closing machine adjustment (including adjustment for a change in container size).

(2) *Closure examinations and tests.* Depending upon the container and closure, tests must be performed by a closure technician at a frequency sufficient to ensure proper closure. These examinations should be made either before or after thermal processing and at intervals of not more than 4 hours of continuous closing machine operation. At least one container from each closing machine must be examined during each regular examination period. Examination results along with any necessary corrective actions, such as adjusting or repairing the closing machine, must be promptly recorded by the closure technician. The establishment must have specification guidelines for closure integrity on file and available for review by Program employees. Additional closure examinations should be made at the beginning of production, immediately following every jam in the closing machine, and after closing machine adjustment (including adjustment for a change in container size).

(d) *Closure examinations for semi-rigid and flexible containers*—(1) *Heat seals*—(i) *Visual examinations.* A closure technician must visually examine the seals formed by each sealing machine. When sealing defects are observed, necessary corrective actions, such as adjusting or repairing the sealing machine, must be taken and recorded. In addition to examining the heat seals, the entire container must be examined for product leakage or obvious defects. Visual examinations must be performed before and after the thermal processing operation and with sufficient frequency to ensure proper closure. These examinations should be conducted at least in accordance with a statistical sampling plan. All defects noted and corrective actions taken must be promptly recorded.

(ii) *Physical tests.* Tests determined by the establishment as necessary to assess container integrity must be conducted by the closure technician at a frequency sufficient to ensure proper closure. These tests must be performed after the thermal processing operation and should be made at least every 2 hours of continuous production. The establishment's acceptance guidelines for each test procedure must be on file and available for review by Program employees. Test results along with any necessary corrective actions, such as adjusting or repairing the sealing machine, must be recorded.

(2) Double seams on semirigid or flexible containers must be examined and the results recorded as provided in paragraph (b) of this section. Any additional measurements specified by the container manufacturer must also be made and recorded.

(e) *Container coding.* Each container must be marked with a permanent, legible, identifying code mark. The mark must, at a minimum, identify in code the product (unless the product name is lithographed or printed elsewhere on the container) and the day and year the product was packed.

(f) *Handling of containers after closure.* (1) Containers and closures must be protected from damage which may cause defects that are likely to affect the hermetic condition of the containers. The accumulation of stationary containers on moving conveyors should be minimized to avoid damage to the containers.

(2) The maximum time lapse between closure of containers and initiation of thermal processing must be 2 hours unless data are available from the establishment's processing authority demonstrating that an alternative time period is safe and will not result in product spoilage.

§ 431.3 Thermal processing.

(a) *Process schedules.* Prior to the processing of canned product for distribution in commerce, an establishment must have a process schedule (as defined in § 431.1) for each canned meat or poultry product to be packed by the establishment.

(b) *Source of process schedules.* (1) Process schedules used by an establishment must be developed or determined by a processing authority.

(2) Any change in product formulation, ingredients, or treatments that are not already incorporated in a process schedule and that may adversely affect either the product heat penetration profile or sterilization value requirements must be evaluated by the establishment's processing authority. If it is determined that any such change adversely affects the adequacy of the process schedule, the processing authority must amend the process schedule accordingly.

(3) Complete records concerning all aspects of the development or determination of a process schedule, including any associated incubation tests, must be made available by the establishment to the Program employee upon request.

(c) *Submittal of process information.* (1) Prior to the processing of canned product for distribution in commerce, the establishment must provide the inspector at the establishment with a list of the process schedules (including alternate schedules) along with any additional applicable information, such as the retort come-up operating procedures and critical factors.

(2) Letters or other written communications from a processing authority recommending all process schedules must be maintained on file by the establishment. Upon request by Program employees, the establishment must make available such letters or written communications (or copies thereof). If critical factors are identified in the process schedule, the establishment must provide the inspector with a copy of the procedures for measuring, controlling, and recording these factors, along with the frequency of such measurements, to ensure that the critical factors remain within the limits used to establish the process schedule. Once submitted, the process schedules and associated critical factors and the procedures for measuring (including the frequency), controlling, and recording of critical factors must not be changed without the prior written submittal of the revised procedures (including supporting documentation) to the inspector at the establishment.

§ 431.4 Critical factors and the application of the process schedule.

Critical factors specified in the process schedule must be measured, controlled, and recorded by the establishment to ensure that these factors remain within the limits used to establish the process schedule. Examples of factors that are often critical to process schedule adequacy may include:

(a) *General.* (1) Maximum fill-in weight or drained weight;

(2) Arrangement of pieces in the container;

(3) Container orientation during thermal processing;

(4) Product formulation;

(5) Particle size;

(6) Maximum thickness for flexible containers, and to some extent semirigid containers, during thermal processing;

(7) Maximum pH;

(8) Percent salt;

(9) Ingoing (or formulated) nitrite level (ppm);

(10) Maximum water activity; and

(11) Product consistency or viscosity.

(b) *Continuous rotary and batch agitating retorts.* (1) Minimum headspace; and

(2) Retort reel speed.

(c) *Hydrostatic retorts.* Chain or conveyor speed.

(d) *Steam/air retorts.* (1) Steam/air ratio; and

(2) Heating medium flow rate.

§ 431.5 Operations in the thermal processing area.

(a) *Posting of processes.* Process schedules (or operating process schedules) for daily production, including minimum initial temperatures and operating procedures for thermal processing equipment, must be posted in a conspicuous place near the thermal processing equipment. Alternatively, such information must be available to the thermal processing system operator and the inspector.

(b) *Process indicators and retort traffic control.* A system for product traffic control must be established to prevent product from bypassing the thermal processing operation. Each basket, crate, or similar vehicle containing unprocessed product, or at least one visible container in each vehicle, must be plainly and conspicuously marked with a heat sensitive indicator that will visually indicate whether such unit has been thermally processed. Exposed heat sensitive indicators attached to container vehicles must be removed before such vehicles are refilled with unprocessed product. Container loading systems for crateless retorts must be designed to prevent unprocessed product from bypassing the thermal processing operation.

(c) *Initial temperature.* The initial temperature of the contents of the coldest container to be processed must be determined and recorded by the establishment at the time the processing cycle begins to assure that the temperature of the contents of every container to be processed is not lower than the minimum initial temperature specified in the process schedule. Thermal processing systems which subject the filled and sealed containers to water at any time before process timing begins must be operated to assure that such water will not lower the temperature of the product below the minimum initial temperature specified in the process schedule.

(d) *Timing devices.* Devices used to time applicable thermal processing operation functions or events, such as process schedule time, come-up time, and retort venting, must be accurate to assure that all such functions or events are achieved. Pocket watches and wrist watches are not considered acceptable timing devices. Analog and digital clocks are considered acceptable. If such clocks do not display seconds, all required timed functions or events must have at least a 1-minute safety factor over the specified thermal processing operation times. Temperature/time recording devices must correspond within 15 minutes to the time of the day recorded on written records required by § 431.7.

(e) *Measurement of pH.* Unless other methods are approved by the Administrator, potentiometric methods using electronic instruments (pH meters) must be used for making pH determinations when a maximum pH value is specified as a critical factor in a process schedule.

§ 431.6 Equipment and procedures for heat processing systems.

(a) *Instruments and controls common to different thermal processing systems*—(1) *Indicating temperature devices.* Each retort must be equipped with at least one indicating temperature device that measures the actual temperature within the retort. The indicating temperature device, not the temperature/time recording device, must be used as the reference instrument for indicating the process temperature.

(i) *Mercury-in-glass thermometers.* A mercury-in-glass thermometer must have divisions that are readable to 1 °F (or 0.5 °C) and whose scale contains not more than 17 °F/inch (or 4.0 °C/cm) of graduated scale. Each mercury-in-glass thermometer must be tested for accuracy against a known accurate standard upon installation and at least once a year to ensure its accuracy. Records that specify the date, standard used, test method, and the person or testing authority performing the test must be maintained on file by the establishment and made available to Program employees. A mercury-in-glass thermometer that has a divided mercury column or that cannot be adjusted to the standard must be repaired and tested for accuracy before further use, or replaced.

(ii) *Other devices.* Temperature-indicating devices, such as resistance temperature detectors, used in lieu of mercury-in-glass thermometers, must meet known, accurate standards for such devices when tested for accuracy. The records of such testing must be available to FSIS program employees.

(2) *Temperature/time recording devices.*

Each thermal processing system must be equipped with at least one temperature/time recording device to provide a permanent record of temperatures within the thermal processing system. This recording device may be combined with the steam controller and may be a recording/controlling instrument. When compared to the known accurate indicating temperature device, the recording accuracy must be equal to or better than 1 °F (or 0.5 °C) at the process temperature. The temperature recording chart should be adjusted to agree with, but must never be higher than, the known accurate indicating temperature device. A means of preventing unauthorized changes in the adjustment must be provided. For example, a lock or a notice from management posted at or near the recording device warning that only authorized persons are permitted to make adjustments, are satisfactory means for preventing unauthorized changes. Air-operated temperature controllers must have adequate filter systems to ensure a supply of clean, dry air. The recorder timing mechanism must be accurate.

(i) *Chart-type devices.* Devices using charts must be used only with the correct chart. Each chart must have a working scale of not more than 55 °F/inch (or 12 °C/cm.) within a range of 20 °F (or 11 °C) of the process temperature. Chart graduations must not exceed 2 °F degrees (or 1 °C) within a range of 10 °F (or 5 °C) of the process temperature. Multipoint plotting chart-type devices must print temperature readings at intervals that will assure that the parameters of the process time and process temperature have been met. The frequency of recording should not exceed 1-minute intervals.

(ii) *Other devices.* Temperature/time recording devices or procedures used in lieu of chart-type devices must meet known accurate standards for such devices or procedures when tested for accuracy. Such a device must be accurate enough for ensuring that process time and temperature parameters have been met.

(3) *Steam controllers.* Each retort must be equipped with an automatic steam controller to maintain the retort temperature. This may be a recording/controlling instrument when combined with a temperature/time recording device.

(4) *Air valves.* All air lines connected to retorts designed for pressure processing in steam must be equipped with a globe valve or other equivalent-type valve or piping arrangement that will prevent leakage of air into the retort during the process cycle.

(5) *Water valves.* All retort water lines that are intended to be closed during a process cycle must be equipped with a globe valve or other equivalent-type valve or piping arrangement that will prevent leakage of water into the retort during the process cycle.

(b) *Pressure processing in steam*—(1) *Common to batch still, batch agitating, continuous rotary retorts, and*

hydrostats. (i) The basic requirements and recommendations for indicating temperature devices and temperature/time recording devices are described in paragraphs (a)(1) and (2) of this section. Additionally, bulb sheaths or probes of indicating temperature devices and probes of temperature/time recording devices must be installed either within the retort shell or in external wells attached to the retort. External wells must be connected to the retort through at least a ¾ inch (1.9 cm) diameter opening and equipped with a 1/16 inch (1.6 mm) or larger bleeder opening so located as to provide a constant flow of steam past the length of the bulb or probe. The bleeder for the external wells must emit steam continuously during the entire thermal processing period.

(ii) *Steam inlet.* The steam inlet to each retort must be large enough to provide steam for proper operation of the retort, and must enter at a point(s) to facilitate air removal during venting.

(iii) *Bleeder and vent mufflers.* If mufflers are used on bleeders or vent systems, the establishment must have on file documentation that the mufflers do not impede the removal of air from the retort. Such documentation must consist of either heat distribution data or documentation from the muffler manufacturer or from a processing authority. This information must be made available to Program employees for review.

(iv) *Bleeders.* Bleeders, except those for external wells of temperature devices and hydrostatic retorts, must have a ⅛ inch (or 3 mm) or larger openings and must be wide open during the entire process, including the come-up time. All bleeders must be arranged so that the retort operator can observe that they are functioning properly. For horizontal retorts, batch agitating retorts, and continuous rotary retorts, bleeders must be located within approximately 1 foot (or 30 cm) of the outmost locations of containers at each end along the top of the retort. Additional bleeders must be located not more than 8 feet (2.4 m) apart along the top. This information must be maintained on file by the establishment and made available to Program employees for review. Vertical retorts must have at least one bleeder opening located in the portion of the retort opposite the steam inlet. Hydrostatic retorts must have bleeder openings ¼ inch (or 6 mm) or larger which are to be located in the steam chamber(s) opposite the point of steam entry. Bleeders may be installed at positions other than those specified above, as long as the establishment has heat distribution data or other documentation from the manufacturer or from a processing authority demonstrating that the bleeders accomplish removal of air and circulate the steam within the retort.

(2) *Batch still retorts*—(i) *Crate supports.* Vertical still retorts with bottom steam entry must employ bottom retort crate supports. Baffle plates must not be used in the bottom of retorts.

(ii) *Steam spreader.* Perforated steam spreaders, if used, must be maintained to ensure they are not blocked or otherwise inoperative. Horizontal still retorts must be equipped with perforated steam spreaders that extend the full length of the retort unless the adequacy of another arrangement is documented by heat distribution data or other documentation from a processing authority. Such information must be maintained on file by the establishment and made available to Program employees for review.

(iii) *Condensate removal.* In retorts having a steam inlet above the level of the lowest container, a bleeder must be installed in the bottom of the retort to remove condensate. The condensate bleeder must be so arranged that the retort operator can observe that it is functioning properly. The condensate bleeder must be checked with sufficient frequency to ensure adequate removal of condensate. Visual checks should be performed at intervals of not more than 15 minutes and the results recorded. Intermittent condensate removal systems must be equipped with an automatic alarm system that will serve as a continuous monitor of condensate bleeder functioning. The automatic alarm system must be tested at the beginning of each shift for proper functioning and the results recorded. If the alarm system is not functioning properly, it must be repaired before the retort is used.

(iv) *Stacking equipment*—(A) *Equipment for holding or stacking containers in retorts.* Crates, trays, gondolas, carts, and other vehicles for holding or stacking product containers in the retort must be so constructed to ensure steam circulation during the venting, come-up, and process times. The bottom of each vehicle must have perforations at least 1 inch (2.5 cm) in diameter on 2 inch (or 5 cm) centers or the equivalent unless the adequacy of another arrangement is documented by heat distribution data or other documentation from a processing authority and such information is maintained on file by the establishment and made available to Program employees for review.

(B) *Divider plates.* Whenever one or more divider plates are used between any two layers of containers or placed on the bottom of a retort vehicle, the establishment must have on file documentation that the venting procedure allows the air to be removed from the retort before timing of the thermal process is started. Such documentation must be in the form of heat distribution data or documentation from a processing authority. This information must be made available to Program employees for review.

(v) *Vents.* (A) Vents must be located in that portion of the retort opposite the steam inlet and must be designed, installed, and operated in such a way that air is removed from the retort before timing of the thermal process is started. Vents must be controlled by a gate, plug cock, or other full-flow valve which must be fully opened to permit rapid removal of air from retorts during the venting period.

(B) Vents must not be connected to a closed drain system without an atmospheric break in the line. Where a retort manifold connects several pipes from a single retort, the manifold must be controlled by a gate, plug cock, or other full-flow valve and the manifold must be of a size such that the cross-sectional area of the manifold is larger than the total cross-sectional area of all connecting vents. The discharge must not be connected to a closed drain without an atmospheric break in the line. A manifold header connecting vents or manifolds from several still retorts must lead to the atmosphere. The manifold header must not be controlled by a valve and must be of a size such that the cross-sectional area is at least equal to the total cross-sectional area of all connecting retort manifold pipes from the maximum number of retorts to be vented simultaneously.

(C) Some typical installations and operating procedures are described below. Other retort installations, vent piping arrangements, operating procedures or auxiliary equipment such as divider plates may be used provided there is documentation that the air is removed from the retort before the process is started. Such documentation must be in the form of heat distribution data or other documentation from the equipment manufacturer or processing authority. This information must be maintained on file by the establishment and made available to Program employees for review.

(D) For crateless retort installations, the establishment must have heat distribution data or other documentation from the equipment manufacturer or from a processing authority that demonstrates that the venting procedure used accomplishes

the removal of air and condensate. This information must be maintained on file by the establishment and made available to Program employees for review.

(E) Examples of typical installations and operating procedures that comply with the requirements of this section are as follows:

(*1*) *Venting horizontal retorts.* (*i*) Venting through multiple 1 inch (2.5 cm) vents discharging directly to the atmosphere.

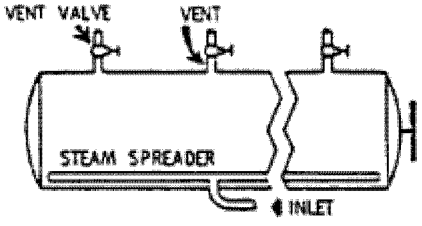

Figure 1.

Specifications (Figure 1): One, 1-inch (2.5 cm) vent for every 5 feet (1.5 m) of retort length, equipped with a gate, plug cock, or other full-flow valve and discharging to atmosphere. The end vents must not be more than 2 1/2 feet (or 75 cm) from ends of retort.

Venting method (Figure 1): Vent valves must be wide open for at least 5 minutes and to at least 225° F (or 107 °C), or at least 7 minutes and to at least 220 °F (or 104.5 °C).

(*ii*) Venting through multiple 1 inch (2.5 cm) vents discharging through a manifold to the atmosphere.

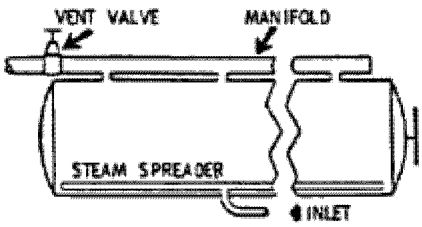

Figure 2.

Specifications (Figure 2): One, 1-inch (2.5 cm) vent for every 5 feet (1.5 m) of retort length; vents not over 2½ feet (or 75 cm) from ends of retort; size of manifold for retorts less than 15 feet (4.6 m) in length, 2½ inches (6.4 cm), and for retorts 15 feet (4.6 m) and over in length, 3 inches (7.6 cm).

Venting method (Figure 2): The manifold vent gate, plug cock, or other full-flow valve must be wide open for at least 6 minutes and to at least 225 °F (or 107 °C) or for at least 8 minutes and to at least 220 °F (or 104.5 °C).

(*iii*) Venting through water spreaders.

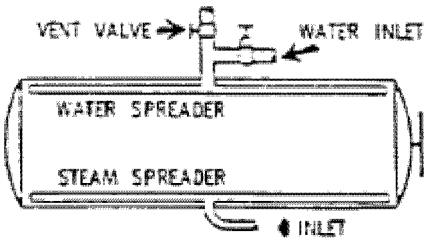

Figure 3.

Specifications (Figure 3): Size of vent and vent valve. For retorts less than 15 feet (4.6 m) in length, 2 inches (or 5 cm); for retorts 15 feet (4.6 m) and over in length, 2½ inches (6.4 cm).

Size of water spreader (Figure 3): For retorts less than 15 feet (4.6 m) in length, 1½ inches (3.8 cm); for retorts 15 feet (4.6 m) and over in length, 2 inches (or 5 cm). The number of holes must be such that their total cross-sectional area is equal to the cross-sectional area of the vent pipe inlet.

Venting method (Figure 3): The gate, plug cock, or other full-flow valve on the water spreader vent must be wide open for at least 5 minutes and to at least 225 °F (or 107 °C), or for at least 7 minutes and to at least 220 °F (or 104.5 °C).

(*iv*) Venting through a single 2½ inch (6.4 cm) top vent for retorts not exceeding 15 feet (4.6 m) in length.

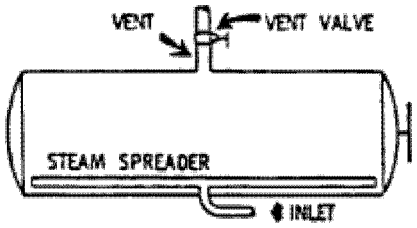

Figure 4.

Specifications (Figure 4): A 2½ inch (6.4 cm) vent equipped with a 2½ inch (6.4 cm) gate, plug cock, or other full-flow valve and located within 2 feet (61 cm) of the center of the retort.

Venting method (Figure 4): The vent valve must be wide open for at least 4 minutes and to at least 220 °F (or 104.5 °C).

(*2*) *Venting vertical retorts.* (*i*) Venting through a 1½ inch (3.8 cm) overflow.

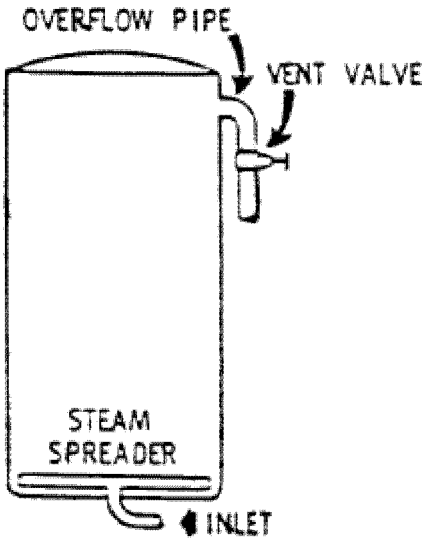

Figure 5.

Specifications (Figure 5): A 1½ inch (3.8 cm) overflow pipe equipped with a 1½ inch (3.8 cm) gate, plug cock, or other full-flow valve and with not more than 6 feet (1.8 m) of 1½ inch (3.8 cm) pipe beyond the valve before a break to the atmosphere or to a manifold header.

Venting method (Figure 5): The vent valve must be wide open for at least 4 minutes and to at least 218 °F (or 103.5 °C), or for at least 5 minutes and to at least 215 °F (or 101.5 °C).

(*ii*) Venting through a single 1 inch (2.5 cm) side or top vent.

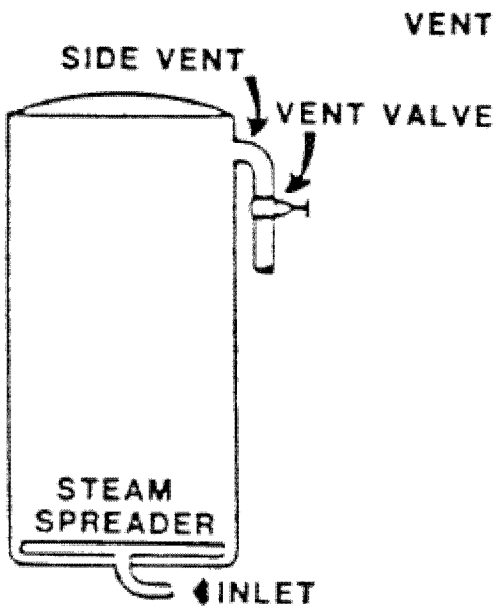

Figure 6

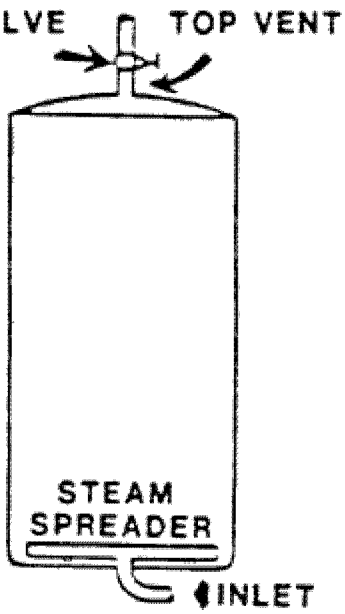

Figure 7

Specifications (Figure 6 or 7): A 1 inch (2.5 cm) vent in lid or top side, equipped with a gate, plug cock, or other full-flow valve and discharging directly into the atmosphere or to a manifold header.

Venting method (Figure 6 or 7): The vent valve must be wide open for at least 5 minutes and to at least 230 °F (110 °C), or for at least 7 minutes and to at least 220 °F (or 104.5 °C).

(3) *Batch agitating retorts*—(i) *Venting and condensate removal.* The air in the retort must be removed before processing is started. Heat distribution data or other documentation from the manufacturer or from the processing authority who developed the venting procedure must be kept on file by the establishment and made available to Program employees for review. At the time the steam is turned on, the drain must be opened to remove steam condensate from the retort. A bleeder must be installed in the bottom of the retort to remove condensate during retort operation. The condensate bleeder must be so arranged that the retort operator can observe that it is functioning properly. The condensate bleeder must be checked with sufficient frequency to ensure adequate removal of condensate. Visual checks should be performed at intervals of not more than 15 minutes and the results recorded. Intermittent condensate removal systems must be equipped with an automatic alarm system that will serve as a continuous monitor of condensate bleeder functioning. The automatic alarm system must be tested at the beginning of each shift for proper functioning and the results recorded. If the alarm system is not functioning properly, it must be repaired before the retort is used.

(ii) *Retort or reel speed timing.* The retort or reel speed must be checked before process timing begins and, if needed, adjusted as specified in the process schedule. In addition, the rotational speed must be determined and recorded at least once during process timing of each retort load processed. Alternatively, a recording tachometer can be used to provide a continuous record of the speed. The accuracy of the recording tachometer must be determined and recorded at least once per shift by checking the retort or reel speed using an accurate stopwatch. A means of preventing unauthorized speed changes on retorts must be provided. For example, a lock or a notice from management posted at or near the speed adjustment device warning that only authorized persons are permitted to make adjustments is a satisfactory means of preventing unauthorized changes.

(4) *Continuous rotary retorts*—(i) *Venting and condensate removal.* The air in the retort must be removed before processing is started. Heat distribution data or other documentation from the manufacturer or from the processing authority who developed the venting procedure must be kept on file by the establishment and made available to Program employees for review. At the time the steam is turned on, the drain must be opened to remove steam condensate from the retort. A bleeder must be installed in the bottom of the shell to remove condensate during the retort operation. The condensate bleeder must be so arranged that the retort operator can observe that it is functioning properly. The condensate bleeder must be checked with sufficient frequency to ensure adequate removal of condensate. Visual checks should be performed at intervals of not more than 15 minutes and the results recorded. Intermittent condensate removal systems must be equipped with an automatic alarm system that will serve as a continuous monitor of condensate bleeder functioning. The automatic alarm system must be tested at the beginning of each shift for proper functioning and the results recorded. If the alarm system is not functioning properly, it must be repaired before the retort is used.

(ii) *Retort speed timing.* The rotational speed of the retort must be specified in the process schedule. The speed must be adjusted as specified, and recorded by the establishment when the retort is started, and checked and recorded at intervals not to exceed 4 hours to ensure that the correct retort speed is maintained. Alternatively, a recording tachometer may be used to provide a continuous record of the speed. If a recording tachometer is used, the speed

must be manually checked against an accurate stopwatch at least once per shift and the results recorded. A means of preventing unauthorized speed changes on retorts must be provided. For example, a lock or a notice from management posted at or near the speed adjustment device warning that only authorized persons are permitted to make adjustments is a satisfactory means of preventing unauthorized changes.

(5) *Hydrostatic retorts.* (i) The basic requirements for indicating temperature devices and temperature/time recording devices are described in paragraphs (a)(1) and (2) of this section. Additionally, indicating temperature devices must be located in the steam dome near the steam/water interface. Where the process schedule specifies maintenance of particular water temperatures in the hydrostatic water legs, at least one indicating temperature device must be located in each hydrostatic water leg so that it can accurately measure water temperature and be easily read. The temperature/time recorder probe must be installed either within the steam dome or in a well attached to the dome. Each probe must have a 1/16 inch (1.6 mm) or larger bleeder opening which emits steam continuously during the processing period. Additional temperature/time recorder probes must be installed in the hydrostatic water legs if the process schedule specifies maintenance of particular temperatures in these water legs.

(ii) *Steam inlet.* The steam inlets must be large enough to provide steam for proper operation of the retort.

(iii) *Bleeders.* Bleeder openings 1/4 inch (or 6 mm) or larger must be located in the steam chamber(s) opposite the point of steam entry. Bleeders must be wide open and must emit steam continuously during the entire process, including the come-up time. All bleeders must be arranged in such a way that the operator can observe that they are functioning properly.

(iv) *Venting.* Before the start of processing operations, the retort steam chamber(s) must be vented to ensure removal of air. Heat distribution data or other documentation from the manufacturer or from a processing authority demonstrating that the air is removed from the retort prior to processing must be kept on file at the establishment and made available to Program employees for review.

(v) *Conveyor speed.* The conveyor speed must be calculated to obtain the required process time and recorded by the establishment when the retort is started. The speed must be checked and recorded at intervals not to exceed 4 hours to ensure that the correct conveyor speed is maintained. A recording device may be used to provide a continuous record of the conveyor speed. When a recording device is used, the speed must be manually checked against an accurate stopwatch at least once per shift by the establishment. A means of preventing unauthorized speed changes of the conveyor must be provided. For example, a lock or a notice from management posted at or near the speed adjustment device warning that only authorized persons are permitted to make adjustments is a satisfactory means of preventing unauthorized changes.

(vi) *Bleeders and vent mufflers.* If mufflers are used on bleeders or vent systems, the establishment must have documentation that the mufflers do not impede the removal of air from the retort. Such documentation must consist of either heat distribution data or other documentation from the muffler manufacturer or from a processing authority. This information must be maintained on file by the establishment and made available to Program employees for review.

(c) *Pressure processing in water*—(1) *Common to batch still and agitating retorts.* (i) The basic requirements for indicating temperature devices and temperature/time recording devices are described in paragraphs (a)(1) and (2) of this section.

(ii) *Pressure recording device.* Each retort must be equipped with a pressure recording device which may be combined with a pressure controller.

(iii) *Heat distribution.* Heat distribution data or other documentation from the equipment manufacturer or a processing authority demonstrating uniform heat distribution within the retort must be kept on file at the establishment and made available to Program employees for review.

(iv) *Drain valve.* A non-clogging, water-tight drain valve must be used. Screens must be installed over all drain openings.

(2) *Batch still retorts.* (i) The indicating temperature device bulbs or probes must be located in such a position that they are beneath the surface of the water throughout the process. On horizontal retorts, the indicating temperature device bulb or probe must be inserted directly into the retort shell. In both vertical and horizontal retorts, the indicating temperature device bulb or probe must extend directly into the water a minimum of 2 inches (or 5 cm) without a separable well or sleeve. In vertical retorts equipped with a recorder/controller, the controller probe must be located at the bottom of the retort below the lowest crate rest in such a position that the steam does not strike it directly. In horizontal retorts so equipped, the controller probe must be located between the water surface and the horizontal plane passing through the center of the retort so that there is no opportunity for direct steam impingement on the controller probe. Air-operated temperature controllers must have filter systems to ensure a supply of clean, dry air.

(ii) *Crate supports.* A bottom crate support must be used in vertical retorts. Baffle plates must not be used in the bottom of the retort.

(iii) *Stacking equipment.* For filled flexible containers and, where applicable, semi-rigid containers, stacking equipment must be designed to ensure that the thickness of the filled containers does not exceed that specified in the process schedule and that the containers do not become displaced and overlap or rest on one another during the thermal process.

(iv) *Water level.* There must be a means of determining the water level in the retort during operation (*i.e.,* by using a gauge, electronic sensor, or sight glass indicator). For retorts requiring complete immersion of containers, water must cover the top layer of containers during the entire come-up time and thermal processing periods and should cover the top layer of containers during cooling. For retorts using cascading water or water sprays, the water level must be maintained within the range specified by the retort manufacturer or processing authority during the entire come-up, thermal processing, and cooling periods. A means to ensure that water circulation continues as specified throughout the come-up, thermal processing, and cooling periods must be provided. The retort operator must check and record the water level at intervals to ensure it meets the specified processing parameters.

(v) *Air supply and controls.* In both horizontal and vertical still retorts, a means must be provided for introducing compressed air or steam at the pressure required to maintain container integrity. Compressed air and steam entry must be controlled by an automatic pressure control unit. A non-return valve must be provided in the air supply line to prevent water from entering the system. Overriding air or steam pressure must be maintained continuously during the come-up, thermal processing, and cooling periods. If air is used to promote circulation, it must be introduced into the steam line at a point between the

retort and the steam control valve at the bottom of the retort. The adequacy of the air circulation for maintaining uniform heat distribution within the retort must be documented by heat distribution data or other documentation from a processing authority, and such data must be maintained on file by the establishment and made available to Program employees for review.

(vi) *Water recirculation.* When a water recirculation system is used for heat distribution, the water must be drawn from the bottom of the retort through a suction manifold and discharged through a spreader that extends the length or circumference of the top of the retort. The holes in the water spreader must be uniformly distributed. The suction outlets must be protected with screens to keep debris from entering the recirculation system. The pump must be equipped with a pilot light or a similar device to warn the operator when it is not running, and with a bleeder to remove air when starting operations. Alternatively, a flow-meter alarm system can be used to ensure proper water circulation. The adequacy of water circulation for maintaining uniform heat distribution within the retort must be documented by heat distribution or other documentation from a processing authority, and such data must be maintained on file by the establishment and made available to Program employees for review. Alternative methods for recirculation of water in the retort may be used, provided there is documentation in the form of heat distribution data or other documentation from a processing authority maintained on file by the establishment and made available to Program employees for review.

(xi) *Cooling water entry.* In retorts for processing product packed in glass jars, the incoming cooling water should not directly strike the jars, in order to minimize glass breakage by thermal shock.

(3) *Batch agitating retorts.* (i) The indicating temperature device bulb or probe must extend directly into the water without a separable well or sleeve. The recorder/controller probe must be located between the water surface and the horizontal plane passing through the center of the retort so that there is no opportunity for steam to directly strike the controller bulb or probe.

(ii) *Stacking equipment.* All devices used for holding product containers (*e.g.,* crates, trays, divider plates) must be so constructed to allow the water to circulate around the containers during the come-up and thermal process periods.

(iii) *Water level.* There must be a means of determining the water level in the retort during operation (*i.e.,* by using a gauge, electronic sensor, or sight glass indicator). Water must completely cover all containers during the entire come-up, thermal processing, and cooling periods. A means to ensure that water circulation continues as specified throughout the come-up, thermal processing, and cooling periods must be provided. The retort operator must check and record the adequacy of the water level with sufficient frequency to ensure it meets the specified processing parameters.

(iv) *Air supply and controls.* Retorts must be provided with a means for introducing compressed air or steam at the pressure required to maintain container integrity. Compressed air and steam entry must be controlled by an automatic pressure control unit. A non-return valve must be provided in the air supply line to prevent water from entering the system. Overriding air or steam pressure must be maintained continuously during the come-up, thermal processing, and cooling periods. If air is used to promote circulation, it must be introduced into the steam line at a point between the retort and the steam control valve at the bottom of the retort. The adequacy of the air circulation for maintaining uniform heat distribution within the retort must be documented by heat distribution data or other documentation from a processing authority, and such data must be maintained on file by the establishment and made available to Program employees for review.

(v) *Retort or reel speed timing.* The retort or reel speed timing must be checked before process timing begins and, if needed, adjusted as specified in the process schedule. In addition, the rotational speed must be determined and recorded at least once during process timing of each retort load processed. Alternatively, a recording tachometer can be used to provide a continuous record of the speed. The accuracy of the recording tachometer must be determined and recorded at least once per shift by the establishment by checking the retort or reel speed using an accurate stopwatch. A means of preventing unauthorized speed changes on retorts must be provided. For example, a lock or a notice from management posted at or near the speed adjustment device warning that only authorized persons are permitted to make adjustments is a satisfactory means of preventing unauthorized changes.

(vi) *Water recirculation.* If a water recirculation system is used for heat distribution, it must be installed in such a manner that water will be drawn from the bottom of the retort through a suction manifold and discharged through a spreader which extends the length of the top of the retort. The holes in the water spreader must be uniformly distributed. The suction outlets must be protected with screens to keep debris from entering the recirculation system. The pump must be equipped with a pilot light or a similar device to warn the operator when it is not running and with a bleeder to remove air when starting operations. Alternatively, a flow-meter alarm system can be used to ensure proper water circulation. The adequacy of water circulation for maintaining uniform heat distribution within the retort must be documented by heat distribution data or other documentation from a processing authority, and such data must be maintained on file by the establishment and made available to Program employees for review. Alternative methods for recirculation of water in the retort may be used provided there is documentation in the form of heat distribution data or other documentation from a processing authority maintained on file by the establishment and made available to Program employees for review.

(viii) *Cooling water entry.* In retorts for processing product packed in glass jars, the incoming cooling water should not directly strike the jars, in order to minimize glass breakage by thermal shock.

(d) *Pressure processing with steam/air mixtures in batch retorts.* (1) The basic requirements for indicating temperature devices and temperature/time recording devices are described in paragraphs (a)(1) and (2) of this section. Additionally, bulb sheaths or probes for indicating temperature devices and temperature/time recording devices or controller probes must be inserted directly into the retort shell in such a position that steam does not strike them directly.

(2) *Recording pressure controller.* A recording pressure controller must be used to control the air inlet and the steam/air mixture outlet.

(3) *Circulation of steam/air mixtures.* A means must be provided for the circulation of the steam/air mixture to prevent formation of low-temperature pockets. The efficiency of the circulation system must be documented by heat distribution data or other documentation from a processing authority, and such data must be maintained on file by the establishment

and made available to Program employees for review. The circulation system must be checked to ensure its proper functioning and must be equipped with a pilot light or a similar device to warn the operator when it is not functioning. Because of the variety of existing designs, reference must be made to the equipment manufacturer for details of installation, operation, and control.

(e) *Atmospheric cookers*—(1) *Temperature/time recording device.* Each atmospheric cooker (*e.g.,* hot water bath) must be equipped with at least one temperature/time recording device in accordance with the basic requirements described in paragraph (a)(2) of this section.

(2) *Heat distribution.* Each atmospheric cooker must be equipped and operated to ensure uniform heat distribution throughout the processing system during the thermal process. Heat distribution data or other documentation from the manufacturer or a processing authority demonstrating uniform heat distribution within the cooker must be kept on file by the establishment and made available to Program employees for review.

(f) *Other systems.* All other systems not specifically delineated in this section and used for the thermal processing of canned product must be adequate to produce shelf-stable products consistently and uniformly.

(g) *Equipment maintenance.* (1) Upon installation, all instrumentation and controls must be checked by the establishment for proper functioning and accuracy and, thereafter, at any time their functioning or accuracy is suspect.

(2) At least once a year each thermal processing system must be examined by an individual not directly involved in daily operations to ensure the proper functioning of the system as well as all auxiliary equipment and instrumentation. In addition, each thermal processing system should be examined before the resumption of operation following an extended shutdown.

(3) Air and water valves that are intended to be closed during thermal processing must be checked by the establishment for leaks. Defective valves must be repaired or replaced as needed.

(4) Vent and bleeder mufflers must be checked and maintained or replaced by the establishment to prevent any reduction in bleeder efficiency.

(5) When water spreaders are used for venting, a maintenance schedule must be developed and implemented to assure that the holes are maintained at their original size.

(6) Records must be kept on all maintenance items that could affect the adequacy of the thermal process. Records must include the date and type of maintenance performed and the person conducting the maintenance.

(h) *Container cooling and cooling water.* (1) Potable water must be used for cooling except as provided for in paragraphs (h)(2) and (3) of this section.

(2) Cooling canal water must be chlorinated or treated with a chemical having a bactericidal effect equivalent to chlorination. There must be a measurable residual of the sanitizer in the water at the discharge point of the canal. Cooling canals must be cleaned and replenished with potable water to prevent the buildup of organic matter and other materials.

(3) Container cooling waters that are recycled or reused must be handled in systems that are so designed, operated, and maintained so there is no buildup of microorganisms, organic matter, and other materials in the systems and in the waters. System equipment, such as pipelines, holding tanks and cooling towers, must be constructed and installed so that they can be cleaned and inspected. In addition, the establishment must maintain, and make available to Program employees for review, information on at least the following:

(i) System design and construction;

(ii) System operation including the rates of renewal with fresh, potable water and the means for treating the water so that there is a measurable residual of an acceptable sanitizer, per paragraph (h)(2) of this section, in the water at the point where the water exits the container cooling vessel;

(iii) System maintenance including procedures for the periodic cleaning and sanitizing of the entire system; and

(iv) Water quality standards, such as microbiological, chemical and physical, monitoring procedures including the frequency and site(s) of sampling, and the corrective actions taken when water quality standards are not met.

(i) *Post-process handling of containers.* Containers must be handled in a manner that will prevent damage to the hermetic seal area. All worn and frayed belting, can retarders, cushions, and the like must be replaced with nonporous materials. To minimize container abrasions, particularly in the seal area, containers should not remain stationary on moving conveyors. All post-process container handling equipment should be kept clean so there is no buildup of microorganisms on surfaces in contact with the containers.

§ 431.7 Processing and production records.

At least the following processing and production information must be recorded by the establishment: date of production; product name and style; container code; container size and type; and the process schedule, including the minimum initial temperature. Measurements made to satisfy the requirements of § 431.4 regarding the control of critical factors must be recorded. In addition, where applicable, the following information and data must also be recorded:

(a) *Processing in steam*—(1) *Batch still retorts.* For each retort batch, record the retort number or other designation, the approximate number of containers or the number of retort crates per retort load, product initial temperature, time steam on, the time and temperature vent closed, the start of process timing, time steam off, and the actual processing time. The indicating temperature device and the temperature recorder must be read at the same time at least once during process timing and the observed temperatures recorded.

(2) *Batch agitating retorts.* In addition to recording the information required for batch still steam retorts in paragraph (a)(1) of this section, record the functioning of the condensate bleeder(s) and the retort or reel speed.

(3) *Continuous rotary retorts.* Record the retort system number, the approximate total number of containers retorted, product initial temperature, time steam on, the time and temperature vent closed, time process temperature reached, the time the first can enters and the time the last can exits the retort. The retort or reel speed must be determined and recorded at intervals not to exceed 4 hours. Readings of the indicating temperature device(s) and temperature recorder(s) must be made and recorded at the time the first container enters the retort and thereafter with sufficient frequency to ensure compliance with the process schedule. These observations should be made and recorded at intervals not exceeding 30 minutes of continuous retort operation. Functioning of the condensate bleeder(s) must be observed and recorded at the time the first container enters the retort and thereafter as specified in § 431.305(b)(3)(v).

(4) *Hydrostatic retorts.* Record the retort system number, the approximate total number of containers retorted, product initial temperature, time steam on, the time and temperature vent(s) closed, time process temperature reached, time first containers enter the retort, time last containers exit the retort, and, if specified in the process

schedule, measurements of temperatures in the hydrostatic water legs. Readings of the temperature indicating device, which is located in the steam/water interface, and the temperature recording device must be observed and the temperatures recorded at the time the first containers enter the steam dome. Thereafter, these instruments must be read and the temperatures recorded with sufficient frequency to ensure compliance with the temperature specified in the process schedule and should be made at least every hour of continuous retort operation. Container conveyor speed, and for agitating hydrostatic retorts, the rotative chain speed, must be determined and recorded at intervals of sufficient frequency to ensure compliance with the process schedule and should be performed at least every 4 hours.

(b) *Processing in water*—(1) *Batch still retorts.* For each retort batch, record the retort number or other designation, the approximate number of containers or number of retort crates per retort load, product initial temperature, time steam on, the start of process timing, water level, water recirculation rate (if critical), overriding pressure maintained, time steam off, and actual processing time. The indicating temperature device and the temperature recorder must be read at the same time at least once during process timing and the observed temperatures recorded.

(2) *Batch agitating retorts.* In addition to recording the information required in paragraph (b)(1) of this section, record the retort or reel speed.

(c) *Processing in steam/air mixtures.* For each retort batch, record the retort number or other designation, the approximate number of containers or number of retort crates per retort load, product initial temperature, time steam on, venting procedure, if applicable, the start of process timing, maintenance of circulation of the steam/air mixture, air flow rate or forced recirculation flow rate (if critical), overriding pressure maintained, time steam off, and actual processing time. The indicating temperature device and the temperature recorder must be read at the same time at least once during process timing and the observed temperatures recorded.

(d) *Atmospheric cookers*—(1) *Batch-type systems.* For each cooker batch, record the cooker number or other designation and the approximate number of containers. In addition, record all critical factors of the process schedule such as cooker temperature, initial temperature, the time the thermal process cycle begins and ends, hold time, and the final internal product temperature.

(2) *Continuous-type systems.* Record the cooker number or other designation, the time the first containers enter and the last containers exit a cooker, and the approximate total number of containers processed. In addition, record all critical factors of the process schedule such as the initial temperature, cooker speed, and final internal product temperature.

§ 431.8 Record review and maintenance.

(a) *Process records.* Charts from temperature/time recording devices must be identified by production date, container code, processing vessel number or other designation, and other data as necessary to enable correlation with the records required in § 431.7. Each entry on a record must be made at the time the specific event occurs, and the recording individual must sign or initial each record form. No later than 1 working day after the actual process, the establishment must review all processing and production records to ensure completeness and to determine if all product received the process schedule. All records, including the temperature/time recorder charts and critical factor control records, must be signed or initialed and dated by the person conducting the review. All processing and production records required in this subpart must be made available to Program employees for review.

(b) *Automated process monitoring and recordkeeping.* Automated process monitoring and recordkeeping systems must be designed and operated in a manner that will ensure compliance with the applicable requirements of § 431.7.

(c) *Container closure records.* Written records of all container closure examinations must specify the container code, the date and time of container closure examination, the measurement(s) obtained, and any corrective actions taken. Records must be signed or initialed by the container closure technician and must be reviewed and signed by the establishment within 1 working day after the actual production to ensure that the records are complete and that the closing operations have been properly controlled. All container closure examination records required in this subpart must be made available to Program employees for review.

(d) *Distribution of product.* Records must be maintained by the establishment identifying initial distribution of the finished product to facilitate, if necessary, the segregation of specific production lots that may have been contaminated or are otherwise unsound for their intended use.

(e) *Retention of records.* Copies of all processing and production records required in § 431.7 must be retained for no less than 1 year at the establishment, and for an additional 2 years at the establishment or other location from which the records can be made available to Program employees within 3 working days.

§ 431.9 Deviations in processing.

(a) Whenever the actual process is less than the process schedule or when any critical factor does not comply with the requirements for that factor as specified in the process schedule, it must be considered a deviation in processing.

(b) Deviations in processing (or process deviations) must be handled according to:

(1) A HACCP plan for canned product that addresses hazards associated with microbial contamination; or,

(2) Alternative documented procedures that will ensure that only safe and stable product is shipped in commerce; or

(3) Paragraph (c) of this section.

(c) Procedures for handling process deviations where the HACCP plan for thermally processed/commercially sterile product does not address food safety hazards associated with microbial contamination, where there is no approved total quality control system, or where the establishment has no alternative documented procedures for handling process deviations.

(1) *Deviations identified in-process.* If a deviation is noted at any time before the completion of the intended process schedule, the establishment must:

(i) Immediately reprocess the product using the full process schedule; or

(ii) Use an appropriate alternate process schedule provided such a process schedule has been established in accordance with § 431.3(a) and (b) and is filed with the inspector in accordance with § 431.3(c); or

(iii) Hold the product involved and have the deviation evaluated by a processing authority to assess the safety and stability of the product. Upon completion of the evaluation, the establishment must provide the inspector the following:

(A) A complete description of the deviation along with all necessary supporting documentation;

(B) A copy of the evaluation report; and

(C) A description of any product disposition actions, either taken or proposed.

(iv) Product handled in accordance with paragraph (c)(1)(iii) of this section

must not be shipped from the establishment until the Program has reviewed all of the information submitted and approved the product disposition actions.

(v) If an alternate process schedule is used that is not on file with the inspector or if an alternate process schedule is immediately calculated and used, the product must be set aside for further evaluation in accordance with paragraph (c)(1)(iii) and (iv) of this section.

(vi) When a deviation occurs in a continuous rotary retort, the product must be handled in accordance with paragraphs (c)(1)(iii) and (iv) of this section or in accordance with the following procedures:

(A) *Emergency stops.* (*1*) When retort jams or breakdowns occur during the processing operations, all containers must be given an emergency still process (developed per § 431.3(b)) before the retort is cooled or the retort must be cooled promptly and all containers removed and either reprocessed, repacked and reprocessed, or destroyed. Regardless of the procedure used, containers in the retort intake valve and in transfer valves between retort shells at the time of a jam or breakdown must be removed and either reprocessed, repacked and reprocessed and or destroyed. Product to be destroyed must be handled as ''U.S. Inspected and Condemned,'' as defined in § 301.2 of this chapter, or as ''U.S. Condemned,'' as defined in § 381.1(b) of this chapter, and disposed of in accordance with part 314 of this chapter or with § 381.95 of this chapter, as applicable.

(*2*) The time the retort reel stopped and the time the retort is used for an emergency still retort process must be noted on the temperature/time recording device and entered on the other production records required in § 431.7.

(B) *Temperature drops.* When the retort temperature drops below the temperature specified in the process schedule, the reel must be stopped and the following actions must be taken:

(*1*) For temperature drops of less than 10 °F (or 5.5 °C) either:

(*i*) All containers in the retort must be given an emergency still process (developed per § 431.3(b)) before the reel is restarted;

(*ii*) Container entry to the retort must be prevented and an emergency agitating process (developed per § 431.3(b)) must be used before container entry to the retort is restarted; or

(*iii*) Container entry to the retort must be prevented and the reel restarted to empty the retort. The discharged containers must be reprocessed, repacked and reprocessed, or destroyed. Product to be destroyed must be handled as ''U.S. Inspected and Condemned,'' as defined in § 301.2 of this chapter, or as ''U.S. Condemned,'' as defined in § 381.1(b) of this chapter, and disposed of in accordance with part 314 of this chapter or with § 381.95 of this chapter, as applicable.

(*2*) For temperature drops of 10 °F (or 5.5 °C) or more, all containers in the retort must be given an emergency still process (developed per § 431.3(b)). The time the reel was stopped and the time the retort was used for a still retort process must be marked on the temperature/time recording device by the establishment and entered on the other production records required in § 431.7. Alternatively, container entry to the retort must be prevented and the reel restarted to empty the retort. The discharged containers must be either reprocessed, repacked and reprocessed, or destroyed. Product to be destroyed must be handled as ''U.S. Inspected and Condemned,'' as defined in § 301.2 of this chapter, or as ''U.S. Condemned,'' as defined in § 381.1(b) of this chapter, and disposed of in accordance with part 314 of this chapter or with § 381.95 of this chapter, as applicable.

(2) *Deviations identified through record review.* Whenever a deviation is noted during review of the processing and production records required by § 431.8(a) and (b), the establishment must hold the product involved and the deviation must be handled in accordance with paragraph (c)(1)(iii) of this section.

(d) *Process deviation file.* The establishment must maintain full records regarding the handling of each deviation. Such records must include, at a minimum, the appropriate processing and production records, a full description of the corrective actions taken, the evaluation procedures and results, and the disposition of the affected product. Such records must be maintained in a separate file or in a log that contains the appropriate information. The file or log must be retained in accordance with § 431.8(e) and must be made available to Program employees upon request.

§ 431.10 Finished product inspection.

Finished product inspections must be handled according to:

(a) An HACCP plan for canned product that addresses hazards associated with microbiological contamination;

(b) An FSIS-approved total quality control system;

(c) Alternative documented procedures that will ensure that only safe and stable product is shipped in commerce; or

(d) Procedures for handling finished product inspections where the HACCP plan for thermally processed/commercially sterile product does not address food safety hazards associated with microbial contamination, where there is no approved total quality control system, or where the establishment has no alternative documented procedures for handling process deviations.

(1) *Incubation of shelf stable canned product*—(i) *Incubator.* The establishment must provide incubation facilities which include an accurate temperature/time recording device, an indicating temperature device, a means for the circulation of the air inside the incubator to prevent temperature variations, and a means to prevent unauthorized entry into the facility. The Program is responsible for the security of the incubator.

(ii) *Incubation temperature.* The incubation temperature must be maintained at 95±5 °F (35±2.8 °C). If the incubation temperature falls below 90 °F (or 32 °C) or exceeds 100 °F (or 38 °C) but does not reach 103 °F (or 39.5 °C), the incubation temperature must be adjusted within the required range and the incubation time extended for the time the sample containers were held at the deviant temperature. If the incubation temperature is at or above 103 °F (or 39.5 °C) for more than 2 hours, the incubation test(s) must be terminated, the temperature lowered to within the required range, and new sample containers incubated for the required time.

(iii) *Product requiring incubation.* Shelf stable product requiring incubation includes:

(A) Low acid products as defined in § 431.1; and

(B) Acidified low acid products as defined in § 431.1.

(iv) *Incubation samples.*

(A) From each load of product processed in a batch-type thermal processing system (still or agitation), the establishment must select at least one container for incubation.

(B) For continuous rotary retorts, hydrostatic retorts, or other continuous-type thermal processing systems, the establishment must select at least one container per 1,000 for incubation.

(C) Only normal-appearing containers must be selected for incubation.

(v) *Incubation time.* Canned product requiring incubation must be incubated for not less than 10 days (240 hours)

under the conditions specified in paragraph (b)(1)(ii) of this section.

(vi) *Incubation checks and record maintenance.* Designated establishment employees must visually check all containers under incubation each working day and the inspector must be notified when abnormal containers are detected. All abnormal containers should be allowed to cool before a final decision on their condition is made. For each incubation test the establishment must record at least the product name, container size, container code, number of containers incubated, in and out dates, and incubation results. The establishment must retain such records, along with copies of the temperature/time recording charts, in accordance with § 431.8(d).

(vii) *Abnormal containers.* The finding of abnormal containers (as defined in § 431.1) among incubation samples is cause to officially retain at least the code lot involved.

(viii) *Shipping.* No product must be shipped from the establishment before the end of the required incubation period. An establishment wishing to ship product prior to the completion of the required incubation period must submit a written proposal to the District Office. Such a proposal must include provisions that will assure that shipped product will not reach the retail level of distribution before sample incubation is completed and that product can be returned promptly to the establishment should such action be deemed necessary by the incubation test results. Upon receipt of written approval from the District Office, product may be routinely shipped provided the establishment continues to comply with all requirements of this subpart.

(2) *Container condition*—(i) *Normal containers.* Only normal-appearing containers must be shipped from an establishment as determined by an appropriate sampling plan or other means acceptable to program employees.

(ii) *Abnormal containers.* When abnormal containers are detected by any means other than incubation, the establishment must inform the inspector, and the affected code lot(s) must not be shipped until the Program has determined that the product is safe and stable. Such a determination will take into account the cause and level of abnormals in the affected lot(s) as well as any product disposition actions either taken or proposed by the establishment.

§ 431.11 Personnel and training.

All operators of thermal processing systems specified in § 431.6 and container closure technicians must be under the direct supervision of a person who has successfully completed a school of instruction that is generally recognized as adequate for properly training supervisors of canning operations.

§ 431.12 Recall procedure.

Establishments must prepare and maintain a current procedure for the recall of all canned product covered by this subpart. Upon request, the recall procedure must be made available to Program employees for review.

Done in Washington, DC, on March 16, 2016.

Alfred V. Almanza,

Acting Administrator.

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